

ORDINANCE NO. 2194

AN ORDINANCE TO AMEND “SOIL EROSION AND SEDIMENTATION CONTROL”, CHAPTER 58, ARTICLE VI, SECTIONS 58-396, 58-397, 58-398, 58-399, 58-400, 58-401, 58-402, 58-403, 58-404, 58-405, 58-406, 58-407, AND 58-408 AND TO PROVIDE FOR THE PREVENTION OF SOIL EROSION AND THE RESULTING SEDIMENTATION IN ALL DEVELOPMENT WITHIN THE CITY OF PONTIAC, MICHIGAN BY REQUIRING PROPER PROVISIONS FOR WATER DISPOSAL, A PERMIT BEFORE ANY EARTH CHANGE AND THE PROTECTION OF SOIL SURFACES DURING AND AFTER CONSTRUCTION, IN ORDER TO PROTECT THE ENVIRONMENT, PROMOTE THE SAFETY, PUBLIC HEALTH, CONVENIENCE AND GENERAL WELFARE OF THE COMMUNITY.

Adopted: January 25 , 2007

Effective: February 4, 2007

THE CITY OF PONTIAC ORDAINS:

Section 1: That Chapter 58, Article VI, Section 58-396, of the Pontiac City Code shall be amended to read as follows:

Authority

This Ordinance is enacted pursuant to the provisions of Part 91, Soil Erosion and Sedimentation Control (SESC), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 91) being Sections 324.9101 to 324.9123a, inclusive of the Michigan Compiled Laws, as amended, where this Ordinance hereby provides regulations for the control of soil erosion and to protect adjacent properties and the waters of the state from sedimentation, including penalties for the violation of such regulations.

Section 2:

Designation of a Municipal Enforcing Agency (MEA)

The Department of Public Works and Utilities (DPW&U) is the Municipal Enforcing Agency responsible for enforcing this ordinance.

Section 3:

Adoption of Rules

The administrative rules promulgated under Part 91 are incorporated into this ordinance by reference.

Section 4: That Chapter 58, Article VI, Section 58-397, of the Pontiac City Code shall be amended to read as follows:

Definitions

- (a) Accelerated Soil Erosion: The increased loss of land surface that occurs as a result of human activities.
- (b) Certification: A signed, written statement by the soil engineer that specific constructions, inspections, or tests, where required, have been performed and that such comply with the applicable requirements of this ordinance.
- (c) Designated Agent: Means a person who has written authorization from the landowner to sign the application and secure a permit in the landowner's name.
- (d) Earth Change: Means a human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.
- (e) Fill: Means a manmade deposit of soil, rock or other materials.
- (f) Floodplain: Means that area which would be inundated by storm runoff or floodwater equivalent to that which would occur with a rainfall or flood of 100-year recurrence frequency after total development of the watershed.
- (g) Gardening: Means activities necessary to the growing of plants for personal use, consumption, or enjoyment.
- (h) Lake: Means the Great Lakes and all natural and artificial inland lakes or impoundments that have definite banks; a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to or greater than 1 acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water, or treating polluted water.
- (i) Nonerosive Velocity: Means that velocity of flow of water, which is not conducive to, accelerated soil erosion.
- (j) Permanent Soil Erosion and Sedimentation Control Measures: Means those measures and facilities which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.
- (k) SESC Permit: An authorization issued to perform work regulated under this ordinance.
- (l) Permittee: Means any person to whom a permit is issued pursuant to this ordinance.
- (m) Sediment: Means solid particulate matter, mineral or organic, that has been deposited in or by water, is in suspension in water, or is being transported or has been removed from its site of origin by the process of soil erosion.

- (n) Sediment Basin: Means a naturally occurring or constructed depression used for the sole purpose of capturing sediment during or after an earth change activity.
- (o) Sedimentation: Means the depositing of sediment.
- (p) Site: Means any plot or parcel of land or combination of contiguous lots or parcels of land where earth change is performed or permitted.
- (q) Site Work: Means any and all earth changes, excavations or related operations, to include, but not limited to: Excavation, grading, site clearance, filling, construction of utilities, foundations and basements, drilling caissons and wells, paving, construction of berms and /or surface drainageways, and landscaping.
- (r) Soil: Means all earth material of whatever origin that overlies bedrock and may include decomposed zones of bedrock, which can be readily excavated by mechanical equipment.
- (s) Soil Engineer: Means the director of the Department of Public Works and Utilities of the City of Pontiac or an authorized representative who has been appointed by him/her to enforce the provisions of this ordinance.
- (t) Soil Erosion: Means the process by which the ground surface is worn away by the action of wind, water, gravity or a combination thereof.
- (u) Stabilization: Means the proper placing, grading and covering of soil or rock to ensure their resistance to erosion sliding or other earth movement.
- (v) Stream: Means a river, creek, or other surface watercourse which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended, being S280.1 et seq... of the Michigan Compiled Laws, and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.
- (w) Stripping: Means any activity which removes or significantly disturbs the vegetative cover, including clearing and grubbing operations.
- (x) Temporary Soil Erosion and Sedimentation Control Measures: Means interim control measures which are installed or constructed to control soil erosion and sedimentation and which are not maintained after project completion.
- (y) Waters of the state: Means the Great Lakes and their connecting waters, inland lakes and streams as defined in the rules promulgated under this part, and wetlands regulated under part 303 of 1994 PA 451, as amended.

Section 5:

Goal

The prime goal of Part 91 and this ordinance is to achieve effective and reasonable control of accelerated soil erosion and to prevent off-site sedimentation. This is accomplished by using the best practical combination of procedures, techniques and people to prevent sediment, the product of accelerated soil erosion, from leaving the construction site and reaching the waters of the state or adjacent properties. This is to be accomplished by the enforcement of soil erosion and sediment control programs by the City of Pontiac. The three (3) objectives of the City of Pontiac program are as follows:

- (a) To protect our lakes, streams, rivers, wetlands, drains and watercourses from unnecessary degradation due to sedimentation;
- (b) To preserve high quality water essential to man and the health of our natural environment;
- (c) To protect vital land resources from erosion.

Section 6: That Chapter 58, Article VI, Section 58-398, of the Pontiac City Code shall be amended to read as follows:

General Requirements

- (a) It shall be unlawful for any person to engage in an earth change activity in such a manner as to allow any accelerated soil erosion on the site of the work or to allow sedimentation or the eroded soil off of or away from the site of work.
- (b) All persons engaged in earth change activities shall design, implement and maintain acceptable soil erosion and sedimentation control procedures and measures, which effectively reduce accelerated soil erosion and sedimentation.
- (c) Soil Erosion and sedimentation control procedures and measures for earth change activities shall be set forth on plans for the project; these SESC plans shall be approved by the Department of Public Works and Utilities before work is begun and the approved SESC plans shall be available for inspection on the site of the work.
- (d) It shall be unlawful for any person to engage in any earth change activity for which a SESC permit is required by this ordinance without first applying for and securing such permit from the Department of Public Works and Utilities in the manner provided in this ordinance. The SESC permit shall be made available for inspection on the site of the work.
- (e) Plans for soil erosion and sedimentation control shall be included with site and project plans for projects proposed for construction within the City of Pontiac. Plan review for the requirements of this ordinance shall be accomplished concurrently with other reviews as required by the City of Pontiac.
- (f) This ordinance shall be applicable and shall be enforced with regard to all private and public land uses within the City of Pontiac, except land uses of an authorized public agency designated pursuant to section 9110 of Part 91 and for uses which cross the boundaries of the City of Pontiac.

- (g) No site plan, plot plan or construction drawing proposing earth change shall be approved under other requirements for the City of Pontiac unless such plan, plot plan or construction drawing proposing earth change shall include soil erosion and sediment control measures consistent with the requirements of this Ordinance.
- (h) No certificate of occupancy for any building will be issued under other requirements of the City of Pontiac unless the applicant for such certificate shall have obtained a certification of completion indicating compliance with all SESC plans and specifications, permit conditions and completion of all permanent soil erosion control measures.
- (i) No building permit shall be issued under other requirements of the City of Pontiac to a person engaged in an earth change which requires a SESC permit under this Ordinance until the Department of Public Works and Utilities has issued the required permit for earth change.

Section 7: That Chapter 58, Article VI, Section 58-399, of the Pontiac City Code shall be amended to read as follows:

Jurisdiction

- (a) A person who proposes an earth change solely within the City of Pontiac and not subject to the jurisdiction of another authorized public agency shall obtain a permit from the Department of Public Works and Utilities prior to commencement of an earth change which disturb one or more acres of land, or if the earth change is within 500 feet of the water's edge of a lake or stream.
- (b) A SESC permit is not required for any of the following:
 - 1. A beach nourishment project permitted under part 325 of Act No. 451 of the Public Acts of 1994, as amended, being S 324.32501 et seq. of the Michigan Compiled Laws.
 - 2. Normal road and driveway maintenance, such as grading or leveling, that does not increase the width or length of the road or driveway and that will not contribute sediment to lakes and streams.
 - 3. An earth change of minor nature that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes and streams.
 - 4. Subject to subsection 5 below, a person engaged in the logging industry, the mining industry, or plowing of land for the purpose of crop production or the harvesting of crops is not required to obtain a permit under this part. However, all earth changes associated with the activities listed in this section shall conform to the same standards as if they required a permit under this part. The exemption from obtaining a permit under this subsection does not include the following:
 - a. Access roads to and from the site where active mining or logging is taking place.
 - b. Ancillary activities associated with logging and mining.
 - c. Removal of clay, gravel, sand, peat, or topsoil.
 - 5. Metallic mineral mining activity that is regulated under a mining and reclamation plan that contains soil erosion and sedimentation control provisions and that is approved by the Michigan Department of Environmental Quality under part 631

6. Earth changes associated with well locations, surface facilities, flow lines, or access roads relating to gas and oil exploration and development activities regulated under part 615, if the application for a permit to drill and operate under part 615 contains a soil erosion and sedimentation control plan that is approved by the Michigan Department of Environmental Quality under part 615. However, those earth changes shall conform to the same standards as required for a permit under this part. This subsection does not apply to a multi-source commercial hazardous waste disposal well as defined in Section 62506a of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 7. A residential property owner who causes the following activities to be conducted on individual residential property owned and occupied by him or her is not required to obtain a permit under this ordinance if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site:
 - a. An earth change of a minor nature that is stabilized within 24 hours of initial earth disturbance.
 - b. Gardening, if the natural elevation of the area is not raised.
 - c. Post holes for fencing, decks, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs for use of the post holes.
 - d. Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed 100 square feet.
 - e. All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within 24 hours of the initial earth disturbance, and soil erosion or sedimentation to adjacent properties or the waters of the state has not or will not reasonably occur:
 - 1) Planting of trees, shrubs, or other similar plants.
 - 2) Seeding or reseeded of lawns of less than 1 acre if the seeded area is at least 100 feet from the waters of the state.
 - 3) Seeding or reseeded of lawns closer than 100 feet from the waters of the state if the area to be seeded or reseeded does not exceed 100 square feet.
 - 4) The temporary stockpiling of soil, sand, or gravel not greater than 10 cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the state.
 - 5) Seawall maintenance that does not exceed 100 square feet.
- (c) The Department of Public Works and Utilities may grant a permit waiver for an earth change after receiving a signed affidavit from the landowner stating that the earth change will disturb less than 225 square feet and that the earth change will not contribute sediment to lakes and streams.
- (d) Exemptions provided in subsection (b) and (c) shall not be construed as exemptions from the enforcement procedures of this ordinance if the activities exempted in subsection (b) and (c) cause or result in a violation of this ordinance.

Section 8: That Chapter 58, Article VI, Section 58-400, of the Pontiac City Code shall be amended to read as follows:

Application for Permit

- (a) For earth change activities on privately owned land, the land owner or his/her designated agent, shall make the SESC application for a permit under this ordinance. For earth change activities on public lands, public or private rights-of-way and public or private easements, the owner or his/her designated agent, shall make SESC application.
- (b) Application shall be made on the State prescribed form adopted by Department of Public Works and Utilities. A separate application shall be required for each permit.
- (c) The Application Form shall be accompanied by the soil erosion and sedimentation control plan as described hereinafter.
- (d) An estimate of cost of the total site work shall be stated separately and included with the application. An itemized unit price estimate that includes the cost of all temporary and permanent soil erosion and sedimentation control measures shall also be stated and included with the application.
- (e) Application for a SESC permit under this Ordinance shall be made prior to the start of any work including construction of access roads, driveways, grubbing or grading. Any such unauthorized work will be considered a violation of this ordinance regardless of any later actions taken toward compliance. Soil test borings, vegetative cutting for land surveys and percolation test efforts will not be considered a start of work under these procedures.
- (f) The SESC application shall be accompanied by three (3) complete sets of the proposed SESC plan as set forth in Section 9.
- (g) An Authorized Public Agency is exempt from obtaining a SESC permit from the Department of Public Works and Utilities; however, such agency is still required to notify the Department of Public Works and Utilities of each proposed earth change to be undertaken.
- (h) At the time of filing an application for a permit under this Ordinance a fee shall be paid to the City of Pontiac based upon the appropriate classification in accordance with Section 17 of this Ordinance.

Section 9: That Chapter 58, Article VI, Section 58-401, of the Pontiac City Code shall be amended to read as follows:

SESC Plan Requirements

- (a) It is the intent of this section to provide enough information upon which to judge the adequacy of the design relative to the goals of Part 91, as described in Section 5. The magnitude and scope of the earth disrupting project and its potential for causing a soil erosion and /or sedimentation problem will have a direct bearing upon the scope and requirements of the plans.

- (b) A person with a working knowledge of soil erosion and sedimentation control methods and techniques shall prepare all SESC plans and information. In most instances, this person will be a professional engineer or architect registered in Michigan, as required under the provisions of Act No. 240 of the Public Acts of Michigan of 1937 (MCL 338.551 et seq., MSA 18.84(11), as amended. However, on small projects not covered by the Registration Act, well-prepared SESC plans not prepared by a registered engineer or architect will be allowed.
- (c) In general, the SESC plan shall be designed to effectively reduce accelerated soil erosion and control any sediment generated and shall identify factors, which may contribute to soil erosion or sedimentation or both. Plan sheets shall be twenty-four (24) inches by thirty-six (36) inches. The plan shall include but not limited to the following data:
1. A location map at the scale of 1"= 200' indicating the site location as well as the adjacent properties within 500 feet of the site boundaries.
 2. A boundary line survey of the site on which the work is to be performed.
 3. A soils survey or a written description of the soil types of the land area contemplated to be exposed during the earth change.
 4. Details of proposed earth changes in a plan of the site at a scale no greater than 1"=100' showing,
 - a. Name, address and telephone number of the owner, developer and applicant.
 - b. A timing schedule indicating the anticipated starting and completion dates of the development, sequence and time of soil exposure of each area prior to the completion of effective erosion and sediment control measures.
 - c. A certified statement of the quantity of excavation and fill involved.
 - d. Existing topography at maximum of two (2) foot contour intervals.
 - e. Proposed topography at a maximum of two (2) foot contour intervals.
 - f. Location of any structures or natural features on the site.
 - g. Location of any structures or natural features on the land adjacent to the site with in fifty (50) feet of the site boundary line.
 - h. Location of any proposed additional structures or developments on the site.
 - i. A description and the location of the physical limits of each proposed earth change.
 - j. Elevations, dimensions, location, extent and the slope of all proposed grading (including building and driveway grades).
 - k. The estimated total cost of the required temporary and permanent soil erosion control measures. This shall be an itemized unit price estimate.
 - l. The location and description for installing and removing all proposed temporary soil erosion and sediment control measures.
 - m. A description and the location of all proposed permanent soil erosion and sediment control measures shall also be included.
 - n. A map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains may be required if deemed necessary by the Soil Engineer.
 - o. A program proposal for the continued maintenance of all permanent soil erosion control facilities, which remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.
- (d) Should the information specifically required by this section be inadequate to meet the intent because of unusual site or project conditions, the applicant will be required to submit additional information, as circumstances require.

Section 10: That Chapter 58, Article VI, Section 58-403, of the Pontiac City Code shall be amended to read as follows:

Earth Change Requirements

- (a) All earth changes activities shall be designed, constructed and completed in such a manner so as to limit the exposed area of any disturbed land to the smallest extent practical and to limit the time of exposure of any disturbed land to the shortest time possible as determined by the Department of Public Works and Utilities.
- (b) Sediment caused by accelerated soil erosion shall be removed from the run-off water before it leaves the site of the earth change.
- (c) All temporary and permanent facilities constructed for the conveyance of water around, through or from the earth change area shall be designed to limit the water flow to a non-erosive velocity.
- (d) Permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area shall be completed in accordance with the schedule of timing and sequence approved by the Department of Public Works and Utilities, but in no case more than 5 calendar days after final grading or final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or if significant earth change activity ceases, then a person shall maintain temporary soil erosion and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.
- (e) During the non-growing season, when it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion and sedimentation control measures shall be maintained until permanent soil erosion control measures are in place and the area is stabilized.
- (f) A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change and shall maintain the measures on a daily basis. A person shall remove temporary soil erosion and sedimentation control measures after permanent soil erosion control measures are in place and the area is stabilized. A person shall stabilize the area with permanent soil erosion control measures under approved standards and specifications as prescribed by Section 9.

Section 11:

Standards and Specifications

- (a) A person shall complete all temporary and permanent erosion and sedimentation control measures according to the approved SESC plan. A person shall install and maintain control measures in accordance with the standards and specifications of all of the following:
 - 1. The product manufacturer
 - 2. The City of Pontiac as the enforcing agency
 - 3. The local conservation district
 - 4. The Michigan Department of Environmental Quality, "Guidebook of Best Management Practices for Michigan Watersheds"
 - 5. The Michigan Department of Transportation
 - 6. The Michigan Department of Management and Budget, "SESC Guidebook"
- (b) If a conflict exists between the standards and specifications, then the Department of Public Works and Utilities shall determine which specifications are appropriate for the project.

Section 12:

Design

- (a) Principles.
 - 1. The earth change should be planned and designed to fit the topography of the site.
 - 2. The smallest practical area of land should be exposed for the shortest possible time.
 - 3. Soil erosion control practices should be applied as the first line of defense against onsite soil erosion, thereby decreasing the amount of sediment that is generated.
 - 4. Sediment control practices should be applied as a second line of defense to prevent any sediment generated during construction from leaving the site.
 - 5. A thorough maintenance and follow-up operation should be implemented, as a site cannot be effectively controlled without thorough, periodic checks of soil erosion and sediment control practices.
- (a) Sources of Criteria.
 - 1. *Erosion and Sediment Control*, "Design Criteria," as prepared by the Oakland County Drain Commissioner and Oakland County Soil Conservation District, Second Printing, 1976.

Section 13:

Review of Plans

- (a) The soil erosion and sedimentation control plans as previously described in Section 9 will be reviewed and approved by the Department of Public Works and Utilities. This review will not commence until such time that the permit fee is paid as stated in Section 17.
- (b) The Department of Public Works and Utilities will approve, disapprove or require a revision to the SESC plans within thirty (30) calendar days following the receipt of the plans and the application for a SESC permit.

1. Notification of approval will be in the form of the actual permit issuance.
 2. If disapproved, the applicant will be notified either by certified mail or given written notice in person. Reasons for disapproval and the conditions necessary to obtain approval will be stated.
- (c) Revisions or major changes to the soil erosion and sedimentation control plans, be they to reflect a change in the concept or to remedy a revealed deficiency may be submitted as required. However, the extent such changes void or otherwise require duplication of engineering time expended in review of the original plan, a supplemental fee will apply which shall be due and payable prior to issuance of the resultant permit.
- (d) The SESC permit, or a copy thereof, along with a complete set of the approved soil erosion and sedimentation control plans, shall be available at the site of the earth change for inspection at all times.

Section 14: That Chapter 58, Article VI, Section 58-404, of the Pontiac City Code shall be amended to read as follows:

Performance Requirements

- (a) All work required under the Soil Erosion and Sedimentation Control Plan for the project for which a SESC permit under this Ordinance is issued shall be carried out in accordance with the approved plans and construction schedule and shall be completed in a timely fashion, within the time limit on the SESC permit.
- (b) During the grading operations the permittee shall be responsible for the prevention of damage to any public utilities or services within the limits of the grading and along any routes of travel of the equipment. This prevention effort also includes damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property without supporting and protecting such property from settling, cracking, or other damage which might result.

The prompt removal of all soil, miscellaneous debris, or other materials applied, dumped, or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares during transit to and from the construction site, where such spillage constitutes a public nuisance or hazard shall also be required.

- (c) If the permittee is unable to complete the work within the specified time, he may, at least ten (10) days prior to the expiration of the SESC permit, present in writing to the Department of Public Works and Utilities, a request for an extension of time setting forth the reasons for the request extension and a revised schedule of timing and sequence. If in the opinion of the Department of Public Works and Utilities, such an extension is warranted, it may grant additional time for the completion of the work, but no such extension shall release the Owner of the Surety on the bond or the person furnishing the instrument of credit or cash bond.
- (d) All modifications of the approved SESC plans must be submitted to and approved by the Department of Public Works and Utilities. All necessary substantiating reports shall be submitted with the proposal to modify the SESC plan. No earth change in connection with any proposed modification shall be permitted without the approval of the Department of Public Works and Utilities.

- (e) In the event of failure to complete the work or failure to comply with all the requirements, conditions and terms of the SESC permit, the Department of Public Works and Utilities may, where in it's opinion it is necessary to eliminate any dangerous conditions, to leave the site in a safe condition, and to control soil erosion and sedimentation, order the permittee to complete the work or install temporary control measures. He/she shall allow sufficient time for the permittee to complete the ordered work but shall require that the work be started within five (5) days of the date of the order, be prosecuted diligently and completed in reasonable length of time. Should the permittee fail to comply with the order, the Department of Public Works and Utilities shall cause temporary or permanent soil erosion or sedimentation controls to be installed on the site by City of Pontiac forces or by a private contractor. The permittee and surety on the bond or person issuing the instrument of credit or making the cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the City of Pontiac of Pontiac in causing any and all such work to be done. In case of a cash deposit, any unused portion thereof shall be refunded to the permittee.
- (f) Individuals or developers carrying out soil erosion and sediment control under this Ordinance, and all subsequent owners of property on which such measures have been installed, shall adequately maintain all permanent soil erosion control measures, devices and plantings in effective working condition. A program proposal shall be submitted by the permittee for continued maintenance of all permanent soil erosion control facilities which remain after project completion, including the person responsible for maintenance. The program shall include permission for right of entry onto the site by the Department of Public Works and Utilities. The Department of Public Works and Utilities shall maintain a file of such programs and shall from time to time, as it deems necessary, inspect the facilities. Maintenance responsibility and right of entry shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located

Section 15: That Chapter 58, Article VI, Section 58-405, of the Pontiac City Code shall be amended to read as follows:

Inspections and Enforcement

- (a) No person shall refuse to permit an employee or agent of the Department of Public Works and Utilities to inspect any premises at reasonable times, nor shall any person molest or resist him in the discharge of his duties. Onsite inspections before, during and after any earth change activity for which a permit required by this ordinance has been issued will be performed as required by the extent and erosion potential of the activity.
- (b) The permit holder shall notify the Department of Public Works and Utilities at least twenty-four (24) hours before starting any earth change activity for which a permit has been issued.
- (c) If upon inspection existing site conditions are found not to be as stated in the SESC application or the approved SESC plan and in accordance with soil erosion and sedimentation control specifications, the permit will be invalidated. No earth disrupting work shall be undertaken, or continued by any person until revised SESC plans have been submitted and a valid SESC permit issued.

- (d) During inspections, apparent violations of the SESC permit requirements that are observed shall be brought to the attention of the person in responsible charge of the work. Should the Department of Public Works and Utilities be unable to resolve the violations, it shall issue a Stop Work Order.
- (e) Field Changes and modifications to the SESC plans and other requirements of the SESC permit shall not be allowed. Revised SESC plans shall be submitted to the Department of Public Works and Utilities for review and approval.
- (f) A Stop Work Order, when issued by the Department of Public Works and Utilities, shall require all work under this permit to be stopped. A Stop Work Order issued under this Ordinance will suspend all other permits issued under the City of Pontiac Charter and all work of any trade engaged in an earth change activity on the site shall stop until the Order is rescinded.
- (g) A Certificate of Occupancy, either temporary or permanent, shall not be issued for all or any part of the project by any City of Pontiac Department while a Stop Work Order issued under this Ordinance is in effect.
- (h) A final inspection for full compliance with the SESC permit shall be made before any Department issues the final Certificate of Occupancy.

Section 16: That Chapter 58, Article VI, Section 58-406, of the Pontiac City Code shall be amended to read as follows:

Bonds; Forms; Penalty

- (a) Where the estimated total cost of all temporary and permanent soil erosion sedimentation control measures exceed one thousand dollars (\$1,000.00) a SESC permit shall not be issued unless the permittee has first posted with the Department of Public Works and Utilities a bond or letter of credit made out to the City of Pontiac. The bond or letter of credit shall be in the amount of the estimated total cost of all temporary and permanent soil erosion and sedimentation control measures included in the approved SESC plan, executed by the Owner and a corporate surety with authority to do business in the State of Michigan as a surety.
- (b) A bond or letter of credit may, at the sole discretion of the Department of Public Works and Utilities, be required on other lesser totals where the same is deemed advantageous to preserve the public health, safety or welfare.
- (c) The bond shall be in a form approved by the City of Pontiac Attorney, payable to the City of Pontiac.
- (d) Every bond and instrument of credit shall include and every cash deposit shall be made on the conditions that the permittee shall comply with all of the provisions of this Ordinance and all terms and condition of the permit, and shall complete all of the work contemplated under the permit within the time specified on the permit, or if no time is specified, within one hundred eighty (180) days after the issuance of the permit.
- (e) Upon permanent restabilization of all disrupted earth areas, the bond or letters of credit or residual balance will be returned to the permittee along with an accounting of any funds used.

Section 17. That Chapter 58, Article VI, Section 58-402, of the Pontiac City Code shall be amended to read as follows:

Site Classification System and Fee Schedule

The Site Classification System has been developed based upon certain site conditions and associated risk of potential soil erosion problems and need for inspection frequency. The Classification for any given project will be determined by the Department of Public Works and Utilities.

Classification System

<u>Class</u>	<u>Description</u>	<u>Expected Inspection Frequency</u>
Class 4	Project within 500 feet of lake/stream/wetland/open water of any kind and has a slope greater than 2% or discharge to these waters	2 weeks
Class 3	Project within 500 feet of lake/stream/wetland/open water of any kind and has no slope (2% or less)	3 weeks
Class 2	Project discharges to a dry/wet detention basin with a sediment filter or on a retention pond	6 weeks
Class 1	Project is over 1 acres and does not meet the requirements found in the above classes	8 weeks

It is the intent of the City of Pontiac that administration of this ordinance be self-sustaining from fees imposed and to distribute such charges as equitably and fairly as possible, therefore, the council shall from time to time adopt such resolutions setting forth a schedule of fees to be paid as shall be necessary to administer this ordinance. Plan review fees shall cover the initial SESC plan review and review of up to two (2) revisions. Any further revisions will require submission of an additional review fee equal to one-half (1/2) of the original review fee.

- (a) The City of Pontiac reserves the right to incorporate any document needed to further implement the intent of this ordinance and also to adjust any fee schedules for inspection, SESC plan review and SESC permits as it deem necessary.
- (b) The approved SESC plans and the SESC permit shall be kept available at the site of the earth change for inspection at all times.
- (c) The SESC permit shall contain a time limit on completion of the requirements of the SESC permit and it shall become void at the expiration of the time limits.
- (d) A bond in the amount and the form stated hereinafter shall be submitted at the time the SESC permit is issued.

- (e) SESC Permits shall not be issued where in the opinion of the Department of Public Works and Utilities:
 - 1. The proposed grading would cause hazards to the public safety welfare, or
 - 2. The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the depositing of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property, or
 - 3. The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property;
 - 4. The land area for which the grading is proposed may lie within the flood plain of any stream or water-course, unless a hydrologic report, prepared by a Professional Engineer, is submitted to certify that the proposed grading will have, in his opinion, no detrimental effect on the public welfare or upon the total development or the watershed,
 - 5. The land area in which grading is proposed lies with the flood plain of any stream or water-course specifically designated and delineated by the City of Pontiac as an area subject to flood hazard.
- (f) The requirements of the SESC permit shall have been met and the SESC permit shall be terminated when the work has been completed in accordance with the approved SESC plans and the Department of Public Works and Utilities has issued a Certificate of Completion.
- (g) In the event a SESC permit is not issued following the fee payment, the applicant will receive a refund based upon the cost of any review work performed.

Section 18: That Chapter 58, Article VI, Section 58-407, of the Pontiac City Code shall be amended to read as follows:

Violation and Penalty

- (a) It shall be unlawful for any person to fail to perform an act required by this Ordinance or to perform any act prohibited by this Ordinance.
- (b) It shall be unlawful for any person having possessory interest in any land to knowingly permit, acquiesce, assist, aid or encourage any other person to violate the provisions of this Ordinance.
- (c) Violations of permit requirements will initially be brought to the attention of the individual in charge of on-site construction activities. Should efforts towards immediate compliance be unsuccessful, a Stop-Work Order may be issued. Such Order shall contain a description of the specific alleged violation and the steps deemed necessary to bring the project back into compliance. The Order, when issued, shall require all work at the site covered by the approved permit or covered by any other permit issued by the City of Pontiac to be stopped. No person shall undertake or continue any work at the site, including earth disruption, until the Stop-Work Order has been removed.
- (d) When the situation warrants, formal cease and desist or affirmative action injunctive action may be filed with appropriate court having jurisdiction over such matters.

- (e) Every person convicted of a violation of any provision of any or rule or regulation adopted or issued in pursuance thereof, shall be responsible for a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) and costs of prosecution or by imprisonment of not more than ninety (90) days, or both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur constitute a separate offense.
- (f) In addition to the penalty prescribed in subsection (e) of this section, the City of Pontiac may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.
- (g) Additionally, every person convicted of a violation of any provision or of any rule or regulation adopted or issued in pursuance thereof shall be subject to all civil penalties authorized in Section 324.9121 of Part 91, Soil Erosion and Sedimentation Control (SESC), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 91) being Sections 324.9101 to 324.9123a, inclusive of the Michigan Compiled Laws, as amended, and not prescribed in subsection (e). The City of Pontiac Department of Public Works and Utilities will be the enforcement agency for notice of violations, stop work orders and citations concerning the City of Pontiac's administration of the Soil Erosion and Sedimentation Control program as identified in this ordinance.

Section 19: That Chapter 58, Article VI, Section 58-408, of the Pontiac City Code shall be amended to read as follows:

Variances and Exceptions

- (a) The Council of the City of Pontiac shall have authority to interpret this Ordinance and may in specific cases grant variances and exceptions to these requirements providing such variance and exception are not in violation of the requirements of Part 91.
- (b) To authorize, upon an appeal, a Variance or Exception from the strict application of the provisions of this Ordinance, where, by reason of exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict application of a regulation enacted under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon, the owner of such property.
- (c) A Variance or Exception may be allowed by the Council of the City of Pontiac in cases involving practical difficulties or unnecessary hardships and the evidence supports, in the consideration of the Council, the following findings:
 - 1. That the Variance or Exception is in harmony with and serves the general intent and purposes of this Ordinance.
 - 2. That allowing the Variance or Exception will result in substantial justice being done, considering both the public benefits intended to be secured by this Ordinance and the individual hardships that will be suffered by a failure of the Council to grant a Variance or Exception.
 - 3. That the Variance or Exception, if allowed, will not interfere with or injure the rights of others in the district whose property is affected by allowance of the Variance or Exception.
 - 4. That the alleged hardships or practical difficulties are unique and singular as regards to the property of the party requesting the Variance or Exception.

5. That the alleged hardship or practical difficulties that will result from failure to grant a Variance of Exception include more than an inconvenience and financial hardship to the applicant.
6. When the Council of the City of Pontiac allows a requested Variance or Exception, there shall be entered as part of the record in each case of a requested Variance or Exception the findings enumerated above in support of the Variance or Exception.
7. When granting the Variance or Exception under this Ordinance, the Council may impose such conditions and limitations as are necessary to carry out the spirit and purpose of this Ordinance.

Section 20: Severability

- (a) If any article, section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance; it being the intent of the Council of the City of Pontiac that this Ordinance shall stand, notwithstanding the invalidity of any article, section, subsection, sentence, clause, phrase or portion thereof.

Section 15. Site Classification System and Fee Schedule

The Site Classification System has been developed based upon certain site conditions and associated risk of potential erosion problems and need for inspection frequency. The Classification for any given project will be determined by the Engineer.

Classification System

<u>Class</u>	<u>Description</u>	<u>Expected Inspection Frequency</u>
Class 4	Project on a lake/ Stream/wetland/ Open water of any Kind and has a slope Or discharge to these Waters	2 Weeks
Class 3	Project on a lake/ Stream/wetland/open Water of any kind and Has no slope (2% or less)	3 weeks
Class 2	Project is on a dry/ Wet detention basin With a sediment filter Or on a retention pond	6 weeks
Class 1	Project is over 1 Acre and does not meet The requirements found In the above classes	8 weeks

It is the intent of the city that administration of this ordinance be self-sustaining from fees imposed and to distribute such charges as equitably and fairly as possible, therefore, the council shall from time to time adopt such resolutions setting forth a schedule of fees to be paid as shall be necessary to administer this article. Plan review fees shall cover the initial plan review and review of up to two (2) revisions. Any further revisions will require submission of an additional review fee equal to one-half (1/2) of the original review fee. The following Permit Fees are effective at the date of Ordinance adoption.

PERMIT FEES FOR THE APPROPRIATE CATEGORY ARE AS FOLLOWS:

INDUSTRIAL/COMMERCIAL/RESIDENTIAL DEVELOPMENT PERMITS:

<u>Class</u>	<u>Plan Review Fee</u>	<u>Annual Inspection Fee</u>
4	\$165	\$3,200.00
3	\$165	\$2,040.00
2	\$165	\$ 1,080.00
1	\$165	\$ 780.00

Note that a Violation Re-inspection fee of \$85 will be assessed if the violation was not corrected within the five day period.

RESIDENTIAL (Single Family, In-Fill Projects) FEES:

(Within 500 feet of a lake, wetland, stream, where a permit is required)

<u>Class</u>	<u>Plan Review Fee</u>	<u>Annual Inspection Fee</u>
4	\$40	\$520.00
3	\$40	\$340.00

Note a Violation Re-inspection fee of \$30 will be assessed if the violation was not corrected within the five day period.

Also, inspection fess is based on a four (4) month construction schedule. Permits issued for residential single family in-fill projects will only be valid for a four (4) month time period.

- (a) The City reserves the right to incorporate any document needed to further implement the intent of this Article and also to adjust any fee schedules for inspection, plan review and permits as it deem necessary.
- (b) The approved plans and the permit shall be kept available at he site of the work for inspection at all times.
- (c) The permit shall contain a time limit on completion of the requirements of the permit and it shall become void at he expiration of the time limits
- (d) A bond in the amount and the form stated hereinafter shall be submitted at the time the permit is issued.
- (e) Permits shall not be issued where in the opinion of the Soil Engineer:
 - (1) The proposed grading would cause hazards to the public safety welfare, or
 - (2) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the depositing of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property, or
 - (3) The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate of sufficiently reduce settlement, slope instability or any other such hazard to persons or property;
 - (4) The land area for which the grading is proposed may lie within the flood plain of any stream or water-course, unless a hydrologic report, prepared by a Professional Engineer, is submitted to certify that the proposed grading will have, in his opinion, no detrimental effect on the public welfare or upon the total development or the watershed,
 - (5) The land area in which grading is proposed lies with the flood plain of any stream or water-course specifically designated and delineated by the City of Pontiac as an area subject to flood hazard.
- (f) The requirements of the permit shall have been met and the permit shall be terminated when the work has been completed in accordance with the approved plans and the Soil Engineer has issued a Certificate of Completion.
- (g) In the event a permit is not issued following the fee payment, the applicant will receive a refund based upon the cost of any review work performed.