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**MEMORANDUM**

**To:** Mayor and City Council

**From:** Steve Dush, AICP, Community Development Director

**Date:** 4/9/2012

**Subject:** **Amendment to Section 16-86 of the Land Development Code related to grading**

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**ITEM DESCRIPTION**

On March 12, 2012, City Council initiated a text amendment to address the amount of fill that can be placed on residential property within residential neighborhoods as a matter of right. The attached ordinance seeks to balance the by right importation of fill to one's property without being overly burdensome for one to enjoy their property in a manner that is usual and customary for a residential neighborhood.

**BACKGROUND**

A recent application and subsequent approval of a Land Disturbance Permit (LDP) highlighted the need to place parameters on the amount of fill material that could be placed on a residentially zoned lot as a matter of right. The rationale used to identify an appropriate limitation was derived from an analysis of typical daily trips associated with a residence. The Institute of Traffic Engineers Trip Generation Manual assigns 10 average daily trips (ADT) per single family residence. A trip is counted as arriving or departing the home. So, a trip to the grocery store would be 2 trips. Certain activities will exceed this average, but are still reasonable and customary within a residential neighborhood. Additionally, the associated impacts from these activities and trips are not necessarily an everyday occurrence yet usual and customary. However, when the frequency of trips and the associated impacts begin to exceed usual and customary parameters, a limit is necessary. In the case of importing fill dirt, staff has, based upon usual and customary parameters, identified that the ability within a residential neighborhood to import dirt by right be limited to 20 trips per day and a maximum of 1,000 cubic yards. Relief to these standards could be achieved by obtaining a Variance. Staff finds that the proposed grading limitations within residentially zoned neighborhoods balance the needs of individuals with the needs of the neighborhood.

On first reading at the March 26, 2012 City Council meeting, Council identified issues needing to be addressed with the proposed ordinance. To that end staff has modified the ordinance to clarify the 1,000 cubic yard limit to be a cumulative amount; and clarified the ordinance to address that the fill is for a residential use that is usual and customary within the residential zone district and not a commercial endeavor.

**RECOMMENDED ACTION**

#L.2.



Staff recommends approval of the Ordinance.

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**AN ORDINANCE AMENDING CHAPTER 16, LAND DEVELOPMENT, ARTICLE 2 (ENVIRONMENTAL CONTROL), TO REGULATE AMOUNT OF FILL DIRT DEPOSITED ON PROPERTY**

**WHEREAS**, the City Land Development Code, Chapter 16, Article II, Section 16-86, regulates residential grading requirements in the City; and

**WHEREAS**, the City wishes to add additional requirements to address the amount of fill dirt that may be placed on individual property as a matter of right and to balance said regulation with the right of property owners to enjoy customary and usual use of their property; and

**WHEREAS**, in order to help preserve the health, safety and welfare of the citizens of the City and preserve the City's roadways from excessive and unnecessary stress, the City Council desires to limit the amount of fill dirt and the amount of roadways usage to haul said fill dirt to and from a residential property; and

**WHEREAS**, a property Public Hearing has been advertised and held for consideration of this Ordinance pursuant to the requirements of Section 16-24 of the City Code.

**THEREFORE**, Mayor and City Council of the City of Dunwoody hereby ordain as follows:

**Section 1:** Chapter 16, Article II (Environmental Control) of the City Code is hereby amended by revising Section 16-86 ("Grading") by addition of new subsection (b)(7) to read as follows:

**Sec. 16-86. Grading**

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(b) *Standards*

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(7) Fill dirt, permitted through the issuance of a separate Land Disturbance Permit on any residentially-zoned property shall be limited to:

STATE OF GEORGIA  
CITY OF DUNWOODY

**ORDINANCE 2012-04-04**

- (i) A cumulative maximum of 1000 cubic yards per property;  
and
- (ii) No more than twenty (20) trips per day, including trips to  
and from the permitted property.

Separate Land Disturbance permits issued under this subsection for must be used only in accordance with the provisions of the Zoning District on which the property is situated and its intent and not for any commercial purposes.

**Section 2:** This Ordinance shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

**SO ORDAINED**, this 9<sup>th</sup> day of April, 2012.

Approved:

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Michael G. Davis, Mayor

ATTEST:

Approved as to Form and Content:

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Sharon Lowery, City Clerk  
(Seal)

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Brian Anderson, City Attorney