

2008 DEC 23 AM 9 54

ORDINANCE NO. 122

JAN BORTSCHELLER
RECORDER
DICKINSON COUNTY, IOWA
FEE \$ 27⁰⁰ \$10.00 NCF

AN ORDINANCE AMENDING SECTION 165.22(10)(H1, I, J) AND SECTION 165.24(A)(11)(H.1, I, and J) OF THE WAHPETON ZONING CODE CONCERNING APPLICATIONS AND PROCEDURES FOR LANDSCAPING AND EXCAVATION OF SHORELINE BANK.

WHEREAS, current provisions of Section 165.22 concerning the LF- Lake Frontage Residential District and Section 165.24(A) concerning the I- Institutional District established under the Wahpeton Zoning Code regulate landscaping and excavation of the shoreline bank require approval of the City Board of Adjustment for any such activity; and

WHEREAS, the City Zoning Officer has proposed to the Planning and Zoning Commission and to the Council that it may be more appropriate for property owners to be required to submit a plan for landscaping or excavation approved by a registered landscape architect, a registered engineer, or the Dickinson County Soil and Water Conservation District, rather than requiring approval by the Board of Adjustment; and

WHEREAS, the Zoning Officer's proposal has been considered by the Wahpeton Planning & Zoning Commission and recommended to the City Council; and

WHEREAS, the Wahpeton City Council has scheduled and held a Public Hearing on the proposed text amendment to the Wahpeton Zoning Code pursuant to published notice as required by law; and

WHEREAS, the City Council has determined that the text of the Wahpeton Zoning Code should be amended as proposed.

NOW, THEREFORE, BE IT ORDAINED by the Wahpeton City Council as follows:

Section 1. Section 165.22(10)(H)(1) of the Wahpeton Zoning Code is hereby amended by striking the subsection of the following:

"1. No excavation from the ordinary high-water mark to a point thirty-five feet (35') toward the rear lot line from the ordinary high-water mark shall be undertaken without first obtaining a special permit as provided in this Section 10."

Section 2. Section 165.22(10)(I) of the Wahpeton Zoning Code is hereby repealed and there is hereby adopted the following new replacement provision:

"1. Shoreline Grading/Retaining Wall/Landscaping. Any land alterations in the area between the shoreline and the thirty-five feet (35') setback line requires a landscaping permit issued pursuant to the provisions of this Section 10. This requirement includes any installation or replacement of retaining walls, walls or terraces, and may include

landscaping work that involves changes in ground elevations, all of which shall be submitted to the Zoning Officer.”

Section 3. Section 165.22(10)(J) is hereby repealed and there is hereby adopted the following replacement provision:

“J. Procedure for Obtaining a Landscaping Permit. Any written application submitted under this subsection shall be accompanied by a plan prepared and drawn to scale by a registered engineer, a registered landscape architect, or the Dickinson County, Iowa Soil and Conservation District. The plan shall set out the necessity for the proposed landscaping, as well as the corrective measures proposed and the material to be used. Any corrective measures proposed in the plan submitted under this subsection shall minimize, as far as is reasonably possible, any change in the level in the finished surface of the ground proposed to be landscaped and shall minimize permanent removal of vegetation or plant cover. After receiving the written application and a Twenty-five Dollars (\$25.00) fee, the Zoning Administrator will review the submission and either issue or deny the landscaping permit.”

Section 4. Section 165.24(A)(11)(H)(1) of the Wahpeton Zoning Code is hereby amended by striking the subsection of the following:

“1. No excavation from the ordinary high-water mark to a point thirty-five feet (35') toward the rear lot line from the ordinary high-water mark shall be undertaken without first obtaining a special permit as provided in this Section 10.”

Section 5. Section 165.24(A)(11)(I) of the Wahpeton Zoning Code is hereby repealed and there is hereby adopted the following new replacement provision:

“I. Shoreline Grading/Retaining Wall/Landscaping. Any land alterations in the area between the shoreline and the thirty-five feet (35') setback line requires a landscaping permit issued pursuant to the provisions of this Section 10. This requirement includes any installation or replacement of retaining walls, walls or terraces, and may include landscaping work that involves changes in ground elevations, all of which shall be submitted to the Zoning Officer.”

Section 6. Section 165.24(11)(J) is hereby repealed and there is hereby adopted the following replacement provision:

“J. Procedure for Obtaining a Landscaping Permit. Any written application submitted under this subsection shall be accompanied by a plan prepared and drawn to scale by a registered engineer, a registered landscape architect, or the Dickinson County, Iowa Soil and Conservation District. The plan shall set out the necessity for the proposed landscaping, as well as the corrective measures proposed and the material to be

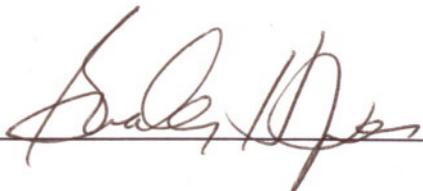
used. Any corrective measures proposed in the plan submitted under this subsection shall minimize, as far as is reasonably possible, any change in the level in the finished surface of the ground proposed to be landscaped and shall minimize permanent removal of vegetation or plant cover. After receiving the written application and a Twenty-five Dollars (\$25.00) fee, the Zoning Administrator will review the submission and either issue or deny the landscaping permit."

Section 7. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 8. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 9. This ordinance shall be in effect following its final passage, approval and publication as provided by law.

Passed by the Council the 19 day of May, 2008, and approved this 9th day of June, 2008.



Mayor

Attest:



Bonnie Roberts, City Clerk

I hereby certify that the foregoing was published as Ordinance No. 122 in the Dickinson County News on the 13th day of August, 2008.



Bonnie Roberts City Clerk

