

ORDINANCE NO. 14,029

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by repealing Sections 42-27, 42-86, 42-87, 42-88 and 42-89 thereof and enacting new Sections 42-27, 42-86, 42-87, 42-88 and 42-89, relating to the grading and soil erosion control ordinance.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by repealing Sections 42-27, 42-86, 42-87, 42-88 and 42-89 thereof and enacting new Sections 42-27, 42-86, 42-87, 42-88 and 42-89, relating to the grading and soil erosion control ordinance, as follows:

Sec. 42-27. Purpose.

The city council finds that excessive quantities of soil are eroding from certain areas where persons are conducting activities which result in a change in the natural cover, topography or drainage of the land in connection with residential, commercial, industrial, recreational and roadway uses and topography changes can significantly interfere with any existing drainage courses established in the community. The resulting sediment clogs storm sewers and road ditches, causes dust and mud on streets and sidewalks, leaves deposits of silt in creeks and streams, and is considered a major water pollutant. Resulting changes in topography features of a property can negatively impact both public and private property. The purpose of this article is to reduce soil erosion and sedimentation from occurring, along with reducing damages caused by changes in drainage courses, as a result of nonagricultural earth-changing activities within the city by requiring proper provisions for surface and subsurface water disposal and the protection of soil surfaces

during and after an earth-changing activity in order to promote the safety, public health, convenience, and general welfare of the community.

Sec. 42-86. Permits required.

(a) No person shall grade, strip, excavate, fill, stockpile or cause any non-agricultural earth change on any site without a grading permit issued by the city engineer for any of the following purposes:

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(b) A grading permit will not be necessary for any of the activities identified in subsection (a) of this section where, prior to formal application, the applicant receives from the city engineer a written statement that the planned work or final structures or topographical changes, as presented by the applicant to the city engineer prior to formal application, will not result in or contribute to accelerated soil erosion or sedimentation and will not significantly interfere with any existing drainage course.

(c) A surcharge in the amount of \$5.00 shall be

paid in addition to the permit fees required under this division and the following sections and subsections of this Code:

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The surcharge is for the purpose of recovery of costs pursuant to requirements imposed by I.C. ch. 480.

Sec. 42-87. Application data required.

Plans and specifications shall accompany each grading permit application and shall contain the following data unless otherwise included in the information required to be set forth in a preliminary plat or site plan. Small fill projects located on residential lots that exceed the area limits of section 42-86(a)(6) may be exempt from submitted plans and specifications if, in the opinion of the city engineer, it has been demonstrated that adequate preventative measures will be taken to prevent any accelerated soil erosion or sedimentation or interference with any existing drainage course.

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Sec. 42-88. Permit application; procedure.

(a) An application for a grading permit shall be prepared by a registered engineer, architect or landscape architect experienced in soil erosion and sedimentation control methods and techniques and shall comply with the requirements of section 42-87 of this division. Applications for small fill projects located on residential lots that exceed the area limits of section 42-86(a)(6) may be exempt from being prepared by a registered engineer, architect or landscape architect if, in the opinion of the city engineer, it has been demonstrated that adequate preventative measures will be taken to prevent any accelerated soil erosion or sedimentation or interference with any existing drainage course. A separate application shall be required for each grading permit. No such grading permit shall be issued until the application therefore has been approved by the city engineer.

(b) Within 15 working days after receiving the application for the grading permit, the city engineer shall take

action to either approve, approve subject to conditions, or disapprove the application. Failure by the city engineer to act within the time specified in this subsection shall be deemed to be a grant of approval of the application as submitted, provided that the application as submitted does not conflict with any existing ordinance, statute, rule or law affecting the subject property.

(c) The city engineer shall promptly notify the applicant in writing of the action taken. If the application is approved, the city engineer shall cause his or her written verification of approval to be affixed on the application along with the date of approval. In case of disapproval or approval subject to conditions, the city engineer shall indicate the reasons therefore and shall return a copy to the applicant for revision in accordance with the action taken. The applicant shall then submit the revised application for certification by the city engineer in

accordance with the procedures set forth in this section.

(d) The engineering department shall retain the duly certified application in the department's files and shall transmit without charge one copy of the application to the applicant and to the community development department.

(e) Grading permits shall not be issued where:

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(f) If the city engineer has denied or conditionally approved an application for a grading permit, the applicant may, upon notice to the plan and zoning commission, appeal in whole or in part any determination or action of the city engineer made within the scope of this division. Appeal shall be made without cost by providing written

notification of the appeal to the community development department which is received by the community development department within 90 days after the date of the action from which appeal is brought.

(g) The plan and zoning commission shall decide all appeals within 45 days after written notification of the appeal has been received by the community development department, provided that the appellant may agree to a longer time period, not to exceed 60 days after the written notification of the appeal has been received by the community development department. Failure to decide the appeal within such period shall have the effect of overturning the city engineer's disapproval and approving the application as appealed. Except as provided in this subsection, the affirmative vote of at least eight commission members shall be necessary to overturn or modify the action from which appeal is sought. At the commission meeting, the appealing party shall be presented a reasonable opportunity to present his or her

views. Decisions of the plan and zoning commission may be appealed to the city council in the same manner as appeals from the action of the community development department. A majority vote of the city council shall be necessary to overturn or modify the action of the plan and zoning commission.

(h) A grading application that has been denied by the city engineer, the plan and zoning commission, or the city council may be resubmitted by the applicant to the city engineer pursuant to the terms of this division, upon payment of appropriate fees.

Sec. 42-89. Permit fees.

(a) At the time of filing an application for a grading permit, the applicant shall pay to the city treasurer a nonrefundable application fee in the amount of \$60.00 plus \$5.00 for each acre or portion thereof.

(b) A person performing work upon property wholly owned by the federal government may obtain a grading permit for such work without

paying the fee described
in subsection (a) of
this section.

Sec. 2. This ordinance shall be in full force and effect from
and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

Preston Daniels, Mayor

Attest:

I, Donna Boetel-Baker, City Clerk of the City of Des Moines,
Iowa, hereby certify that the above and foregoing is a true copy
of an ordinance (Roll Call No. 01-3697), passed by the City
Council of said City at a meeting held December 17, 2001, signed
by the Mayor on December 17, 2001, and published as provided by
law in the Business Record on January 1, 2002. Authorized by
Publication Order No. 3070.

Donna Boetel-Baker, MMC City Clerk