

ORDINANCE NO. 564

AN ORDINANCE OF THE CITY OF PIEDMONT RELATING TO EARTH CHANGES AND STORM WATER DRAINAGE; PROVIDING FOR DEFINITIONS, PURPOSE, SCOPE, VIOLATIONS AND PENALTIES; PROHIBITING IMPAIRMENT OF DRAINAGE; PROVIDING ADMINISTRATIVE PROCEDURES; PROVIDING FOR APPEALS AND BOARD OF APPEALS; ADOPTING POLICIES AND STANDARDS FOR DRAINAGE AND SEDIMENTATION; REQUIRING DRAINAGE STUDY AND PLAN; REQUIRING EARTH CHANGE PERMITS WITH EXCEPTIONS; PROVIDING FOR REPEALER, CODIFICATION, PENALTY FOR VIOLATION AND SEVERABILITY ~~AND DECLARING AN EMERGENCY.~~

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PIEDMONT AS FOLLOWS:

Section 1. New Law.

A new law to be codified as Part 18 of the Piedmont Code of Ordiances is hereby adopted to read as follows:

PART 18 EARTH CHANGE AND STORM WATER DRAINAGE

ARTICLE I. IN GENERAL

Sec. 18-1. This Part 18 of the Piedmont Code of Ordiances regulates changes in Storm Water Drainage whether by earth changes or subdivision of land into tracts for development.

Sec. 18-2. Definitions.

As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

Accepted drainage study: An accepted drainage study, plan, or as-built drawing is defined as one for which all comments or issues raised by the city engineer during review have been resolved.

Adverse effects: Shall generally be defined as effects that cause stormwater to exceed the capacity of the drainage facilities and/or drainage easements as provided in the City Drainage Standards, or that cause damage, or an increase in damage, to property or facilities.

Approval: The city council and/or planning commission may approve a final plat, final replat, minor subdivision, site plan, use permit, or development, and such final plat, final replat, minor subdivision, site plan, use permit or development shall be deemed accepted.

Best Management Practices: The most effective, practical measures for

reducing erosion and preventing sediment from leaving a site.

City Drainage Standards: The criteria, standards and specifications for stormwater management, sediment and erosion control, and earth changes adopted by the City of Piedmont. The City Drainage Standards shall include all standards currently administered under the Flood Hazard Regulations, those standards contained in the Stormwater Criteria Manual, and any standards adopted as Best Management Practices.

City engineer: The city engineer of the City of Piedmont or his authorized representative.

Detention: The temporary storage and controlled release of stormwater runoff.

Detention facility: A facility that provides temporary storage of stormwater runoff and controlled release of such runoff.

Development: Any man-made change to improved or unimproved real estate, including but not limited to site preparation, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Drainage facilities: All elements necessary to store, control, and/or convey stormwater runoff. Said drainage facilities shall consist of both public and private storm sewers (closed conduits), channels, watercourses, sedimentation facilities, areas covered by restricted drainage easements for the purpose of providing overland flow, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipaters, culverts, detention facilities, and the like.

Drainage plan: Final construction details with sufficient information related to the proposed stormwater facilities for a site to allow determination that the facilities will function as designed in the final drainage study for the proposed site. These include, but are not limited to such information as pipe sizing, detention routing, staging, and storage, finished ground contours and elevations, and construction details and elevations for construction of proposed structures.

Drainage study: Initial calculations used to determine the pre-development and post-development stormwater runoff rates for a development. The study must show the drainage basins, slopes, and runoff variables pertinent to the site. In the case of required detention, the proposed method of detaining increased flows shall be discussed. The stormwater contributions from off site areas must also be included in the study.

Earth change: Excavating, grading, regrading, landfilling, berming, or diking of land within the jurisdictional area of the City of Piedmont.

Final drainage study: [An additional stormwater runoff analysis of a development with the purpose of reducing stormwater runoff rates from the site after development.] Analysis of stormwater runoff under existing and proposed conditions, including analysis of proposed management measures prepared in

accordance with the provisions of this chapter and the City Drainage Standards and incorporating all relevant elements of the final approved construction plans. For completed projects, the Final Drainage Study shall incorporate all relevant elements of the as-built plans.

Flood: A temporary rise in the level of water which results in inundation of areas not ordinarily covered by water.

Floodplain area: The area subject to flooding as designated on floodplain area maps or other more current information that delineates the 100 year floodplain as adopted by the City of Piedmont.

Flood hazard regulations: The Flood Hazard Regulations as adopted and amended from time to time by the City of Piedmont and codified in the Piedmont Code of Ordinance, current edition.

Jurisdictional area of the City of Piedmont: The jurisdictional area of the City of Piedmont includes all areas within city limits and all areas regulated by the City of Piedmont Subdivision Regulations.

Natural: The cover and topography of land before any man-made change, or, in areas where there have already been man-made modifications, the state of the area and topography of land as of the date of the adoption of this chapter.

Regional detention: Detention to control the various drainage basins defined in the stormwater management plan.

Regulatory flood: A flood having a one percent chance of being equaled or exceeded in any given year based upon the full potential urbanization of the contributing watershed, considering the comprehensive plan, adopted floodplain management policies, and the watershed master drainage plan where adopted.

Sedimentation facilities: Debris basins, sedimentation traps, berms, interceptor ditches, land terraces, hay bales, "silt fence," check dams, vegetation ground covers, and other means designed to control erosion and sedimentation.

Stormwater criteria manual: The Drainage Policies, Criteria and Regulations adopted by resolution of the City of Piedmont, and any amendment, modification, or revision thereof.

Stormwater management plan: A plan developed and adopted by the City of Piedmont which includes, but is not limited to: the establishment of drainage basins within the city's jurisdictional area, a listing of needed drainage improvements, and operational considerations to be implemented during flooding conditions. Also to be included, by reference, is any Creek Watershed Plan as developed and administered by the Soil Conservation Service.

Watercourse: Any depression covered by stormwater and which gives

direction to a current of stormwater where the drainage area above the same is five (5) acres or more in extent.

Sec. 18-3. Purpose.

This chapter is enacted for the purpose of protecting property and the general health, safety, and welfare of the residents of the City of Piedmont from the hazards and danger of flooding, the alteration of natural stormwater flow patterns, and associated erosion and sedimentation and inadequate or improper drainage by:

- (a) Preventing:
 - (1) Increases in peak rates of stormwater runoff,
 - (2) Increases in flood levels,
 - (3) Blockage or impairment of capacity of existing drainage facilities,
 - (4) Damage as a result of changing "sheet flow" into concentrated channel flows,
 - (5) Degradation and/or sedimentation in watercourses and on property,
 - (6) Authorized work from being conducted in a manner hazardous to life or property or in a manner otherwise likely to create a public nuisance.
- (b) Securing review and approval of the method of handling and disposing of stormwater runoff in the jurisdictional area of the City of Piedmont, and securing review, analysis, and approval by the appropriate authority of the design, construction, and maintenance of drainage facilities;
- (c) Imposing standards and conditions upon the excavating, grading, regrading, landfilling, berming, and diking of land within the jurisdictional area of the City of Piedmont; and
- (d) Providing a stormwater management fund, with the amounts deposited into that fund used for the design, construction, maintenance, and inspection of drainage facilities; the planning and study of methods to carry out the purposes of this chapter; and the review and approval of plans for handling stormwater runoff in the areas covered by this chapter.

Sec. 18-4. Scope.

The provision of this chapter shall apply to and be binding upon every person and every city, county, state, or federal governmental entity who seeks to develop, redevelop, grade, regrade, excavate, landfill, berm, or dike land within the jurisdictional area of the City of Piedmont.

Sec. 18-5. Violations.

Any person, who violates any requirement of this chapter or the city drainage standards or any condition made pursuant thereto, other than discharge of stormwater, shall be guilty of an offense. The discharge of stormwater in violation of the provisions of this article or of any other ordinance of the City of Piedmont shall be an offense.

Sec. 18-6. Fine not exclusive penalty.

In addition to a fine, the city may institute appropriate actions or proceedings at law or equity for the enforcement of the provisions of this chapter or the City Drainage Standards or to correct violations thereof, and, if applicable and appropriate, the city may institute appropriate actions or proceedings at law or in equity against any surety company, escrow holder, or any third party who has affirmatively acted as surety or guarantor for the faithful performance of the permit holder's work.

Sec. 18-7. Impairment of drainage facilities.

(a) Dumping or placing any material, whether temporary or permanent, within a drainage facility in a drainage easement or within the stormwater flowline of a drainage facility that is not in an easement is prohibited and a violation of this article. The owner of the property shall be responsible for any material that has been willfully dumped or placed in a drainage facility.

(b) A property owner's failure to repair and maintain a drainage facility that was specifically designed and installed to control stormwater runoff from that property or other properties designated in an approved drainage plan to a standard allowing it to perform its designed and intended purpose is prohibited and a violation of this article.

DIVISION 2. ADMINISTRATIVE PROCEDURE

Sec. 18-15. Processing by city engineer.

(a) Within twenty (20) working days after receipt of a properly completed final drainage study or drainage plan, or within ten (10) working days after receipt of a properly completed earth change permit application, the city engineer shall review and then either accept, accept with conditions, or disapprove the submitted plan or permit application. Acceptance of a submitted final drainage study, drainage plan, or earth change permit by the city engineer shall not relieve the submitting engineer, the applicant, or the property owner of any responsibility for the design and such acceptance shall not waive any requirements of this chapter which are not specifically considered in the accepted plan. Drainage studies and plans which meet the requirements of this chapter and which conform to all requirements of the City Drainage Standards shall be accepted. Earth change permit applications which meet the standards established by this chapter shall be

accepted. If a submitted drainage study, plan, or permit application is disapproved, the certifying engineer and applicant shall be advised in writing of the reasons for the disapproval.

(b) If the required findings cannot be made based upon the information contained in the submitted study, plan, or permit application, the general nature of such additional information required by the city engineer to make such determination shall be identified in writing. In the event that the information deficiency is of a technical nature, the city engineer may additionally request an engineering conference with the submitting engineer. Within ten (10) working days after receipt of such additional information as may be required by the city engineer, or as may be determined to be necessary during an engineering conference, a final decision shall be made by the city engineer to either accept, accept with conditions, or disapprove the submitted study, plan, or permit application. If the required information is not received within twenty (20) working days of the request for additional information by the city engineer the application shall be treated as a new one. If disapproved, the submitting engineer and permit applicant shall be advised in writing and additional conference scheduled as appropriate.

(c) Major revisions (i.e. relocation of drainage basins, facilities, discharge points, etc.) to an accepted drainage plan or earth change permit shall require a new application. The city engineer may accept minor changes to a drainage plan or earth change permit. A decision regarding acceptance of minor changes shall be rendered in writing within ten (10) working days of receipt of such request.

Section 18-16. Variances and Exceptions.

Whenever the tract of land to be subdivided, developed or disturbed is of such unusual size or shape, or is surrounded by such development or unusual conditions that the strict application of the design requirements and specifications of this part of this Ordinance would result in substantial hardship, extreme difficulty, or injustice, the developer or land owner may submit to the City Engineer written justification and proof of such unusual conditions and a request for a variance or modification of the requirements of this Ordinance. The City Engineer shall make recommendations on whether to grant a variance or modification of the requirements of this Ordinance. In considering the request for a variance or modification the criteria for review shall be that if a variance or modification of this Ordinance is granted then the property may be developed or disturbed in a reasonable manner, but so, at the same time, the public welfare and interests of the City of Piedmont and its citizens are protected and the general intent of this Ordinance is preserved. The request for the variance shall be presented to the City Council of the City of Piedmont and a three-fourths (3/4) majority vote of the City Council shall be required to approve the variance or modification. The decision of the City Council on granting or denying the variance or modification shall be final.

Sec. 18-17. Citizen complaint.

Within five (5) working days of receipt of a complaint signed by a citizen in the jurisdictional area of the City of Piedmont that the provisions of this chapter

are being violated, the city engineer shall make an investigation of the complaint and within ten (10) working days shall render a determination as to the validity of the complaint, take necessary action to insure the provisions of this chapter are being followed, and notify, in writing, the individual who filed the complaint of the action taken.

ARTICLE II. DRAINAGE AND SEDIMENTATION POLICIES AND STANDARDS

Sec. 18-20. Adoption.

The city engineer shall prepare standards, where applicable, for drainage facilities and best management practices which shall be known and cited as the "Piedmont Stormwater Drainage Standards, Criteria and Regulations". The City Drainage Standards or other standards approved and adopted by the city Council shall be followed by every person or governmental entity involved in development and/or in the construction, installation, and maintenance of drainage facilities. The City Drainage Standards as adopted may be amended from time to time in accordance with the procedure provided herein for their original adoption.

Sec. 18-21. Design policies and standards.

(a) Drainage policies.

(1) The stormwater drainage system shall be designed to pass the peak stormwater run-off received from upstream and from the subject property for storms with durations up to twenty-four (24) hours and return periods of up to one hundred (100) years.

(2) All development, redevelopment, and earth changes shall be constructed so that it will not increase the frequency of flooding or the depth of flood flows for any storm, up to and including the 24 hour - 100 year storm.

(3) Peak flows shall not be increased at any location for any storm, up to and including the 24 hour - 100 year storm.

(4) Regulation of peak flows to allowable levels, as determined by subparagraphs (2) and (3) herein, shall be achieved by on-site or off-site storage and/or other water management facilities as provided in the City Drainage Standards.

(5) Subject to requirements for a drainage plan or earth change permit and of the City Drainage Standards, downstream conveyance may be improved or easements obtained for inundated areas to compensate for increased flow depths if such improvements comply with the policies of this chapter.

(6) All development, redevelopment, and earth changes shall be constructed so that it will not cause harm to other properties as a result of concentrating flows.

(7) On-site stormwater control may not be required for sites less than 2.5 acres in size if it is determined by the city engineer that stormwater runoff from the site will not cause adverse effects as described in this chapter. The city engineer may request that the applicant provide such information as required to make this determination.

(b) Erosion and sediment control policies.

(1) All development, redevelopment, and earth changes shall be designed, constructed and completed in a manner which minimizes the exposure of bare earth to precipitation.

(2) All development, redevelopment, and earth changes shall be constructed only if appropriate sedimentation facilities are installed and maintained throughout the construction period.

(3) All development, redevelopment, and earth changes shall be accompanied by Best Management Practices for controlling sediment and erosion so as to minimize the amount of sediment leaving the site.

(c) Standards.

(1) Requirements and design standards for all components of drainage facilities shall be established by the City Drainage Standards.

(2) The City Drainage Standards shall govern all earth changes, drainage plans, excavating, grading, regrading, revegetation, landfilling, berming, and diking of land within the jurisdictional area of the City of Piedmont and shall specifically regulate the following considerations:

a. The City Drainage Standards shall regulate the design, installation, utilization and removal of all temporary and permanent drainage facilities and best management practices; and

b. The City Drainage Standards shall regulate the placement and compaction of fill material.

Sec. 18-22. Regional detention systems.

(a) Regional detention systems may be permitted and are recognized as one of the preferred methods of providing stormwater control. These systems may be designed to control the fully urbanized flows so as to permit the maximum use by developments in lieu of constructing small, on-site detention.

(b) The city council may accept cash payments for such detention systems in lieu of requiring on-site detention. Cash payments must be in an amount equal to the estimated cost of providing on-site stormwater control and must be made

prior to the start of any construction or earth changing operations. Any moneys received under this provision must be placed in the stormwater management fund.

(c) The option of accepting cash payments for regional detention may be made available to sites of any size. However, the option is available only when a regional detention facility is in place or scheduled for construction in the immediate future that will support the detention requirements of the proposed site.

(d) If it is determined by the city engineer that stormwater runoff from the site will cause adverse effects as described in this chapter, the site shall not be eligible for the cash payment option. The city engineer may request that the applicant provide such information as required to make this determination.

Sec. 18-23. Title, ownership, and maintenance of detention and drainage facilities.

Public or private title, ownership and maintenance of detention and drainage facilities required herein shall be determined by criteria established by and contained in the City Drainage Standards. Regional detention systems shall be owned, maintained and operated by the City of Piedmont.

ARTICLE III. DRAINAGE PLANS AND STUDIES

Sec. 18-30. Drainage plan required.

(a) A drainage plan prepared in accordance with the provisions of this chapter may be submitted to and accepted by the city engineer prior to the approval of any final plat, final replat of any subdivision of land, prior to the approval by the Piedmont Planning Commission of any minor subdivision, prior to the issuance of any building permit, or prior to the approval of any development.

(b) At application for review of any item that may require a drainage plan, a drainage study shall be submitted to the city engineer. If the drainage study shows that no increase in peak stormwater flows will result from the development, the city engineer may waive the requirement for a final drainage study and a drainage plan. Drainage studies shall contain adequate information and calculations to demonstrate the validity of the conclusions being made and that they are in compliance with the City Drainage Standards. A drainage study shall be formulated under the direct supervision and sealed by a registered professional engineer licensed by the State of Oklahoma.

(c) One week prior to review at a public meeting by the planning commission, a final drainage study must have been submitted to the city engineer.

(d) A final drainage study prepared in accordance with the provisions of this chapter shall be reviewed and accepted by the city engineer prior to approval by the planning commission of any preliminary plat of any subdivision of land, and prior to the approval by the city council of any final plat or final replat of any subdivision of land, development, site plan, or use permit.

(e) Upon approval by the city council and/or the planning commission of any item that requires a drainage plan, a revised final drainage study that reflects any special conditions of the city council and/or the planning commission approval shall be submitted and accepted.

(f) A drainage plan accepted by the city engineer is a prerequisite to the issuance of a building permit.

Sec. 18-31. Previously approved residential plats.

Under the following circumstances, the development of a final residential plat shall not have to be redesigned for drainage:

(1) Any subdivision for which a final plat was approved prior to _____, 2010, and

(2) The development of said subdivision is being accomplished with the same general use as originally intended when approval was granted for the final plat, and

Nothing in this section shall be construed to relieve a developer of property from obligations under any other laws, including but not limited to the Oklahoma Stormwater Act.

Sec. 18-32. Construction and approval of drainage facilities.

(a) All drainage facilities shown as part of an accepted drainage plan for any portion of a development shall be installed as a part of the first phase of construction or earth moving activity on that portion of the development. If only a portion of the drainage facilities are installed on any development due to phased construction of the development, these facilities shall be constructed to function in such a manner as to be consistent with the purpose of this chapter. The use of temporary drainage facilities may be permitted so long as they function in such a manner as to be consistent with the purpose of this chapter and that they are replaced with permanent drainage facilities prior to occupancy or use of the development. Minor deviations from the requirement for installing the drainage facilities as a part of the first phase of construction or earth moving activity may be granted by the city engineer if deemed necessary for technical reasons related to the construction as long as the purpose of this chapter is met.

(b) As-built drawings. As-built drawings shall be prepared and sealed by a professional engineer registered in the State of Oklahoma and shall be submitted to the city engineer upon completion of the construction of the final drainage plan. As-built drawings shall clearly show any changes from the accepted final drainage plan. The as-built drawings shall be reviewed by the city engineer. If the submitted "as-built" drawings cannot be accepted, the certifying engineer and applicant shall be advised in writing of the reasons for their disapproval. "As-built" drawings must be accepted prior to the issuance of a certificate of occupancy and the use or occupancy of a site, development, or other improvement.

(c) Maintenance bond. Before acceptance by the city council of any public improvement for city maintenance, a maintenance bond for the total cost of the improvement and for a period of one year shall be filed with the city clerk to ensure the correction of any defect in materials or workmanship that may be found in the improvement.

Sec. 18-33. Contents.

(a) General requirements. All final drainage studies shall be formulated under the direct supervision of a registered professional engineer licensed by the State of Oklahoma. Studies submitted for final acceptance shall be accompanied by payment of a fee in accordance with the schedule approved by the city council and contained in the City Drainage Standards, and bear the signature and seal of the submitting engineer and, additionally, the following statement shall immediately precede the signature and seal of the submitting engineer:

"I hereby certify that I am familiar with the adopted ordinances and regulations of the City of Piedmont governing drainage facilities; that this final drainage study has been prepared under my direct engineering supervision; and that the above and foregoing final drainage study complies with all governing ordinances and the adopted drainage standards of the City of Piedmont pertaining to drainage facilities to the best of my knowledge, information and belief."

(b) All final drainage plans shall be formulated under the direct supervision of a registered professional engineer licensed by the State of Oklahoma. Plans submitted for final acceptance shall bear the signature and seal of the submitting engineer and, additionally, the following statement shall immediately precede the signature and seal of the submitting engineer:

"I hereby certify that I am familiar with the adopted ordinances and regulations of the City of Piedmont governing drainage facilities; that the final drainage plan has been prepared under my direct engineering supervision; and that the above and foregoing final drainage plan complies with all governing ordinances and the adopted drainage standards of the City of Piedmont pertaining to drainage facilities to the best of my knowledge, information and belief."

Following the signature and seal of the submitting engineer, the drainage plan shall bear the name, address, phone number, and signature of the owner which shall be subscribed below the following statement:

"I (We) hereby certify that the accepted drainage plan will be implemented as designed and "as-built" drawings prepared of the completed drainage facilities under the general supervision of a professional engineer licensed by the State of Oklahoma. I (We) further certify that I am (we are) aware of my (our) responsibilities as the owner(s) of record for this piece of property, and that I (we) may be held personally (corporately) liable for any violations on this property resulting from the failure to comply with the provisions of the adopted ordinances and regulations of the City of Piedmont governing drainage facilities. Said provisions include, but are not limited to, responsibilities for proper construction, construction procedures and maintenance of the drainage facilities upon

completion."

In the case of property owned by a corporation, the statement shall use the parenthetical language and the owners information shall also include the title of the authorized person signing the owners certification and a notarized corporate seal.

(c) Final drainage study elements. A drainage study shall consist of text statements, engineering drawings, contour maps, and all supporting engineering drawings, supporting contour maps, and supporting engineering calculations applicable to the land area covered by the study and which are required to demonstrate full compliance with the requirements of this chapter and the City Drainage Standards. A study shall include all pertinent information required by the city engineer and may include, but shall not be limited to, any or all of the following elements:

(1) An engineering report showing compliance with the applicable provisions of this chapter and the City Drainage Standards, clearly detailing the scope of the engineering problem and the proposed solutions;

(2) An engineering hydrologic analysis of stormwater runoff under existing site conditions and under proposed developed site conditions;

(3) A detailed evaluation of the projected effects on property adjoining the site and on existing drainage facilities and systems both on and off the site;

(4) The location of all existing and planned temporary and permanent drainage facilities;

(5) The on-site regulatory flood elevations and the boundaries of any floodplain area. In every instance, the plan shall include a determination of the area required to carry the regulatory flood;

(6) The proposed method of handling all runoff from the development and demonstrated capability to handle the pass-through of upstream runoff;

(7) Proposed fill or other structure-elevating techniques, levees, channel modifications, and detention facilities;

(8) The location and size of all existing and proposed drainage easements and areas; and

(9) The location, size, character, and estimated effectiveness of all temporary and permanent erosion and sedimentation control facilities with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction. An outline of the sequence of construction activities shall be provided that notes when the various aspects of the drainage study will be implemented.

ARTICLE IV. EARTH CHANGE PERMIT

Sec. 18-40. Earth change permit required; not transferable.

Unless specifically exempted, an earth change permit granted to the provisions of this chapter shall be obtained from the city prior to the commencement of any excavating, grading, regrading, landfilling, berming, or diking of any property within the jurisdictional area of the City of Piedmont. A separate permit shall be required for each separate, noncontiguous site or lot. No permit shall be transferable without the prior written consent of the city engineer.

Sec. 18-41. Conditions attached to earth change permit.

Prior to granting any earth change permit, the city engineer shall attach such conditions thereto as deemed reasonable and necessary in order to comply with the purpose, policies, and standards of this chapter. Such conditions may include, but shall not be limited to: Submission of a drainage plan; specified finished grade, or land contours; mandatory installation of drainage facilities; specified erosion and sediment control measures; furnishing any necessary public easements; and a specified method and sequence for performing the work thereby authorized.

Sec. 18-42. Application for earth change permit; contents; duplication of information.

(a) General requirements. Unless exempted by the provisions of section 18-46 of this chapter, any person desiring to effect an earth change shall file a written application for an earth change permit with the city engineer. Any area affected by the earth change and within the jurisdictional area of the City of Piedmont must be included in the permit application. Applications shall be in such form and content as the city engineer shall establish, and shall be accompanied by the payment of a permit fee in accordance with the fee schedule adopted by the city council. The site plan and design standards established by the applicant and approved by the city engineer, or imposed by the city engineer, shall become conditions upon which the earth change permit is issued. No change in an accepted plan or design standard shall be made without prior written approval of the city engineer.

(b) Contents of permit application. Each earth change permit application shall contain the following information:

(1) The name and address of the legal owner of the property for which the permit is requested;

(2) A vicinity sketch and boundary line survey of the site for which the permit is requested, including a legal description of such property;

(3) Site drawings indicating each separate land area to be excavated, filled, graded, or leveled, the finished depth of each separate land cut or fill, the present and future (as completed) points of entry and discharge for surface water on the subject property, and identification of all temporary or permanent structures or

other devices to be erected or established for the purpose of controlling or regulating surface water, erosion and sedimentation on such property;

(4) The applicant's plans for controlling on-site erosion and off-site sedimentation for the purpose of preventing the deposit of sediment from the lot or tract under application upon any other off-site public or private property or watercourse during all phases of project construction; and

(5) The applicant's plans for receipt of surface water on the property under consideration and discharge of surface water from this property during periods of construction, and a statement specifying the anticipated time period for the completion of all drainage improvements.

If the city engineer is unable to determine from the application submitted that it meets the policies and standards governing the issuance of the requested permit, the city engineer shall request the applicant in writing to furnish such additional information which may be essential to such determination.

(c) Duplication of information. No applicant for an earth change permit shall be required to resubmit any documents, drawings, or other information which was previously submitted by such applicant in conjunction with the processing of any drainage plan previously accepted by the city engineer.

Sec. 18-43. Expiration; extension for additional year.

An earth change permit shall expire one year after the date it is issued. Earth change permits may be extended for an additional year following review by the city engineer.

Sec. 18-44. As-built drawings.

(a) As-built drawings, clearly showing any changes from the approved earth change permit, shall be submitted to the city engineer upon completion of construction of the earth change. The as-built drawings shall be reviewed by the city engineer. If the submitted "as-built" drawings cannot be accepted, the applicant and certifying engineer if one was used to obtain the permit, shall be advised in writing of the reasons for their disapproval. "As-built" drawings must be accepted prior to the issuance of a certificate of occupancy and the use or occupancy of a site, development, or other improvement.

(b) The city engineer may waive the requirement for as-built drawings on minor, residential projects. However, such a waiver shall not relieve the applicant from the responsibility of completing the earth change in accordance with the accepted earth change permit.

Sec. 18-45. Policies.

The issuance of earth change permits shall be governed by the following policies of the city:

(a) No earth change shall be permitted which creates a public hazard upon any property within the city through the obstruction, impairment, sedimentation, blockage or alteration of any drainage facility.

(b) No earth change shall be permitted which will channelize, obstruct, or impede any watercourse in a manner which is inconsistent with the provisions of this chapter, accepted best management practices and/or the City Drainage Standards.

(c) No earth change shall be permitted which will impede the authorized use of a utility easement.

(d) All earth changes shall be designed, constructed and completed in a manner which minimizes erosion and loss of sediment from the site.

(e) Earth moving activity on individual tracts or lots shall be conducted only if appropriate sedimentation facilities are installed as the first step in the earth moving process and continually maintained throughout the construction period in accordance with the City Drainage Standards.

(f) As may be applicable to any lot, parcel, or tract of land for which an accepted drainage plan exists, the requirements and conditions of the drainage plan shall be incorporated as a condition to the issuance of any earth change permit.

Sec. 18-46. Exemptions.

An earth change permit shall not be required for the following activities:

(1) Bona fide agricultural and farming operations which constitute the principal use of any lot or tract of ground in the jurisdictional area of the City of Piedmont and which meet the requirements of the zoning code of the city.

(2) Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require a zoning use exception, a zoning variance, or a building permit, and which does not affect stormwater drainage entering or leaving any private property or public right-of-way, utility easement, or drainage easement.

(3) Excavating and/or grading, and/or leveling, and/or landfilling of any lot or tract of record whose size does not exceed one (1) acre and does not contain any floodplain area, natural or man-made watercourse, or drainage easements.

(4) Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under such circumstances where it would be impossible or impracticable to obtain an earth change permit.

(5) Earth moving for the purpose of installing, maintaining, or repairing any drainage facility, public street, public utility facility, or any service lines related

thereto; however, such operations must be accompanied by sufficient use of best management practices that will insure minimal loss of sediment from the affected area.

Sec. 18-47. Notice of noncompliance.

If at any time an earth change is performed which is not in accordance with this chapter or an earth change permit, including all conditions and accepted modifications thereof, a written notice of noncompliance shall be given by the city stating the nature and location of the alleged noncompliance, and specifying what remedial steps are necessary to bring the project into compliance. The responsible parties shall have such time as may be allowed in writing by the city code enforcement officer to correct all noted deficiencies. The time allowed shall be reasonable, and shall be determined by the nature of the deficiency and whether or not it creates a nuisance or hazard. If the deficiency is not corrected to the satisfaction of the city at the expiration of the time allowance, then all, or portions of, the construction activity on the site may be stopped in accordance with section 18-48 of this chapter.

Sec. 18-48. Revocation or suspension of earth change permit; stop work order; notices.

(a) An earth change permit may be revoked or suspended by the city engineer upon the occurrence of any one of the following events:

- (1) Violation of any condition of the permit; or
- (2) Violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation pertaining to the earth change permit; or
- (3) Existence of any condition or the doing of any act constituting or creating a nuisance, hazard, or endangering human life or property of others; or
- (4) Failure to bring the permitted area into compliance within the time allowed on a notice of noncompliance previously issued.

(b) Upon the revocation of an earth change permit, the city engineer shall issue a stop-work order on all or part of the construction activity on the permit holder's property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued or approved by the city. Such order may require a work stoppage on all construction activity on buildings or structures and all appurtenances thereto, including building, electrical, plumbing, mechanical, street work, storm sewers, sanitary sewers, gas lines, and all utilities including gas, electric, telephone, and cable television.

(c) Notices and orders required by this section shall be served upon the parties concerned, either personally or by certified mail, addressed to the individual contracting party or parties and permit holder at the address given on the contract document or permit application filed with the city.

(d) The city may reinstate the earth change permit upon determination that the permitted area is in compliance with all applicable stormwater management and earth change requirements.

(e) Rulings of the city engineer may be appealed in writing to the board of drainage appeals. The board of drainage appeals must hold a public hearing within twenty (20) days of receipt of an appeal. After the public hearing, the board of drainage appeals may reinstate the permit stating under what conditions the reinstatement is valid.

Section 2. Conflict and Severability

Should this Ordinance conflict with any other ordinance of City of Piedmont or any other applicable law, the more restrictive shall apply. Should any section, subsection or provision of this Ordinance be declared unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the parts declared to be unconstitutional or invalid.

Section 3 . Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Piedmont Code of Ordinances. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or other appropriate designation.

Section 4. Repealer

All ordinances in conflict herewith are hereby repealed.

Section 5. Emergency

It being immediately necessary for the preservation of the public peace, health safety, and welfare of the City of Piedmont and the inhabitants thereof that this ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof said ordinance shall be put into full force and effect from and its passage and approval and publication.

END

The foregoing ordinance was introduced before the Piedmont City Council on the 27th day of September, 2010, and was duly adopted and approved by the Mayor and City Council on the 25th day of October, 2010, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et seq.).

ATTEST:



MAYOR



CITY CLERK

Approved as to form and legality on October 25, 2010.



CITY ATTORNEY