

ORD. AMDT. 16, 09-10

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.

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

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

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

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

1. to protect adjacent property owners from possible damage due to changes to the existing topography of adjoining lands;
2. to retain stormwater runoff on each property undergoing development; and
3. to preserve the general character of neighborhoods.

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

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

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

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

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

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

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