

Chapter 13

Grading Permits (Created 04-04-03)

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Sec. 10-13-1 Authority.

- a) This chapter is adopted under the authority granted by Wis. Stats. § 61.34, and § 61.354, Chapter 236 and general home rule powers.
- b) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the Village Board.
- c) The Village Board hereby authorizes the Building Inspector, or the Building Inspector's designee, and his or her designated agents to oversee the administration and enforcement of the provisions of this chapter.
- d) The requirements of this chapter are not intended to conflict with or limit any additional requirements of this Code, any other federal, state or local laws, stormwater permits issued by the Wisconsin Department of Natural Resources under Wis. Stats. § 283.33, or the Uniform Dwelling Code found in Wis. Admin. Code Commerce chapters 20-25. In the event there may be multiple or conflicting requirements or regulations, the more restrictive requirements shall apply consistent with promoting the purposes of this chapter.

Sec. 10-13-2 Findings and Purpose.

- a) **Findings of fact.** The Village Board finds that proper site grading must be evaluated in a context broader than site-by-site and is essential to maintain proper stormwater management and drainage planning, the protection of water resources and the promotion of health, safety, and general welfare of the community. Specifically, improper site grading results in the misdirection of stormwater runoff which can:

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- 1) Divert stormwater runoff away from appropriate control structures, such as detention or retention basins, drainage ways, ditches or sewers, resulting in uncontrolled stormwater runoff which can contribute to the deleterious stormwater effects as listed in sec. 10-8-3(a) of this Code which are incorporated herein by reference.
 - 2) Direct stormwater runoff onto an adjoining landowner's property, resulting in decreased property values and enjoyment of the use of that property.
 - 3) Create and/or exacerbate flooding and erosion control problems that the cumulative impacts of improper grading on specific sites can cause for an entire drainage area.
 - 4) Conflict with surface water drainage planning for a larger area such as a subdivision, neighborhood or drainage basin.
 - 5) Diminish the overall effectiveness of public stormwater management planning and facilities in the Village.
- b) **Purpose.** The general purpose of this chapter is to set forth grading requirements and encourage compliance with approved grading plans in order to protect property values, promote proper area-wide drainage patterns, maintain the effectiveness of public stormwater management planning and facilities in the Village, and diminish threats to public health, safety, welfare, and the aquatic environment due to changes in stormwater drainage patterns resulting from substantial grading activities.

Sec. 10-13-3 Definitions.

- a) Unless otherwise specified or the context clearly indicates a different meaning, the words, terms and phrases, when used in this chapter, shall have the meanings set forth in sec. 10-8-2 of this Code and as set forth below:
- 1) **Agricultural Activities.** Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption.
 - 2) **Building Inspector.** The person designated by the Village Board as Building Inspector, as well as any person to whom the Building Inspector delegates or assigns certain responsibilities or functions under this chapter.
 - 3) **Site Stabilization.** The point at which grading activities have ceased, and the site has been stabilized utilizing a stabilization practice in conformance with the current version of the Wisconsin Construction Site Best Management Practice Handbook as part of the permit.
 - 4) **Substantial Grading Activity.** Any human activity or constructed environment that alters the elevations and/or extent and distribution of land cover types on a site that may influence stormwater runoff and infiltration.

Sec. 10-13-4 Applicability.

- a) **Applicability.** This chapter applies to any substantial grading activities, subsequent to the completion of all the grading required pursuant to sec. 10-6-64 of this Code, on any lands for which plats and/or Certified Survey Maps are approved after the effective date of this chapter, unless otherwise specifically exempted as provided below.

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- b) **Exceptions.** This chapter applies to all substantial grading activities undertaken on platted lands within the boundaries of the Village unless one of the following exceptions applies:
 - 1) Grading associated with agricultural activities shall not be subject to the requirements of this subdivision.
 - 2) If the substantial grading activity solely involves the planting of trees and/or other vegetation, the construction of flower beds, or the use or installation of other landscaping items or practices, the Building Inspector may waive the permit requirement if the proposed activity does not threaten to undermine the purposes of this ordinance set forth in sec. 10-13-2.

Sec. 10-13-5 Permit Application Requirements and Procedures.

- a) **Permit required.** No landowner or other person may undertake a substantial grading activity subject to this chapter without receiving a grading permit from the Building Inspector prior to commencing the proposed activity.
- b) **Permit application and fee.** Any landowner or landowner's agent desiring a grading permit shall first submit to the Building Inspector a completed grading permit application. A permit application must include the following in order to be considered complete:
 - 1) A signed and completed application form as provided by the Village;
 - 2) A grading plan in accordance with sec. 10-13-6;
 - 3) A performance security deposit pursuant to sec. 10-13-7; and
 - 4) A non-refundable application fee as provided in sec. 10-13-8.
- c) **Review and approval of permit application.** Within thirty (30) calendar days of the receipt of a completed grading permit application, including all items as required by subsection (b) of this section, the Building Inspector shall inform the applicant whether the application and grading plan are approved or disapproved, with or without conditions, based upon the requirements set forth in sec. 10-13-6.
 - 1) If the application and plan are approved, the Building Inspector shall issue the permit, with or without conditions. Any conditions of approval shall be written on the permit.
 - 2) If the application and plan are disapproved, the Building Inspector shall state the reasons for disapproval in writing. The applicant may revise the plan and submit additional information, or may appeal the decision of the Building Inspector as provided in sec. 10-13-10.
 - 3) If additional information is submitted, the Building Inspector shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan is either approved or denied.
 - 4) If the Building Inspector has failed to notify the applicant that the plan has been approved or denied within the time periods set by this subsection, the permit shall be deemed approved.
- d) **General Permit Conditions.** All permits issued under this chapter are subject to the specific permit conditions attached as a condition of approval under sec. 10-13-5(c), as well as the general conditions set forth below. The following general conditions are hereby deemed to be incorporated into all grading permits, whether or not expressly stated on the permit itself:

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- 1) Compliance with the permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state and local laws and regulations.
 - 2) The permit holder shall perform all substantial grading in accordance with the approved grading plan and shall comply with all the terms and conditions of the permit.
 - 3) If work on the substantial grading activity does not commence within 60 days of permit issuance, the permit holder shall notify the Building Inspector at least two business days before commencing any work in conjunction with the grading plan. The permit holder shall notify the Building Inspector within five (5) business days upon completion of site stabilization. The permit holder shall permit property access to representatives of the Village for the purpose of inspecting the property for compliance with the approved grading plan and this permit.
 - 4) Completed grading practices must be in accordance with the approved grading plan, permit, and ordinances. The permit holder is required to submit a Certificate of Completion on a form provided by the Village, which certifies the completion of site stabilization and of the permitted work all in accordance with the approved grading plan and permit. This certificate must be signed by the permit holder.
 - 5) The permit holder shall notify the Building Inspector of any significant modifications it intends to make to an approved grading plan. The Building Inspector may require that the proposed modifications be submitted for approval prior to incorporation into the grading plan and execution.
 - 6) If the permit holder fails to fully comply with the terms and conditions of the permit, the Village shall provide the permit holder with written notice of noncompliance via certified mail. If the permit holder fails to remedy the situation to the satisfaction of the Building Inspector within 30 days following the receipt of the notice of noncompliance, by acceptance of the permit the permit holder authorizes the Building Inspector to enter onto the site in order to perform any work or operations necessary to bring grading measures into conformance with the approved grading plan. The permit holder further consents to a special charge against the property as authorized under Wis. Stats. § 66.0627, and/or, at the Village's option, to charging such costs against the deposit posted under sec. 10-13-7.
- e) **Permit duration.** Permits issued under this section shall be valid from the date of issuance as noted thereon and continuing for one (1) year thereafter. All work, including submitting the certification of compliance shall be completed within this date, unless the permittee obtains a written extension from the Building Inspector.

Sec. 10-13-6 Grading Plans.

- a) **Plan requirements.** The grading plan required under sec. 10-13-5(b) shall contain at a minimum, the following information:
 - 1) Lot corner elevations.
 - 2) Mid lot elevations.
 - 3) Lowest foundation opening or floor elevation exposed to surface water intrusion.
 - 4) Any other information requested by the Building Inspector.
- b) **Previously approved plan.** If a grading plan for the site, such as a subdivision grading plan, has already been approved by the Village as part of another approval process, the applicant

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may submit that existing plan for review to determine whether it fulfills the requirements of this chapter.

- c) **Grading Plan Standards.** All grading plans approved by the Village will comply with the following standards:
 - 1) All grading plans must comply with any approved grading plan (such as a subdivision grading plan) applicable to the area subject to the substantial grading activities.
 - 2) Minimum ground slopes from lower level exposures shall be a minimum of 2 % slope away from the building and/or the lowest foundation opening or floor elevation exposed to surface water intrusion shall be a minimum of 24 inches above any regional and localized flooding, unless the applicant proposes and implements a reasonable engineering practice designed to mitigate the effects of altered drainage following a substantial drainage activity.
- d) **Village to Provide Datums and Bench Marks.** The Village will provide bench marks and datums wherever reasonably required.

Sec. 10-13-7 Performance Security Deposit.

The applicant for a grading permit shall provide a deposit in the form of cash, corporate check, or a certified check made payable to the Village prior to the issuance of the grading permit. The purpose of the deposit is to ensure that the terms and conditions of the grading permit are satisfactorily performed. The amount of the deposit shall be determined by a schedule as periodically approved by the Village Board. The amount of the deposit shall be refunded to the applicant within five (5) business days after either of the following events occur:

- a) The Village receives a Certificate of Completion signed by the permit holder, as required by sec. 10-13-5(d)(4), certifying that the grading plan has been fully complied with and implemented, and that site stabilization has been achieved; or
- b) The responsibility for compliance with the grading plan has been assigned to and assumed by another entity or person via written assignment on a form provided by the Village, and a new deposit has been made by the successor or assignee to replace the initial deposit.

Sec. 10-13-8 Fees for Submission of Plans.

An applicant wishing to undertake a substantial grading activity subject to this chapter shall pay an application fee at the time of submission of the application, in accordance with a fee schedule as periodically approved by the Village Board.

Sec. 10-13-9 Enforcement and Penalties.

If any violations or noncompliance with the requirements of this chapter occur, all the enforcement and penalty provisions of sec. 10-8-12(i)(j), are available to the Village and are incorporated herein by reference. In addition, when the Building Inspector determines that the permit holder has failed to follow practices set forth in the permit and/or approved grading plan, the Building Inspector may enter upon the land and perform the work or other operations necessary to obtain compliance. The Building Inspector shall keep a detailed accounting of the

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direct and indirect costs and expenses incurred in performing such work. These costs and expenses may be deducted from any deposit made pursuant to section 10-13-7. Where such deposit is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.

Sec. 10-13-10 Appeals.

- a) **Board of appeals.** The board of appeals, created under sec. 2-4-2 et seq. of the Code of Ordinances pursuant to Wis. Stats. § 62.23(7)(e), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Building Inspector in administering this division. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.
- b) **Variations.** The board of appeals may authorize variations from the provisions of this division which are not contrary to the public interest, and where owing to special conditions a literal enforcement of the division will result in unnecessary hardship.
- c) **Who may appeal.** Appeals to the board of appeals may be taken by any aggrieved person or by any officer, department, or board of the village affected by any decision hereunder.

Sec. 10-13-11 through Sec. 10-13-25 Reserved for Future Use.

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