Memorandum

TO:	City Council
FROM:	Allison Eddins , Senior planner
DATE:	March 17, 2025
SUBJECT:	Text amendment to Section 103-92 and Exhibit B: Administrative Fee Schedule of the Shoreview Municipal Code related to Grading Permits
ITEM NUMBER:	10.b
SECTION:	GENERAL BUSINESS

REQUESTED MOTION

To approve Ordinance No. 1048, and the ordinance summary for publication, to amend Chapter 103 of the Shoreview Municipal Code in order to update the city's grading regulations and fee schedule.

INTRODUCTION

Chapter 103 of the Shoreview Municipal Code contains regulations that govern land use permits. City staff is proposing a text amendment to Section 103-92 that will update the city's current grading regulations to be more inline with modern best practices. The regulations were last updated in 20212. Staff is also proposing changes to the fees associated with these permits.

The planning commission held a public hearing on January 28, 2025 to review the proposed text amendment. In a 6 to 1 vote, the commission voted to recommend that the city council deny the text amendment as it was presented at the public hearing.

Staff made changes to the text to address the planning commission's concerns. The city council sent the draft ordinance, with the changes, back to the planning commission for review and reconsideration.

The planning commission reviewed the updated text on February 25, 2025 and unanimously voted to recommended approval of Ordinance 1048.

DISCUSSION

The primary reason that the city regulates grading/land disturbance activity is to minimize erosion, the amount of sediment leaving a site, and maintaining historic drainage patterns. Sediment erosion is a leading source of pollution for water bodies. Runoff from project sites can consist of sediment and other materials such as fuel, oil, chemicals, and debris, which flows into the stormwater system and then our local water bodies. The city manages its stormwater system, or MS4 system, to improve water quality, reduce flooding, and fulfill MS4 permit requirements. The Minnesota Pollution Control Agency (MPCA) is the delegated authority to administer the MS4 program of the National Pollutant Discharge Elimination Program (NPDES) of the Clean Water Act.

The city's public works and natural resources staff researched modern best practices and learned how our peer metro suburbs were implementing these best practices within their communities. City staff took this information and combined it with what they know about Shoreview - our natural topography, natural resources, infrastructure, and communities values. This work is now represented in the proposed text amendment in Ordinance No. 1048.

Proposed Text Amendments to Section 103-92 and the Administrative Fee Schedule

Below is a summary of the changes that staff is recommending to the current grading permit regulations. The full text amendment is included in the Ordinance No. 1048 that is attached to this report.

- Amend the name of the permit from "grading permit" to "land disturbance permit" to better encompass the variety of project that fall under this permitting category
- Create a definition for "water resources" that includes any wetland, lake, stream or river
- Create a definition for "specialized stormwater feature" that includes stormwater ponds, infiltration and filtration basins, catch basins with filtration features, permeable pavements, and other items as determined by the public works director
- Amend the permit requirement for projects involving more than five cubic yards or more than 500 square feet. Currently, the permit requirement only applies to projects that are in a bluff, shore impact zone or on a steep slope. The amendment would include properties that contain or are adjacent to a water resource, a specialized stormwater feature.
- Amend the permit requirement for all other properties in Shoreview. The proposed ordinance would increase the threshold that a project will require a permit from 10 cubic yards or 1,000 square feet of soil disturbance to 20 cubic yards or 2,000 square feet.
- Amend the permit expiration date for permits without a development agreement or grading certificate requirement from 1 year to six months unless otherwise extended by staff on land disturbance projects that do not require development agreements or grading certificates.
- Update inspection fees and escrow cost

PLANNING COMMISSION COMMENTS FROM THE PUBLIC HEARING

On January 28, 2025 the planning commission held a public hearing to discuss the proposed changes. The commission recommended changes to the proposed ordinance but ultimately recommended that the council deny the ordinance as presented at the commission meeting. The commission voted unanimously to recommend denial of Ordinance No. 1048 as it was presented on January 28th.

Below is a list of the comments and recommendations that the planning commission made and staff's response.

Comment #1

Commission recommended rewording Section 103.92 (b) (3). The text that was presented to the commission stated:

(b) *Permit required.* A land disturbance permit or building permit must be obtained from the city before commencing any of the following activities:

(3) Any property adjacent to a city managed stormwater feature

The commission was concerned that it does not identify any type of activity, such as grading,

and the public would interpret this section to mean any activity, including using a single bag of mulch, on a property that is adjacent to a stormwater feature would require a permit. Additionally, the commission pointed out that the code does not clearly define a stormwater feature.

Staff Response - Staff acknowledges that the wording was not clear and that the intent was to only require permits for grading projects that involved more than 5 cubic yards of material. Staff has made the following changes:

- Removed Section (b) (3) and incorporated the permitting requirements for properties adjacent to a stormwater feature into Section (b) (2).
- Removed the 300 foot buffer requirement.
- Included a definition for specialized stormwater feature.

<u>Comment #2</u>
The commission pointed out that the code defines grading as *any land disturbance activity that includes construction, landscaping, clearing and grubbing, excavating, transporting soil and earth materials, and filling of land*. There was a recommendation that the proposed text amendment should include a definition for landscaping.

Staff Response - Staff does not believe a definition of landscaping should be included in the city code because the term is already used interchangeably across multiple sections, and introducing a formal definition could lead to unnecessary complexity. The concept of landscaping is context-dependent in the code, and a rigid definition may limit its flexibility, creating confusion in situations where the term needs to be interpreted differently. Maintaining the term's flexibility across different sections is seen as more practical and efficient.

Staff is not proposing any changes to this section.

<u>Comment #3</u>
The commission expressed concern that increasing the threshold for requiring a permit [Section 103.92 (b) (3)] would not give staff the opportunity to review projects under 20 cubic yards or 2,000 square feet. The commission was specifically concerned about the increased threshold in relation to smaller lots. The commission would prefer that the threshold be a percentage of lot size.

Staff Response - The intent of the code revision is to reduce the permitting requirement for "low risk" areas while ensuring that city permitting and review will continue to protect Shoreview's natural resources by keeping the low the threshold requirements for "higher risk" areas. The proposed changes under subsection (b) will align Shoreview's permitting requirements with other metro-area cities.

Additionally, the potential impact of the area that is disturbed is not bound by property lines. Putting a requirement based on lot percentage would not be a net benefit. 20 cubic yards or 2,000 square feet of disturbance has the same impacts whether it is on a large lot or a small lot and the requirements for erosion control protection would be the same, regardless of the percentage that is disturbed.

Staff is not proposing any changes to this section.

CITY COUNCIL FEBRUARY 18, 2025 MEETING

The proposed ordinance went to the city council on February 18, 2025. Staff recommended that the proposed text amendment, with the changes made since the public hearing on January 28, 2025, go back to the planning commission for review and reconsideration. The city council agreed with this recommendation.

PLANNING COMMISSION FEBRUARY 25, 2025 MEETING

The planning commission reviewed the revised text amendment at their regular meeting on February 25, 2025. In a 6-0 vote, the commission recommended that the city council approve Ordinance 1048.

RECOMMENDATION

Staff is recommending that the city council approve Ordinance No. 1048, and the ordinance summary for publication, to amend Chapter 103 of the Shoreview Municipal Code in order to update the city's grading regulations and fee schedule.

ATTACHMENTS

Ordinance No. 1048
Ordinance Summary