

ARTICLE I: EARTH CHANGES

Section: 1 - 0 Purpose and Scope

(a) This article is enacted for the purpose of protecting the general health, safety and welfare of the citizens of the City of Glenpool from the hazards and danger of erosion, sedimentation, flooding, and inadequate or improper drainage by imposing standards and conditions upon the excavation, grading, re-grading, land filling, berming, and diking of land within the City of Glenpool.

(b) The provisions of this article shall apply to and be binding upon every person, firm or corporation, and the City of Glenpool, who seeks to develop, redevelop, grade, re-grade, excavate, land fill, berm or dike land within the City of Glenpool.

Section: 1 - 1 Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article it's most reasonable application.

Board of Adjustment: Shall mean a board established by the Glenpool City Council to hear and render judgment on requests for administrative appeals or variances from this article.

City: Shall mean the City of Glenpool, Oklahoma.

City Manager: Shall mean the City Manager for the City of Glenpool or his representative.

Department of Community Development: Shall mean the City of Glenpool Department of Community Development, or its authorized representative.

Earth Change: Shall mean excavating, grading, re-grading, land filling, berming, or diking of land within the City of Glenpool.

Earth Change Permit: Shall mean a permit issued by the City of Glenpool authorizing excavation, grading, re-grading, land filling, berming or diking of property.

Tract: Shall mean any parcel of land subject to the provisions of this article.

Section: 1 - 2 General Provisions & Rules for Interpretation

(a) *Lands to Which This Article Applies:* This article shall apply to all lands within the jurisdiction of the City of Glenpool, Oklahoma.

(b) *Compliance:* No land shall hereafter be developed, redeveloped, graded, re-graded, excavated, filled, bermed, diked, or cleared of trees and undergrowth without full compliance with the terms of this article and other applicable regulations.

(c) *Abrogation and Greater Restrictions:* It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of their inconsistency only.

(d) *Interpretation:* In the interpretation and application, the provisions of this article shall be considered as minimum requirements as determined by the City of Glenpool and shall be deemed neither to limit or repeal any of the other powers granted under State Statutes.

(e) *Warning and Disclaimer of Liability:* The degree of protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study and computations. This article does not imply that land uses permitted will be free from hydraulic or wind erosion, flooding, or other dangers to the public. This article shall not create liability on the part of the City of Glenpool, Oklahoma or any officer, employee, or authorized representative thereof for any damages that result from reliance on this article or any administrative decision lawfully made there under.

(f) *Severability:* If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

(g) *Plans Prepared by Professionals:* All improvement plans submitted for review and permitting as required hereunder shall be prepared by a Professional Engineer registered in the State of Oklahoma and shall be certified by that engineer as to compliance with this Article.

Section: 1 – 3 Earth Change Permit

(a) Unless specifically exempted under Section 1-7 herein, an Earth Change Permit, as defined and regulated by this Article, shall be obtained from the City of Glenpool Department of Community Development prior to the commencement of any excavating, grading, re-grading, land filling, berming or diking of any property within the City of

Glenpool. Unless specifically exempt, an Earth Change Permit shall be required prior to the clearing of land, including the removal of vegetation and ground cover or performing any other work constituting an earth change as defined under this chapter. A separate permit shall be required for each separate noncontiguous tract, and no permit shall be transferable without the prior written consent of the Department of Community Development.

(b) Prior to granting any Earth Change Permit, the Department of Community Development shall attach such conditions thereto as may be deemed necessary to prevent hazards or damage to public or private property. Such damage shall include, but not be limited to blockage, obstruction, alteration, or impairment of any storm sewer drain or natural or improved surface water course. Any such attached conditions shall also prohibit the work thereby authorized from being conducted in a manner hazardous to life or property, or otherwise likely to create a public nuisance. Such public nuisances shall be deemed to include, but not be limited to, erosion, avulsion, or siltation anywhere within the storm sewer system or surface storm water system of the City of Glenpool. Conditions attached to the permit may require, but are not limited to; submission of a drainage plan; submission of grading plans illustrating specified finished grade contours; installation of retaining walls; installation of drainage structures and piping; installation of storm water detention or other drainage related facilities, installation of specific temporary and/or permanent erosion control measures; the procurement of any necessary public easements for the work being proposed; a specified written methodology and time period for performing the authorized work; a description of the method and disposition of waste materials generated by the authorized work.

Section: 1 - 4 Permit Review

An Earth Change Permit shall expire six (6) months after it is issued if substantial progress has not been made toward completion of the work permitted. All issued Earth Change Permits shall be reviewed periodically by the Department of Community Development for compliance with the provisions of this Article and any special conditions attached to the approved permit.

Section: 1 - 5 Application for Earth Change Permit

(a) General Requirements: Unless exempted by the provisions of this article, any person desiring to effect an earth change as defined herein shall file a written application for an Earth Change Permit with the Department of Community Development. Applications for earth change shall be in such form and content as the Department of Community Development shall establish. All such permit applications shall be accompanied by the payment of a fee as shall be established by the Department of Community Development and City of Glenpool ordinance.

All site clearing, grading, drainage, or other similar proposed improvements - including related design standards and features proposed by the applicant and approved or imposed by the Department of Community Development, shall become conditions to the issuance of the Earth Change Permit. No modifications and/or additions to an approved plan, design feature, or specifications shall be made without prior written approval of the Department of Community Development.

(b) Contents of Permit Application: At a minimum, each Earth Change Permit application shall contain the following information:

(1) The name, address and contact telephone number of the legal owner of the property for which the permit is being requested; the name, address, and contact telephone number of the applicant (if different than property owner); the street address and legal description for the property being permitted; the type of earth change being requested; and the estimated start and completion date of the earth change activities being proposed.

(2) A drawing(s) illustrating: the boundary of the project property; the location of the permit property related to surrounding vicinity; and the location and limits of the proposed earth change improvements. Such drawings shall also include a street address and legal description of the permit property. A certified boundary and /or topographic survey may be required by the Department of Community Development depending on the scope and complexity of the work being proposed.

(3) Site improvement drawings indicating each separate land area to be excavated, filled, graded, re-graded, leveled, bermed, and/or cleared. Such site drawings shall include:

- A. The depth and location of each separate land cut or fill being proposed (existing and finished grade spot elevations or contours).
- B. The present and future (as completed) points of entry and discharge for surface water flowing on to, and off, the subject property.
- C. A description and location of all temporary and permanent structures or other devices to be erected or established for the purpose of controlling or regulating surface storm water, soil erosion, and sedimentation, on to, and off, the subject property.

(4) A separate narrative describing the applicant's plan for controlling soil erosion and off-site sedimentation and a statement by the applicant certifying that the proposed earth change shall not cause soil erosion and sedimentation on off-site properties.

(5) The applicant's improvement plans shall provide for the receipt of surface water onto and the discharge of surface water from his property during all periods of construction and shall include a statement specifying the anticipated time period for the completion of all earth change and erosion control improvements.

If however, upon application, the Department of Community Development is unable to determine from the information submitted that it meets the policies and standards governing the issuance of the requested Earth Change Permit, the Department of Community Development shall request the applicant furnish such additional information deemed necessary to complete the requirements prior to issuance of the requested Earth Change Permit.

(c) **Posting of the Permit:** Upon receipt of the approved Earth Change Permit, the applicant shall post said permit conspicuously at the subject site for the duration of the project.

Section 1 - 6: Earth Change Policies and Standards

(a) **Policies:** The issuance of Earth Change Permits shall be governed by the following policies of the City of Glenpool.

(1) No earth change shall be permitted which does not protect the general health, safety, and welfare of the citizens of the City of Glenpool from the hazards and danger of soil erosion, sedimentation, increased flooding, and inadequate or improper drainage by imposing construction standards and conditions upon the excavation, grading, re-grading, land filling, berming, and diking of land being proposed.

(2) No earth change shall be permitted which will channelize, obstruct, or impede any water course in a manner which is inconsistent with accepted engineering practices and/or the adopted drainage standards of the City of Glenpool.

(3) All earth changes shall be designed, constructed, and completed in a manner which minimizes the time of exposure of bare earth to the elements.

(4) Construction activity on individual tracts shall be conducted only if appropriate sedimentation facilities are installed prior to start of construction and maintained throughout the construction period to prevent sediment from any such tract being deposited upon any off-site public or private property or water course during all phases of project construction.

(5) Any tract of land for which a drainage plan, previously approved by the Department of Community Development, exists, the requirements and conditions of that approval shall be incorporated as conditions of the associated Earth Change Permit as may be required.

(6) The redesign of, or modification to, drainage structures and/or related improvements presently existing as a result of a previously approved drainage plan shall not be required as condition for the subsequent issuance of an Earth Change Permit covering the same property unless the proposed earth change materially alters the character and extent of the approved drainage plan.

(b) **Standards Established:** The policies governing earth changes shall be implemented by the adopted City drainage standards which shall specifically regulate the following considerations:

(1) Adopted City drainage standards that regulate the design, installation and utilization of all storm water detention, drainage facilities, and related structures.

(2) Adopted City drainage standards that regulate the design, installation, maintenance, and removal of sedimentation and erosion control procedures, facilities, and structures and establish acceptable methods and practices for controlling soil sedimentation and erosion.

Section 1 - 7: Earth Change Exemptions.

An Earth Change Permit shall not be required for the following situations or activities:

(1) Bona fide agricultural and farming operations which constitute the principal use of a particular tract of land in the City of Glenpool and which operations meet the requirements of the Zoning Code of the City of Glenpool.

(2) Private, non-commercial, home gardening.

(3) Excavating, grading, leveling, or land filling requiring less than an average of six inches (6") of cut or fill at any one point.

(4) On any tract of land of record whose area does not exceed one acre.

(5) The common or routine maintenance and clearing of land which does not expose the earth or ground to erosion.

Provided, however, that exemptions (3) and (4) are not applicable to:

- (a) 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.
- (b) Temporary excavation for the purpose of maintaining or repairing any public street, public utility, or any service lines related thereto.

Section 1 - 8: Administrative Procedure.

(a) Processing by the Department of Community Development: Within ten (10) working days after receipt of a properly completed Earth Change Permit application, the Department of Community Development shall either approve or disapprove the submitted permit application. Earth Change Permit applications which are consistent with the policies and which meet the standards established by this article shall be approved. If the required findings cannot be made - based upon the information contained in the permit application, certain additional information shall be required as identified and determined by the Department of Community Development. Within ten (10) working days after receipt of such additional information as may have been required or as may have been determined to be necessary during a conference with an applicant, a final decision shall be made by the Department of Community Development to either approve or disapprove the submitted permit application. If disapproved, the submitting permit applicant shall be advised in writing and additional conferences scheduled as appropriate.

(b) Administrative Appeals: All rulings, requirements, decisions, or interpretations by the Department of Community Development shall be final and binding upon all parties thereto unless appealed to the Glenpool Board of Adjustment. Any person aggrieved thereby may initiate an appeal by filing a written notice of such appeal with the office of the Department of Community Development of the City of Glenpool within ten (10) days from the date of the action disputed. All notices of appeal shall specify the facts which the aggrieved party deems material to his appeal. A hearing on the appeal shall be heard by the Glenpool Board of Adjustment not later than 30 days from the date of filing the notice of appeal.

(c) Stay of Proceedings: An appeal to the Glenpool Board of Adjustment shall stay the enforcement of any ruling, decision, or requirement of the Department of Community Development, unless the Department of Community Development certifies to the Glenpool Board of Adjustment that, by reason of the facts stated, a stay would cause an immediate public hazard or impair life or property. In such case, enforcement shall not be stayed other than by a restraining order issued by a court of competent jurisdiction upon due and sufficient cause shown.

(d) Variance by Procedure: The Glenpool Board of Adjustment may grant, in a particular instance, a variance or modification of the terms of this article or adopted City drainage standards unless such action will cause detriment to the public good, safety, or welfare, or be contrary to the spirit, purpose, and intent of this article or where, by reason of unique and exceptional physical circumstance or condition of a particular property, the literal enforcement of the adopted city drainage standards or the requirements of this article will result in an unreasonable hardship.

(e) Appeal: Any person or persons aggrieved by the decision of the Glenpool Board of Adjustment may appeal such decision to a court of competent jurisdiction.

Section 1 - 9: Enforcement and Penalties

(a) Notification of Noncompliance: If at any time the work being performed in accordance with a current and valid Earth Change Permit does not conform to the approved permit, including drawings, specifications, and any approved modifications thereof, a written notice to comply shall be issued to the permit holder by the City of Glenpool Department of Community Development stating the nature and location of the alleged noncompliance, and specifying what remedial steps are necessary to bring the project into compliance. The permit holder shall have such time as may be allowed in writing by the Department of Community Development to correct all noted deficiencies. The time allowed for such corrections shall be reasonable and shall be determined by the nature of the deficiency and whether or not it creates a public nuisance or hazard.

(b) Temporary Suspension of Earth Change Permit: An Earth Change Permit may be temporarily suspended by the Department of Community Development upon the existence of any condition or the doing of any act constituting or creating a condition which endangers human life or may cause severe property damage to others. The Department of Community Development may issue an immediate stop work order as provided in subsection (c) herein. The Department of Community Development shall, upon issuance of a temporary suspension, give the permit holder written notice specifying the grounds for such temporary suspension and advising the permit holder of his right-of-appeal.

(c) Revocation or Suspension of Earth Change Permit: An Earth Change Permit may be suspended or permanently revoked by the Glenpool Board of Adjustment after a public hearing. The permit holder shall be given ten (10) calendar days advance written notice specifying the grounds for such contemplated revocation or suspension, and advising the property owner and permit holder of the date, place, and time of the hearing before the Glenpool Board of Adjustment.

An Earth Change Permit may be revoked or suspended upon the occurrence of any one of the following events:

- (1) Violation of any material condition of the permit; or
- (2) Violation of any provision of this article or any other applicable law, 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 public nuisance, hazard, or the endangerment of human life or the property of others.

Upon the revocation or suspension of an Earth Change Permit by the Glenpool Board of Adjustment, or as may be specifically directed by the Glenpool Board of Adjustment, the Department of Community Development shall issue a stop work order. Such stop work order shall cover all construction activity on the permit holder's property which may be directly or indirectly related to site grading and drainage and which activity is being performed pursuant to any permits, licenses, franchises or contracts issued or approved by the City of Glenpool. Such order may also direct a work stoppage on all construction activity on buildings or structures and all appurtenances thereto, including building, electrical, plumbing, and mechanical systems, as well as street work, storm sewers, sanitary sewers, gas lines, and all franchise utilities including gas, electric, telephone and cable TV. Notices and orders required by this subsection shall be served upon the parties concerned either personally or by certified mail addressed to the individual contracting party(ies) and permit holder at the address given on the permit application filed with the City.

(d) Fine imposed: Any person, firm, corporation, or other legal entity violating the requirements of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$100.00 or imprisoned for not more than 30 days, or both, for each and every violation, and each day's violation thereof shall constitute a separate offense.

(e) Fine not exclusive penalty: In addition to fine or imprisonment, the City may institute appropriate actions or proceedings at law or equity for the enforcement of the provisions of this article or adopted City drainage standards or to correct violations thereof. The permit holder shall be liable for all costs incurred by the City to correct any such violations. Additionally, the City may institute appropriate actions or proceedings at law or 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.