

839

ORDINANCE NO. F-0156

AN ORDINANCE AMENDING CHAPTER 62, SUBDIVISIONS, ARTICLE 4, ALTERED VACANT LOT GRADING AND REQUIRED IMPROVEMENTS, OF THE WHEATON CITY CODE

WHEREAS, the City of Wheaton, Illinois (City) has determined it to be in the best interests of the City and its residents to consider amendments to the City's Subdivision Control Ordinance; and

WHEREAS, the City finds that any altered vacant lot which is not graded in conformance with an approved grading plan can cause drainage, ponding and erosion concerns for adjacent properties and/or right of ways; and

WHEREAS, the City finds that any altered vacant lot which is not planted and maintained with vegetative cover can cause ponding, dust and erosion concerns for adjacent property owners; and

WHEREAS, the City desires to ensure that all altered vacant lots are graded, vegetated and maintained in a manner so as to not be a nuisance for the City and its residents.

BE IT ORDAINED BY THE Wheaton City Council, City of Wheaton, DuPage County, Illinois, pursuant to its Home Rule powers, as follows:

Section 1: That the following Section 62-299 be added to Chapter 62, Subdivisions, Article 4, of the Subdivision Control Ordinance of the City.

"Section 62-299. Altered Vacant Lot Grading and Vegetation.

- a. An altered vacant lot shall mean any lot of record in a subdivision where any alteration, change or modification of the natural grade and/or vegetation has occurred.
- b. Any altered vacant lot shall be graded in conformance with the subdivision's master grading plan or an owner/developer interim grading plan submitted to and approved by the City Engineer. Interim grading plans shall take into consideration the condition of adjacent lots, drainage, dust, and erosion.
- c. Upon completion of grading described in Paragraph b all altered vacant lots shall be planted and maintained with vegetation cover in conformance with Chapter 78, Vegetation, Article IV of the Wheaton City Code.
- d. Should any altered vacant lot not be graded or vegetated in conformance with

sections b and c, or should any grading, planting or maintenance of vegetation on an altered vacant lot fail to protect adjacent properties and right-of-way from improper drainage, excessive dust, erosion or other grading or vegetation related nuisances the owner shall correct such conditions upon receiving written notification from the City Engineer. Such written notification shall be served or cause to be served upon the owner of any altered vacant lot in violation of the provisions of this article, requiring the correction thereof within ten (10) days. If upon diligent search, the identity or whereabouts of the owner of any altered vacant lot cannot be ascertained, or should the owner refuse service, the notice to correct provided for in this section shall be mailed to the person in whose name such altered vacant lot was last assessed.

- (1) If the owner so served or notified does not correct the altered vacant lot in accordance with this section, the City shall have the right, but not the obligation, to correct the altered vacant lot in any and all manners allowable by law, without limiting the generality thereof, by means of one or more of the following:
 - (a) Seeking to impose a monetary penalty in accordance with the general penalty provisions of this code.
 - (b) Seeking to enjoin the continuation of the altered vacant lot by the filing of a lawsuit in a court of competent jurisdiction.
 - (c) Seeking an independent contractor to correct the altered vacant lot.
- (2) Costs incurred by the City shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the altered vacant lot.

In addition to all other remedies provided by law, all costs associated with correction of the altered vacant lot, including reasonable attorney's fees, shall constitute a lien upon the real estate affected provided that within sixty (60) days after such cost and expense is incurred, the City, or the independent contractor performing the service by authority of the City, in its or his own name, files notice of lien in the office of the recorder of deeds of the county. The lien shall be superior to all other liens and encumbrances except tax liens or any mortgage, judgement creditor, or any other lienor whose rights in and to such real estate arise prior to the filing of such notice.

The notice of lien shall consist of a sworn statement setting out the following:

- (a) A description of the real estate sufficient for identification;

- (b) The amount of money representing the cost and expense incurred or payable for each service; and
- (c) The date or dates when the expenses were incurred by the City.

The notice of lien must also state the substance of this section and be in conformance with applicable state statutes, and shall identify the altered vacant lot by common description. The cost of correcting the altered vacant lot shall not be a lien on the real estate affected unless a notice is personally served on, or sent by certified mail to the person to whom was sent the tax bill for the preceding year. The notice shall be delivered or sent after the altered vacant lot is corrected.

Upon payment of costs and expenses incurred by the City or independent contractor, by the owner of or persons interested in such real estate after notice of lien has been filed, the lien shall be released by the City or the independent contractor in whose name the lien has been filed.

- (3) The lien provided for in this section may, at the discretion of the City, be foreclosed, in the manner provided by law, in any court of competent jurisdiction. Reasonable attorney's fees and costs incurred by the City, with respect to the filing and foreclosure of the lien, shall be taxed against the owner of or persons interested in the real estate.
- e. This ordinance shall apply to all altered vacant lots existing within the City as of the effective date of this ordinance.

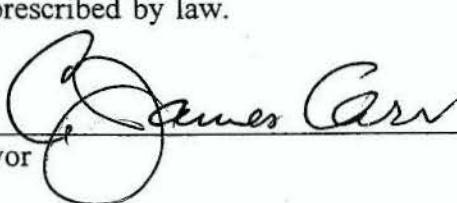
Section 2: All altered vacant lots shall be within ninety (90) days of the effective date of this ordinance graded and vegetated in accordance with subdivision's master grading plan or an interim grading plan approved by the City Engineer.

Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval and publication in pamphlet form in a manner prescribed by law.

Attested by:

Evelyn M. Canelough
City Clerk



James Carr
Mayor

Ayes:

ROLL CALL VOTE:
Councilman Eckhoff
Councilman Gresk

Mayor Carr
Councilman Johnson
Councilwoman Johnson
Councilman Mork
Councilwoman Davenport

Nays: None
Absent: None

MOTION CARRIED UNANIMOUSLY

Passed: July 21, 1997
Published: July 22, 1997