

PETITION

The undersigned hereby petition the County of Dane to amend its zoning ordinance in the manner indicated below.

Dated: 7/20/09 BY: Patrick Downing/c

Dated: 7/20/09 BY: Scott McDonnell/c

Dated: BY:

Dated: BY:

ORD. AMEND. NO. 116, 2009-2010

AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES, REGARDING PRESERVATION OF TOPOGRAPHY NEAR PROPERTY LINES

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subsections 10.01(19d), (30b), (68m) and (78d) are created to read as follows:

10.01 DEFINITIONS. For the purposes of this chapter, certain terms used herein are defined as set forth in this section. Words and phrases not defined in this section or elsewhere in the ordinance shall be construed by resort to the following, in order of preference: Wisconsin Statutes; Wisconsin zoning case law; other states' zoning case law; the dictionary; and, common usage.

(19d) Development means any activity requiring a zoning permit or certificate of compliance, including earth-disturbing activities that will lead to the installation of footings, piers, posts, pilings or foundations, as described in s. 10.25(2)(f).

(30b) Land disturbing activity means any alteration or disturbance that may result in soil erosion, sedimentation or change in runoff including, but not limited to, removal of ground cover, grading, excavating or filling of land.

(68m) Stormwater runoff means the waters derived from rains falling or snowmelt or icemelt occurring within the drainage area, flowing over the surface of the ground and collected in channels, watercourses or conduits.

46 (78d) Topography means the configuration of the ground surface and relations
47 among human-made and natural features that may determine ground slope and
48 direction of runoff flow.
49

50 ARTICLE 3. Section 10.04(6) is created to read as follows:

51 **10.04 RESTRICTIONS UPON LANDS, BUILDINGS AND STRUCTURES.** Except
52 as otherwise herein provided:

53 (6) Topography near property lines. (a) Purpose. The purpose of this subsection
54 is to set forth the minimum requirements for preserving existing topography near
55 property lines whenever development is planned, and to promote and protect the
56 public health, safety, convenience and general welfare. This subsection is intended
57 to regulate development:

58 1. to protect adjacent property owners from possible damage due to changes to
59 the existing topography of adjoining lands;

60 2. to retain stormwater runoff on each property undergoing development; and

61 3. to preserve the general character of neighborhoods.

62 (b) Standards. 1. Except as authorized in this section, the topography within five
63 (5) feet of any property line at the commencement of any development shall remain
64 unchanged.

65 2. a. When land disturbing activities associated with development occur within
66 five (5) feet of any property line, finished grades in that area shall be restored to the
67 topography in existence before the land disturbing activity began.

68 b. Notwithstanding sub. (6)(b)1., a positive slope of one-half (1/2) inch vertical
69 per one (1) foot horizontal within five (5) feet of the property line is allowed to provide
70 proper drainage away from a one or two family residence.

71 3. The established grade of the adjoining property shall determine the finished
72 grade at the property line for any development. The owner of the property under
73 development bears the burden of proof as to the established grade at the property
74 line and the topography within five (5) feet of the property line. The Zoning
75 Administrator may require detailed site grading plans of existing and proposed
76 conditions to be submitted before commencement of land disturbing activities.

77 4. Natural watercourses along property lines shall be maintained. Existing
78 drainage ways and drainage easements along property lines including, but not
79 limited to, stormwater management areas shown on subdivision plats and certified
80 survey maps, shall be maintained.

81 (c) Exceptions. 1. Development in Floodplain Districts requiring fill to comply
82 with chapter 17 is exempt from this section.

83 2. Upon written application, the Zoning Administrator may authorize exceptions
84 resulting in changes to the existing topography at and within five (5) feet of any
85 property line that would promote the purposes stated in this ordinance, only if the
86 results do not direct additional stormwater runoff toward adjacent properties.
87 Proposed exceptions may include, but are not limited to, retaining walls, berms and
88 other structures, and other changes to existing grade at and within five (5) feet of a
89 property line. The Zoning Administrator may require the submittal of detailed site
90 grading plans of existing and proposed conditions including, but not limited to,

91 detailed topographical information of the subject and adjoining properties, before
92 land disturbing activities commence.

93
94 *[EXPLANATION: This amendment restricts changes to grade (elevation or topography) at*
95 *and near property lines as an appropriate means to maintain the character of neighborhoods*
96 *and address stormwater runoff issues. Problems occur when building construction on an*
97 *adjacent lot results in increased or re-directed stormwater runoff. New construction may*
98 *cause problems when the site is filled above the elevation of a neighbor's lot, when a*
99 *retaining wall is built along a property line, when backfill around a new foundation changes*
100 *overland stormwater runoff, etc., causing damage to a neighbor's property, basement or*
101 *other structures. This is most problematic on existing, substandard, narrow lots around*
102 *lakes or along rivers here in Dane County.*

103 *Companion ordinance amendments to Chapters 11–Shorelands and 14–*
104 *Erosion Control and Stormwater Management are proposed to ensure consistency*
105 *of administration and enforcement, as a cooperative effort of the Zoning Division of*
106 *the Department of Planning and Development and the Land Conservation Division of*
107 *the Department of Land and Water Resources.]*

Referred to:

- Executive
- Hlth/Hum Needs
- Pers/Finance
- Pub Prot/Jud
- Pub Wks/Transp
- Envir/Ag/Nat Res
- Zoning/Land Reg

- Approved as Submitted
- Fiscal Note Not Required
- Policy Note Not Required
- Forward to:
for completion of:
- Policy Note Fiscal Note