

**ORDINANCE NO. 1047**

**AN ORDINANCE AMENDING DRAPER CITY MUNICIPAL CODE CHAPTER 18-4 PERTAINING TO LAND DISTURBANCE ACTIVITIES AND RESTORATION AND REVEGETATION GUARANTEES**

**WHEREAS**, Draper City Municipal Code Chapter 18-4 provides for procedures requiring land disturbance permit activity guarantee agreements; and

**WHEREAS**, the City Council approved Resolution No. 97-73 A Resolution Establishing Requirements Pertaining to Revegetation Bonds Which Are Required in Connection with Development Within the City in November 1997; and

**WHEREAS**, the City Council has directed the continued issuance of Land Disturbance Permits to protect the public health, safety and welfare such that restoration and revegetation improvement guarantees will be required prior to the issuance of all non-exempt grading activities on private properties; and

**WHEREAS**, the procedures associated with acceptance of land disturbance permit activities related to restoration and revegetation are not clearly set forth for the benefit of developers and city staff to clearly execute a consistent process; and

**WHEREAS**, clarification of land disturbance guarantee amounts, inspection, acceptance and warranty procedures will assist City staff, developers and property owners in managing, financing and successfully completing land disturbance operations within the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER, STATE OF UTAH, AS FOLLOWS:**

**SECTION I. Amendment.** Section 18-4-010 of the Draper City Municipal Code is hereby amended to read:

**Chapter 18-4 RESTORATION AND REVEGETATION GUARANTEE**

**Sections:**

**18-4-010 Land Disturbance Restoration and Revegetation Guarantee Agreement.**

**Section 18-4-010 Land Disturbance Restoration and Revegetation Guarantee Agreement.**

(a) Following City Engineer approval but prior to holding a Pre-Construction Conference and commencing construction, an applicant for a land disturbance permit shall enter into a Land Disturbance Restoration and Revegetation Guarantee Agreement as security to ensure proper restoration and revegetation of the land disturbed by activities and construction pursuant to the provisions of this Title. The Agreement shall be in a form approved by the City Attorney and shall be signed by the City Engineer.

(b) The applicant shall complete all conditions of the City Engineer's approval of land disturbance activities.

(c) The Agreement shall include the following provisions:

(1) Applicant shall complete all land disturbance activities within 18 months from the date the Agreement is executed, subject to one extension granted by the City Engineer.

(2) The restoration and revegetation shall be completed in accordance with the Draper City Land Disturbance Design and Construction Standards.

(3) The amount of the security shall be equal to 110% of the applicant's engineer's estimate of probable cost containing a detailed, written estimate of the cost of the proposed excavation, restoration and revegetation improvements. Revegetation estimates shall not be less than \$0.35 per square foot for all estimates submitted and approved by the City Engineer. All detailed, written estimates shall be approved in writing by the City Engineer.

(4) The City shall have immediate access to the proceeds.

(5) Security proceeds for excavation and restoration may be reduced upon written request of the applicant as specific line items in the cost estimate are completed. Reductions shall be made only as they may apply to the satisfactory completion of line items as determined by the City Engineer. Written requests may be made only once every 30 days and no reduction shall be authorized until such time as the City has inspected the improvements and found them to be in compliance with the Land Disturbance Design and Construction Standards. All reductions shall be by written authorization of the City Engineer. No security shall be reduced below ten percent of the estimated cost of the total original posted security until final acceptance by the City Engineer following a one-year improvement assurance warranty.

(6) Security proceeds for revegetation may be reduced upon written request of the applicant as specific revegetation line items in the cost estimate are completed. Actual revegetation costs may be released upon the applicant submitting copies of contractor invoicing representing actual incurred costs of revegetation. Revegetation expenses may be released up to but not exceeding 50% of the revegetation guarantee amounts as they apply to the completion of revegetation operations. Such written reduction requests may be made only once at the completion of the initial revegetation operation. No revegetation reduction shall be authorized until the City has inspected the improvements and found them to be in compliance with the Land Disturbance Design and Construction Standards and commitments associated with the approved revegetation plan. All reductions shall be by written authorization of the City Engineer. No revegetation security shall be reduced below 50% of the estimated cost of the improvement to be installed until the vegetation is established. Vegetation is established when the revegetation area exhibits established growth equal to 80% of visible vegetative cover as witnessed and compared to an immediately adjacent, undisturbed area of vegetation. If the vegetation is established, the remaining ten percent guarantee contingency fund shall be held for a warranty period of one year.

(7) If the security proceeds are inadequate for whatever reason to pay the cost of completing the restoration and revegetation according to the Land Disturbance Design and Construction Standards, including previous reductions, the applicant shall be responsible for the deficiency. No further construction or land use entitlements shall be issued for the disturbed property until the improvements are completed or, with City Council approval, a new, satisfactory security has been delivered to the City or other satisfactory arrangements have been made to ensure completion of the remaining improvements.

(8) The City's cost of administration incurred in obtaining the security upon the applicant's default, including attorney's fees and court costs, shall be deducted from the security proceeds.

(9) The applicant shall guarantee all restoration and revegetation improvements installed against damage arising from any defect in design, construction, materials, or workmanship during the warranty period and shall promptly repair the same upon notice from the City.

(10) The applicant shall hold the City harmless from any and all liability which may arise as a result of the land disturbance operations and activities constructed until such time as the City certifies the improvements are complete and accepts the restoration and revegetation at the end of the warranty period as complete.

(d) The Land Disturbance Restoration and Revegetation Guarantee Agreement shall be for the full amount of the Engineer's Estimate of Probable Cost as approved by the City Engineer, including a ten percent warranty period contingency. The security shall be in the form of:

(1) an escrow agreement and account with a federally insured bank or credit union making proceeds immediately available to the City in the case of the applicant's default upon the City presenting a site draft; or

(2) a letter of credit agreement and irrevocable stand-by letter of credit with a federally insured bank or credit union, with proceeds available to the City in the case of the applicant's default upon the City presenting a signed statement in accordance with the terms of the letter of credit at an office located within 25 miles of Draper City.

(e) The Land Disturbance Restoration and Revegetation Guarantee Agreement may be extended one time for six months. Any subsequent extension shall require approval by the City Council following timely written request by the Applicant.

**SECTION II. Repealer.** Section 18-4-020 of the Draper City Municipal Code is hereby repealed.

**SECTION III. Repealer.** Section 18-4-030 of the Draper City Municipal Code is hereby repealed.

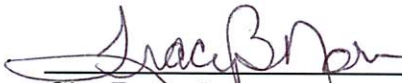
**SECTION IV. General Repealer.** Ordinances and Resolutions in conflict herewith are hereby repealed to the extent of the conflict.

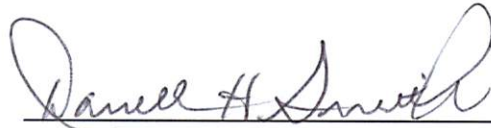
**SECTION V. Effective Date.** This Ordinance shall become effective immediately upon passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THIS 4<sup>th</sup> DAY OF June, 2013.**

**ATTEST:**

**DRAPER CITY**

  
\_\_\_\_\_  
City Recorder

  
\_\_\_\_\_  
Darrell H. Smith, Mayor



SECTION 10. The City shall...

PAID BY THE CITY OF DRAPER OR THE STATE OF UTAH...

DATE: 1/1/20

BY: [Signature]

[Signature]

[Signature]



Affidavit of Posting

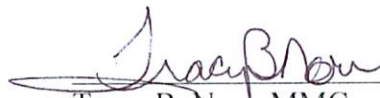
SALT LAKE COUNTY, STATE OF UTAH

I, the Recorder of Draper City, by my signature below, certify that copies of **Ordinance No. 1047** for the **City of Draper**, which **Passed and Adopted by the City Council of Draper City, State of Utah on the 4<sup>th</sup> day of June, 2013** were posted at the following places: Draper City Bulletin Board, Draper Senior Citizens Center, and Draper Library within the municipality.

**Posting Period:** June 5, 2013 through June 25, 2013

City Seal



  
Tracy B. Norri, MMC  
City Recorder  
Draper City, State of Utah

Warrant

RETURN TO THE CLERK OF THE COURT

That the Court of Sessions for the County of ...  
do hereby return to the Clerk of the Court ...  
the within and foregoing ...  
with a return that the same ...

*[Faint signature]*  
Clerk of the Court

