

CITY OF SIOUX CITY

Grading Ordinance

City Municipal Code Chapter 20.30

Section 20.30.010 Purpose of ordinance.

The purpose of this ordinance is the protection and safeguarding of life, health, property and the general welfare by regulating and controlling the design, construction and quality of materials to be used in the grading of property within the City of Sioux City, Iowa. (Ord. 2000-9159; 88/T-6762)

Section 20.30.020 Administrative responsibility.

The engineering division of the public works department shall be responsible for the administration and enforcement of this ordinance. (Ord. 2000-9159; 88/T-6762)

Section 20.30.030 Definitions.

1. "Grading" shall mean excavation or fill or any combination thereof.
2. "Excavation" shall mean any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or relocated.
3. "Fill" shall mean any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pushed, pulled or transported to a place other than the place from which it was excavated.
4. "Site" shall mean lot, tract, project, or area of a single owner or several owners.
5. "Public nuisance" means whatever is injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property.
6. "Slope" means the numerical ratio of a horizontal length to a vertical height.
7. "Borrow pit" shall mean any place or premises where excavation of dirt, soil, sand, gravel, or other material occurs on the borrow site for use at another location irrespective of whether for consideration or not for consideration. For the purpose of this title, material removed incidental to onsite grading or building construction shall not qualify as a borrow pit.
8. "Reclamation plan" means a document that outlines combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from grading and/or borrow pits. The process may extend to surrounding affected lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures. (Ord. 2006-0908, 2005-1069; 2000-9159; 88/T-6762)

Section 20.30.040 Permit required.

No person shall do any grading on any property which involves the movement of more than 50 cubic yards of material in the city without first obtaining a grading permit as provided herein. Grading permit approval will be concurrent with approval of the following activities: (a) building permit; (b) land development as part of a subdivision platting or zoning planned

development process, and (c) public infrastructure construction. Grading for extraction and landfilling authorized by a zoning conditional use permit will also require issuance of a grading permit. Grading permits for grading activities in the Loess Hills within that area visible from the Loess Hills National Scenic Byway located on Highway 12 and Interstate 29 shall require City Council approval of the permit. The Loess Hills National Scenic Byway is that route set forth in the attached map which shall be kept on file in the offices of the City Clerk, the Engineering Division of the Public Works Department, and the City Zoning Office. (Ord. 2006-0146; 2001-0740; 2000-9159; 88/T-6762)

Section 20.30.050 Grading contractor' s requirements.

A person seeking a grading permit under this chapter must:

1. Either be an owner of the real property to be graded or have a current, valid Iowa Department of Labor registration as a contractor; and
2. Make and execute to the City a surety bond in the sum of \$10,000 (Ten Thousand Dollars) conditioned on the faithful performance of all ordinances of the Code of Sioux City relating to grading; on the prompt payment to the City of all fees for permits and licenses that may become due and owing to the city; the payment of all fines imposed for violation of Title 20 during the life of the bond; and on indemnifying the City, its officers, agents and employees from any liability for damages arising from his/her negligence or unskillfulness in doing, protecting and completing his/her work. The bond shall be in full force and effect for a period of one year after cancellation or completion of construction. This section shall not require a bond in addition to any bond already furnished to the City pursuant to Chapters 20.04 or 20.14 of this Code. (Ord. 2003-0437; 2000-9159; 98/U-6424; 89/T-7472; 88/T-6762)

Section 20.30.060 Grading permit application.

A bonded grading contractor or property owner may file an application for a grading permit.

The grading permit application review and approval process will be integrated with the review and approval process for either a building permit, subdivision plat, planned development, or conditional use permit. Any specific requirements or standards for building permit, subdivision plat or conditional use permit applications are in addition to the following grading permit application requirements and standards.

1. Unless specifically waived by the city engineering division, the application for a grading permit to grade more than 1,000 cubic yards of material shall include duplicate copies of the following documents and information prepared by an architect, landscape architect, or professional engineer, registered in the state of Iowa:
 - a. A drawing indicating the general locations of street systems, structures and physical features within 100 feet of the site to be graded;
 - b. A drawing at a legible scale of not less than 1" = 100' showing existing and proposed contours and the exact location of the property boundaries. The contour interval for proposed topography must be no more than 2 feet, unless the slope is greater than 10%, in which case, the city engineering division may accept 5 foot contour intervals. For existing topography, 2 foot contour intervals are preferred unless the city engineering division determines that available 5 foot contour mapping is accurate and detailed enough to describe current landforms.

- c. An estimate of the quantities of earthen materials to be moved;
 - d. A clear description either in writing or by drawings of the type and extent of grading to take place on the site, including a plan for the restoration and completion of the project;
 - e. A stormwater management plan;
 - f. A soil erosion control plan;
 - g. A specification of the soil compaction to be achieved in any areas of fill placement; and
 - h. Any proposed improvements, including details of all structures, walls, cribbing and surface protection, existing and propose.
2. An application for a grading permit for less than 2,000 cubic yards of material shall include as a minimum, duplicate copies of the following:
 - a. A site plan showing existing and proposed contours and the exact location of the boundaries of the property and also showing the general locations of street systems, structures and physical features within 100 feet of the site to be graded;
 - b. An estimate of the quantity of earthen materials to be moved; and
 - c. A clear, general description either in writing or by drawings of the type and extent of grading to take place on the site, the location of the grading site, the drainage and soil erosion plan, proposed methods to minimize fugitive dust during and following operations, and any proposed improvements, such as structures, walls, cribbing and surface protection.
 3. The estimated schedule of operations, including a phasing plan and the dates of starting and completion of grading work.
 4. The city engineering division may require additional information in support of an application for a grading permit in order to determine that the grading will be stable and safe.
 5. Each application for a grading permit shall include a non-refundable fee in accordance with a fee schedule established by the city council.
 6. Any proposed modification of or amendment to a plan for which a grading permit has been issued shall require the submission of a new application for a permit in accordance with the requirements of this section. (Ord. 2006-0908 , 2006-0146; 2000-9159; 88/T-6762)

Section 20.30.065 Borrow pit requirements.

In addition to all the provisions of this chapter, the applicant must obtain a conditional use permit pursuant to the provisions of subchapter 25.12.299S of this code. The following must be adhered to in order to begin a borrow pit operation:

1. The applicant must provide all information required in section 20.30.060
2. The applicant must provide a performance bond in an amount to be estimated by a professional engineer and approved by the city engineer to satisfy the obligations of this section. In lieu of a performance bond, the applicant may provide a letter of credit or cash in an amount to be estimated by a professional engineer and approved by the city engineer to satisfy the obligations of this section but not in excess of \$25,000. The performance bond or letter of credit may be used, in whole or in part, to correct violations of any condition, stipulation, plat, plan, specification or statement of responsibility or intent approved by the board of adjustment. The bond or letter of credit or cash may also be used, in whole or in part, to restore the excavation site, satisfy unpaid inspection fees and pay delinquent fees. The bond, letter of credit or cash may be utilized upon 24 hours notice if the city engineer determines that an emergency exists or that danger to the public health is imminent. If the amount of bond,

letter or credit or cash posted is at any time inadequate to satisfy costs necessary to correct any violation of the site, the city shall be entitled to assess the costs to the benefited property or to collect the amount of deficiency from all persons liable in a legal action or otherwise.

3. No excavation activities shall commence until such time as the city engineer has approved the reclamation plan for the proposed borrow pit. A site reclamation plan must be provided to the city engineer and with the conditional use permit application, with the following information:

- a. Engineering data regarding the length of time needed for restoration work to settle sufficiently to provide a stable base for the proposed end use;
- b. Resoiling and revegetation plan with evidence that selected plants can survive given the site's topography, soil, and climate;
- c. Landscaping plan and planting schedule designed to protect natural vegetation and to restore the appearance of the property;
- d. A detailed description of proposed use and ownership of site after completion of all restoration activities.

4. A detailed description shall be included on how the proposed borrow pit will be designed, arranged, and operated in order to ensure that development and use of neighboring property will not be prevented or made less likely, and that the value, use, and reasonable enjoyment of such property will not be impaired or adversely affected. Practices proposed to be used to minimize noise, vibration, and dust shall be included.

5. The estimated removal rate, including the proposed number of daily truck trips to and from the site must be provided.

6. The proposed interior road pattern (if applicable), including points of ingress and egress to public and private roads.

7. The city engineer may require additional information in order to ensure the proper mitigation of the site. (Ord. 2006-0908, 2005-1069)

Section 20.30.070 Minimum standards and safety precautions.

A grading permit may be issued to remain in force for up to twelve months. A grading permit may be renewed for additional twelve-month periods upon compliance with the following requirements:

1. The faces of cut and fill slopes shall be prepared and maintained to control soil erosion. Where necessary, vegetative plantings, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

2. All drainage provisions shall be designed to carry surface waters to the nearest practical storm drain, natural water course, or street approved by the city engineering division as a suitable place to deposit and receive such waters.

3. Setbacks.

a. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

b. The setback from a site boundary line for the top of a cut section or the toe of a fill section which does not involve a professionally designed retaining wall structure shall be the determined as follows: $B = H (1 - S/4)$, where B is the setback required, H is the height of the

cut or fill section and S is the horizontal element of the slope ratio (e.g. $S = 4$ for a 4:1 slope). The setback shall not be less than 5 feet.

c. The setback for a retaining wall structure designed by a registered professional engineer, architect or landscape architect shall be sufficient to contain any of the structure of the retaining wall and to assure the adjoining property owner will not be deprived of rights to build

d. The setback may be reduced to zero if a recorded easement on the adjoining property for construction and maintenance of the cut or fill section equal in width to the reduction of the setback required by the provisions of subsection b. or c. above is secured.

e. The minimum setback may be increased as a result of a determination by the city engineering division that it is necessary to support a load on adjacent properties or that special site conditions warrant increased setbacks.

f. Where a cut or fill slope is to be located near the site boundary, special precautions shall be incorporated in the work as the city engineering division deems necessary to protect the adjoining property from damage. These precautions may include but are not limited to:

- (1) Additional setbacks.
- (2) Provisions for retaining walls or drainage channels.
- (3) Mechanical or chemical treatment of the fill slope to minimize erosion.
- (4) Other provisions for the control of surface waters.

g. The city engineering division may require or approve alternate setbacks. The division may require an investigation and recommendation by a registered professional engineer experienced in soil mechanics or an engineering geologist to demonstrate that the intent of this section has been satisfied.

4. No grading shall allow earthen materials to be deposited upon, or to roll, flow or wash upon or over the premises of another without the explicit written consent of the owner of such premises so affected, or upon or over any public street, walk, place or way; nor so close to the top of a bank of a channel as to create the possibility of bank failure and sliding.

5. No cut or fill materials shall be transported to or from a site in such a manner as to permit it to be deposited upon any public street. In the event cut or fill material is deposited or tracked upon the public streets, the permit holder shall clean it up by the end of each working day or the City may clean it up and assess the costs of the cleanup.

6. Fill material shall be obtained from approved sources which shall be free of vegetative matter and deleterious material such as broken concrete, asphalt and large rocks unless specifically included in the specifications of the approved grading plan.

7. Minimum standards of excavations and fills:

a. Excavations and fills should have a finished slope of three horizontal to one vertical; however, steeper excavations and fills may be made in extreme cases were a 3:1 slope is impossible to achieve and subject to the approval of the City Engineer and the following design certifications:

(1) An excavation or fill steeper than a 3:1 slope, but not steeper than 1:1 slope, that is less than 20 feet in height must be based upon a design prepared and certified by an architect, landscape architect, or professional engineer, registered in the state of Iowa.

(2) An excavation or fill steeper than a 3:1 slope that is more than 20 feet in height or which has a slope greater than 1:1 must be based upon a design prepared and certified by a

registered professional engineer experienced in soil mechanics with substantiation by a soils investigative report.

b. The face of the cut or fill shall be stabilized by a vegetative land cover, retaining wall or other means provided in the approved design.

c. The top of the cut or fill or any terrace created shall be shaped in such a manner that no surface water is allowed to flow over the edge. The top surface shall be stabilized by vegetation or other non-erodible surface.

8. Compaction of fills. The requirements for the compaction of fills shall include, but shall not be limited to the following:

a. For areas not covered by the provisions of (1), (2) or (3) below, the minimum soil compaction shall be 90% standard proctor (the maximum theoretical density using ASTM D-698).

(1) For fill associated with building construction projects for which the building official requires a design certified by a professional architect or engineer, the minimum soil compaction shall be specified by said design professional.

(2) For fill associated with grading in subdivisions or planned developments approved pursuant to Titles 24 or 25 of the Municipal Code, the minimum soil compaction shall be specified by the professional engineer who certifies the grading plan for said subdivision or planned development. The specified minimum soil compaction within a current or proposed public right-of-way or easement shall comply with the applicable requirements of the Sioux City Standard Specifications for Public Improvements.

(3) For fill that is placed on a site with on plan for how the site is to be used, the minimum soil compaction shall be 85% standard proctor, provided the owner of the site and the grading permit holder acknowledge in writing that the site of the fill is not appropriate for any construction unless soil testing confirms the bearing capacity of the soils at the time of application for a building permit.

b. Grading Tolerance: Areas to be graded by cutting or filling shall be rough graded to within ½ foot of accepted elevation after allowance has been made for thickness of top soil, paved areas and other installations.

c. Preparation of the natural ground surface by removing topsoil and vegetation and by compacting the fill upon a series of terraces or benches. Hillside or slope fills shall require scarification of terraces in the original ground after it has been divested of vegetation and rubbish.

d. Control of moisture content of the material used for the fill. Moisture content should be adequate to achieve the required compaction.

e. Limitation on the use of various kinds of materials. Frozen materials or soft, mucky, friable, easily compressible materials shall not be incorporated in fills intended to support buildings, structures, sewers or conduits, or in the embanked ends of fills. Fill material shall not be placed, spread, or rolled while the ground is frozen or thawing.

f. Maximum thickness of layers of the fill to be compacted shall not exceed 8 inches unless an architect, landscape architect, or professional engineer, registered in the state of Iowa, specifies a higher maximum thickness of the layers of fill and methods to achieve the required compaction. The equipment and methods used shall be consistent with the type and condition of the material to be compacted.

9. Timber, logs, trees, tree stumps, brush, vegetable matter, masonry and rubbish of any description shall be removed and disposed of so as to leave the disturbed area with a neat and finished appearance. Solid rock, shale or similar materials shall be removed to a depth of 15 inches below subgrade for paved areas and 2 feet below finish grade for lawn areas except where it is impractical because of rock out-cropping.

10. Ground cover shall be established within 30 days after a phase of grading work is completed or by April 1 of the next year if completion is after October 1 in order to prevent erosion of finished grading. Such ground cover must be maintained in such a manner as to assure the long-term stability of the grading

11. Appropriate measures shall be implemented to prevent fugitive dust from becoming a nuisance to surrounding occupied properties.

12. Fill addendum.

a. A fill addendum shall be filed in the office of the County Recorder if current grading activity or if known grading activity within ten years prior to the current grading includes placement of fill material in excess of five feet in depth any where on the site of the grading.

b. The fill addendum shall be in the form of a duplicate of the site grading plan upon which has been indicated in a clearly interpretable pattern or other lines and annotations, the fill information needed by subsequent owners of the land.

c. The outlines of the areas of over five feet of fill shall be shown. The depth of fills of over five feet shall be indicated by two-foot contour intervals

d. The fill addendum shall include a certificate of a registered professional engineer who designed or supervised the grading project indicating the characteristics of the fill or the results of professionally competent soil testing. (Ord. 2006-0146; 2000-9159; 88/T-6762)

Section 20.30.080 Inspections.

1. At its option, the city engineering division will inspect the grading project and charge the grading contractor an inspection fee equivalent to the hourly rate for the personnel involved.

2. If the city engineering division is unable to conduct inspections, the grading contractor shall hire a civil engineering firm, licensed to practice in the state of Iowa and acceptable to the City Engineering Division, to conduct inspections of the grading project. The city engineering division will specify a schedule of times and/or stages for inspections.

3. The city may, at its expense, conduct additional inspections during the course of the grading operation as deemed necessary. (Ord. 2000-9159; 88/T-6762)

Section 20.30.090 Enforcement procedures.

If the city engineering division determines that a permit holder is not complying with the provisions of this chapter or the permit, a written notice shall be served by certified mail.

Notice shall also be given in a similar manner to the owner of the property, if different from the permit holder, at the address listed on the tax records in the Woodbury County Treasurer's Office. The notice shall specify the manner in which the permit holder does not comply with this chapter or the permit. The notice shall identify any necessary actions to correct noncompliance or order that work cease if a hazard is being created. The notice shall also specify the time allowed to come into compliance. Failure to come into compliance within the time allowed will result in a revocation of the permit and/or action by the city to correct the

deficiency. Costs incurred by the city will be assessed to the property, the permit holder and/or the owner of the property. In the case of a borrow pit, the provided performance bond, letter of credit, or cash will be used to correct any deficiencies.

(Ord. 2006-0908, 2005-1069; 2000-9159; 88/T-6762)

Section 20.30.100 Grading Board of Appeals.

1. Creation. A grading appeals board is hereby created. The board shall consist of seven members who shall be residents of the city of Sioux City. At least one of the members shall be a professional engineer, architect or landscaped architect registered to practice in the state of Iowa, at least one of the members shall be affiliated with a general construction firm, at least one of the members shall be affiliated with a grading contracting firm, at least one of the members shall be affiliated with a public works contracting firm and at least one of the members shall be affiliated with a land development firm. Two members shall be residents of the city who have no financial interests in the construction industry.

2. Appointments. The members shall be appointed by the city council. Initially, members shall be appointed for terms of three, two and one years in the order of their appointments. Thereafter, all appointments shall be for three years expiring on December 31 of the specified year. Members shall continue to serve until a replacement has been appointed.

3. Officers. The members of the board shall annually elect a chairperson. The public works director shall serve as secretary for the board

4. Meetings. The grading appeals board shall meet upon the call of the chairperson to consider appeals authorized under this chapter. All meetings shall be conducted in compliance with the requirements of the Iowa open meetings laws and any related city policies. (Ord. 2000-9159)

Section 20.30.110 Appeals.

1. Any applicant, permit holder or property owner who is aggrieved by an interpretation or enforcement of this chapter may appeal to the grading appeals board.

2. Appeals shall be filed by the aggrieved party within ten days after the action giving rise to the applicant's claim. Written notice of appeal must be filed with the public works director setting forth a statement of the grounds for such appeal and a request for a hearing before the grading appeals board. The public works director shall immediately forward such petition to the chairperson of the grading appeals board.

3. Within three working days of receipt of such petition, the board's chairperson shall set a time and place for hearing on said appeal, and shall give the applicant, the public works director, the grading appeals board and all other interested parties notice thereof. At such hearing all interested parties shall be given an opportunity to be heard, and to show cause why the aggrieved interpretation or enforcement should be sustained, modified, or withdrawn. The hearing before the board shall not be later than ten working days after the date on which the petition was filed without the permission of the appellant. The chairperson of the board shall have the power to administer oaths and affirmations in connection with the conducting of any hearing held in accordance with the provisions of this section.

4. After such hearing, the board shall sustain, modify or withdraw the interpretation or enforcement action.

5. The determination and disposition of an appeal made by the board shall be summarized, reduced to writing, and entered as a matter of public record in the office of the public works director. The public works director shall notify all appealing parties of the board's determination and disposition of appeal by written notice and/or order sent by certified mail.

6. Any person aggrieved by an action of the board may appeal the decision to the city council by filing written notice of appeal within ten days of the board's decision. The council shall conduct a public hearing on said appeal within ten working days of receipt of the appeal. The council shall give the appealing party and the examining board written notice by certified mail of the date, time and place of the hearing and to the general public in the manner prescribed in section 362.3 of the Code of Iowa. All interested persons shall be given opportunity to be heard at such hearing and the city council may affirm, modify, or overrule the action of the board. (Ord. 2000-9159)

Section 20.30.120 Penalty for violation.

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a municipal infraction and upon conviction thereof shall be subject to a fine as provided in section 1.04.100 of this code. Violations of the provisions of this chapter may also be declared a public nuisance and abated in the manner provided by chapter 8.72. (Ord. 2000-9159)