

Meeting Agendas/Info

CITY COUNCIL
COMMUNICATION:

ITEM _____

**OFFICE OF THE CITY MANAGER
CITY OF DES MOINES, IOWA**

01-588

SYNOPSIS -

AGENDA:

NOVEMBER 19, 2001

SUBJECT:

GRADING
ORDINANCE
CHANGES

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

SUBMITTED BY:

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COMMUNITY
DEVELOPMENT
DIRECTOR

On October 2, 2000 the City Council directed the City Manager to develop a workable program related to illegal grading. Included is a series of ordinance changes to Chapter 42, Article II (GRADING AND SOIL EROSION CONTROL) of the Municipal Code that in effect narrows the degree of grading activities that will be allowed without a grading permit.

The general consensus of Community Development and Engineering Department staff was that it would be unmanageable to attempt to regulate each and every grading project regardless of size. However, the present ordinance only applies to larger sites and does not apply to some of the filling and excavation projects that occur on smaller sites (residential lots) that many times are problematic to the surrounding area.

There are several areas of change in this ordinance. The first being modifications to the purpose of this article (42-27) to clarify that provisions included therein are to reduce damages caused by drainage patterns as well as to minimize erosion. In addition, it is clarified in this section that these provisions are to apply to non-agricultural activity only.

The second series of changes include revisions to section 42-86 that narrow the threshold of when a grading permit is required. The following is a description of the items that are being modified to require a grading permit:

- When excavating or the disturbance of the earth surface is in excess of 500 square feet when within 100 feet of a body of water or recognized drainageway. The present code has a 5,000 square foot limit.
- When there is a disturbance of earth surface of two feet of depth or more for an area of 2,500 square feet, or the disturbance of earth of 20,000 square feet of any depth. The present ordinance requires that the disturbance of earth for a depth of two feet must be across the

entire site. This change adds an area limitation of 2,500 square feet in area.

- When any filling of dirt, stone, brick, concrete or similar material exceeds 2,500 square feet in area. The present ordinance restricts filling of stone, brick, concrete or similar organic material. This change adds the terms "soil" and "dirt" to further expand and clarify regulated fills.

The third series of changes in sections 42-87 and 42-88 takes into consideration the fact that homeowners, without the assistance of a grading contractor or design professional, commence many residential projects. The present grading ordinance requires each grading permit to be prepared by a design professional. The suggested changes include a series of exceptions allowing the City Engineer to waive this requirement if it is demonstrated that such filling will not result in or contribute to accelerated soil erosion or sedimentation and will not significantly interfere with any existing drainage course. These exceptions do not waive the requirement for a permit, only the requirement that a grading plan and the permit application be prepared by a design professional.

The fourth series of changes include a Grading Permit fee increase (42-89). This increase is intended to supplement the additional effort to review grading permit applications, but more importantly the inspection of grading projects. Based on this proposed change, a one-acre site with a present fee of \$45 would be increased to \$65; a five-acre site with a present fee of \$45 would be \$85; and a 100-acre site with a present fee of \$520 would be \$560. It is estimated that at least one inspection is required on smaller projects and two or more inspections are required for larger projects. These inspections can include several visits to determine that soil erosion features are in place and maintained, as well as follow-up inspections to confirm that maintainable grades are completed and that the site is properly mulched and seeded. The present fee structure does not compensate for this level of activity.

There are also a series of editorial changes included in these revisions, as well as suggested revisions to the time limits to hear appeals. Presently, the ordinance requires that the Plan and Zoning Commission must decide on all appeals within 20 days. A 20-day time frame appears too short to effectively process and place an appeal on the agenda of the Plan and Zoning Commission. It is recommended this time frame be changed to resemble the time frame for plat reviews, which is 45 days.

FISCAL IMPACT -

An increase in revenues is expected as result of the suggested fee increase.

RECOMMENDATION -

Approval.

BACKGROUND -

On October 2, 2000, the City Council denied a request from a property owner at 1434 24th Street to purchase a portion of an alley where he had filled and graded the alley as well as his adjoining property. Included with this council action was a referral to the City Manager to develop a workable program related to grading.

The City of Des Moines presently has a grading ordinance that addresses erosion concerns that are associated with stripping, filling, excavating and stockpiling of soil. Generally the City Engineer's Office is responsible for the application of this ordinance and the Permit and Development Center processes the grading permits that are required therein.
