

ORDINANCE NO. 14,484

AN ORDINANCE to amend the Chapter 42 of the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,029, passed December 17, 2001, and Ordinance No. 14,276, passed September 22, 2003, and Ordinance No. 14,319, passed February 23, 2004, by amending Article II, Sections 42-26 through 42-28, Sections 42-86 through 42-89, Sections 42-121 and 42-122, Sections 42-182 and 42-183, and adding and enacting Sections 42-184 through 42-192 thereof, to be entitled "Grading, Soil Erosion and Construction Site Runoff Control", incorporating regulations, prohibitions and enforcement provisions required by the USEPA and the IDNR to prevent pollution of the city's municipal stormwater system, and Sections 42-346 and 42-349 of Article VI, Nuisances, and by enacting a new Article IX, Sections 42-451 through 42-496 entitled "Use and Maintenance of Drainage Facilities", enacting new regulations, prohibitions and enforcement provisions required by the USEPA and the IDNR relating to illicit discharges to the city's municipal stormwater system, and relating to the use and maintenance of drainage facilities.

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, and amended by Ordinance No. 14,029, passed December 17, 2001, and Ordinance No. 14,276, passed September 22, 2003, and Ordinance No. 14,319, passed February 23, 2004 is hereby amended by amending Article II, Sections 42-26 through 42-28, Sections 42-86 through 42-89, Sections 42-121 and 42-122, Sections 42-182 and 42-183, and adding and enacting Sections 42-184 through 42-192 thereof, to be entitled "Grading, Soil

Erosion and Construction Site Runoff Control", incorporating regulations, prohibitions and enforcement provisions required by the USEPA and the IDNR to prevent pollution of the city's municipal stormwater system, and Sections 42-346 and 42-349 of Article VI, Nuisances, and by enacting a new Article IX, Sections 42-451 through 42-496 entitled "Use and Maintenance of Drainage Facilities", enacting new regulations, prohibitions and enforcement provisions required by the USEPA and the IDNR relating to illicit discharges to the city's municipal stormwater system, and relating to the use and maintenance of drainage facilities, as follows:

**ARTICLE II. GRADING, SOIL EROSION AND
CONSTRUCTION SITE RUNOFF CONTROL**

Sec. 42-26. Title.

This article shall be known as the grading, soil erosion and construction site runoff control ordinance, may be cited as such, and will be referred to in this article as such.

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. The further purpose of this article is to comply with the city's National Pollutant Discharge Elimination System permit for the Municipal Separate Storm Sewer System, which in part requires that the city implement a construction site runoff control ordinance to reduce pollutants in storm water runoff from construction activities sites for which a national pollutant discharge elimination system permit is required.

Sec. 42-28. Definitions.

The definitions found in sections 42-451 and 42-477 shall apply to the provisions of this article, provided, however that the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accelerated soil erosion means the rate of soil loss per year leaving the site prohibited by the Polk Soil Conservation District, pursuant to I.C. § 161A.44.

Allowable non-storm water means only the following: discharges from fire fighting activities; fire hydrant flushings; potable water sources; waterline flushings; uncontaminated groundwater; foundation or footing drains where flows are not contaminated with process materials such as solvents; springs; riparian habitats; wetlands; irrigation water; air conditioning condensate; exterior building wash water when no detergents or other surfactants are used; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred and when no detergents or other surfactants are used; and de-chlorinated swimming pool water not including filter backwash.

Applicant means:

- (1) An owner or developer of land proposed to be graded or his or her representative. Where application is made by the developer, consent shall be required from the legal owner of the premises.
- (2) Any public or private utility company which intends to install utility services in trenches which exceed one foot in width.

Certification of completion means a signed written statement by the city engineer that specific construction has been inspected and found to comply with all grading plans and specifications.

City engineer means the director of the city engineering department or his or her duly authorized representative.

Compaction means the densification of a fill or disturbed surface by mechanical means.

Constructed channel means a ditch graded and shaped with earth or other materials or revetment lined, for the conveyance of stormwater, which is owned and operated by the city, or for which the city has a flowage easement.

Director means the director of the city public works department or his or her duly authorized representative.

Disturbed area means an area of ground on which the existing vegetation has been removed or damaged so as to be likely to cause accelerated soil erosion.

Earth change means a manmade 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.

Erosion means the process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.

Excavation or cut means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated. Also included shall be the conditions resulting therefrom.

Fill means a deposit of earthen materials, rubble or other approved materials placed or constructed by artificial means.

Flood fringe means the portion of the floodplain between the floodway and the flooding limits of a 100-year flood.

Grading means any stripping, excavating, filling, stockpiling, or any combination thereof of soil, which shall also refer to the land in its excavated or filled condition.

Municipal separate storm sewer system (MS4) means the conveyance or system of conveyances including storm sewers, roadways, roads with drainage systems, catch basins, curbs, gutters, ditches, public drainageways, constructed channels and storm drains owned or operated by the city.

Natural drainageway or drainageway means an existing ditch in as natural a condition as possible, which can be maintained and function adequately as such in the opinion of the city engineer.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued by the EPA or by the Iowa Department of Natural Resources.

NPDES General Permit No. 2 means a permit issued by the Iowa Department of Natural Resources to applicants covering storm water discharge associated with activity from construction sites.

Permanent soil erosion control measures means those control measures which are installed or constructed to control such erosion and which are maintained after completion of the project.

Pollutant means material other than storm water and allowable non-storm water which enters the MS4 or waters of the state that degrades the water quality and material other than pollutants for which a NPDES permit has been issued and the discharge is in compliance with such NPDES permit.

Pollution control best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state and MS4. Pollution control BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Public nuisance means whatever is injurious to health, or unreasonably offensive to the senses or is a menace to or hazard to the public health, welfare or safety, including without limitation, the runoff of pollutants from a construction site.

Rubble means dirt, stone, brick, or similar inorganic material or street sweepings.

Sediment means settled out soil particles which have been transported by water and later deposited.

Site means any lot or parcel of land or contiguous combination thereof, under the same ownership or control, where grading is to be performed or permitted.

Slope means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

Soil means naturally occurring surficial deposits overlying bed rock.

Storm sewer means any pipe that conveys storm water, allowable non-stormwater or permitted discharges for which a NPDES permit has been issued.

Storm Water Pollution Prevention Plan (SWPPP) means the plan required to be submitted by applicants, including identified pollution control BMPs to control pollutants in storm water runoff that enters the city's MS4 from construction sites during construction, as required and as defined by the applicant's

NPDES general permit No. 2.

Stripping means any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, sited mobile homes, billboards, poster panels and retaining walls.

Temporary soil erosion control measures means interim control measures which are installed or constructed for the control of soil erosion until permanent soil erosion control is effected.

Time schedule means an itemized sequential listing of events concerning stripping, grading and erosion control measures which are to be pursued according to the approved schedule.

Waters of the state means any river, stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

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:
 - (1) Platting of land pursuant to chapter 106, pertaining to subdivisions, of this Code.
 - (2) Development of land for which a site plan is required, pursuant to article V of chapter 82 of this Code.
 - (3) Installation of utility improvements in trenches that are greater than one foot in width or underground appurtenances with an excavated surface area greater than 400 square feet by a public or private utility company.
 - (4) Excavation or the creation of any disturbed surface of 500 square feet or more of cumulative area within 100 feet of a lake, pond, river, stream, recognized drainageway or within the defined flood fringe of a river or stream.
 - (5) Any excavation or cause of earth change more than an average of two feet in depth across 2,500 square feet or more of area, or creation of a disturbed area more

than 20,000 square feet in area, excluding basement excavations and backfill, utility service connections for one- or two-family residential dwellings, and utility trenches no greater than one foot in width.

- (6) Any fill of dirt, stone, brick, concrete, soil or similar material covering a cumulative area larger than 2,500 square feet.
- (7) Stockpiling of any granular construction material in excess of 5,000 cubic yards on any site.
- (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. A grading permit will also not be required for work performed by city crews or for city construction projects under direct control of the city engineer.
- (c) Persons exempt from permitting requirements are nonetheless subject to illicit discharge regulations found in article IX of this chapter.

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;

- (1) A vicinity sketch at a scale of one inch to 400 feet or larger indicating the site location as well as the adjacent properties within 500 feet of the site boundaries.
- (2) A boundary line survey of the property on which the work is to be performed, unless waived by the city engineer.