

**TOWN OF CEDARBURG
ORDINANCE NO. 2018-1**

An Ordinance to Amend Chapter 320: Zoning, of the Town of Cedarburg Code of Ordinances, Ozaukee County, Wisconsin, regarding berms.

WHEREAS, The Town of Cedarburg is a body corporate and politic; and
WHEREAS, the Town Board exercises village powers by Ch. 61, Wis. Stats.; and
WHEREAS, the Plan Commission has reviewed the Town Code regarding berms, has reviewed this ordinance, and has made a favorable recommendation to the Town Board for its adoption; and
WHEREAS, the Town Board held a public hearing regarding the proposed amendment, a notice of which was published twice, once at least ten days prior to the date of the hearing,

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, that Chapter 320 of the Town of Cedarburg Code of Ordinances is hereby amended to read as follows:

**(The text modified with a strikethrough shall be deleted).
(The text modified with an underline shall be added).**

§ 320-76. Berm requirements.

A. Berm defined.

(1) ~~Except as provided in Subsection A(3) below, as~~ As used in this section the term "berm" shall include any mound or wall of soil ~~or rock (which may include clean concrete if suitably covered with topsoil)~~ extending more than 50 linear feet or vertically higher than ~~two~~ four feet above the natural grade for the lot center line of the road. A berm is determined as starting at the base where natural grade changes.

~~(2) Berms within 50 feet of public road rights-of-way must comply with Subsection A(1).~~

~~(3)~~ This section would not apply to the following:

- (a) Temporary topsoil piles on construction sites.
- (b) Mound septic systems.
- (c) Landscaping areas less than four feet above the natural grade with a slope not exceeding one foot vertical to three feet horizontal ~~not meeting requirements under Subsection A(1).~~
- (d) Berms under ~~two~~ four feet above the natural grade for a residential lot, or under six feet above the natural grade in all other zoning districts center line of the road, less than 50 feet in length or with a slope of one foot vertical to six feet horizontal or greater in all zoning districts.
- (e) Planting berms of 25 feet or less in length and not exceeding a height of four feet above the center line of the road with a slope of one foot vertical to three feet horizontal.

B. Permit required.

(1) General permit requirements. No berm may be located, erected, moved, reconstructed, extended, enlarged, reduced, converted, or altered without obtaining all permits required by this section and without being in conformity with the provisions of this section.

(2) Conditional use permit required. Berms exceeding ~~two~~ four feet in vertical height from the natural grade center line elevation of the adjacent roadway in all zoning for residential districts, and six feet in vertical height from the natural grade for all other zoning districts shall require a conditional use permit. Berms exceeding this requirement can be issued a conditional use permit by the Town Board upon compliance with the requirements of this section and approval by the Plan Commission and Town Board.

(3) Approval process.

- (a) The Plan Commission shall have the authority to recommend the height, location, slope and landscaping of the berm to the Town Board.
- (b) The Plan Commission shall also notify neighbors within 1,000 feet of the property containing the proposed berm of a public hearing on the conditional use application.
- (c) The Plan Commission, in determining whether to recommend the conditional use permit, shall apply the same standards as applied under Article V, Conditional Uses, of this Zoning Code.
- (d) The Town Board has the authority to revise recommendations of the Plan Commission.

C. Permit application.

(1) Applications for a berm permit shall be made on forms provided by the Town and shall contain or have attached thereto the following information:

- (a) Name, address and telephone number of the applicant and location of the building, structure, or lot to which or upon which the berm is to be erected.
- (b) Name of the person, firm, corporation, or business locating, erecting, moving, reconstructing, extending, enlarging, reducing, converting, or altering the berm.
- (c) Written consent of the owner or lessee of the land upon which the berm is located or proposed to be located.
- (d) Additional information as may be required by the Town Director of Public Works or the Town Plan Commission.

(2) Plans and attachments. The following plans must be submitted for Town staff and Plan Commission review and must, at a minimum, include the following:

- (a) Berm plan depicting location, setbacks, property lines, and proposed and existing grade contours.
- (b) Proposed type of fill material.
- (c) Planting plan, including grasses, shrubbery and tree types with spacing. It is recommended that the landscape plantings be spaced randomly to help visually break up the continuous line of the berm and that the berm be constructed in such a way as to be undulating and serpentine in appearance. It is also required that at least six inches of topsoil be placed on all berms in addition to suitable plantings.
- (d) Proposed schedule for all phases of work.

D. General regulations. General regulations applicable to all berms receiving permits under this section.

(1) Location.

- (a) The berm shall be located at least 10 feet from a road right-of-way.
- (b) An earthen berm shall not be constructed to obstruct the view of vehicular traffic for ingress and egress for any Town or other public road, private driveway, walkway or bike trail.
- (c) Berms shall not be placed in drainageways, floodplains, wetlands or conservancy zoned areas.

(2) Slope. All berms shall be constructed such that the slope shall not exceed a slope of one foot vertical to six three feet horizontal. The berm must be of no greater grade than would be allowable to be mowed with a riding lawn mower, or some similar device.

(3) Drainage. All berm construction shall not impede surface water drainage or disturb existing drain tile systems.

(4) Erosion control. All berm construction shall adhere to Chapter 110, Construction Site Erosion Control, of this Code where applicable.

(5) Deadline. All berms shall be completed, including all landscaping, within one year of the date of issuance of ~~in accordance with the time frame established within the~~ conditional use permit.

(6) Permit conditions. All berm permits shall require the permittee to:

- (a) Notify the Town Director of Public Works within two working days of commencing any land development and land disturbing activity, and at the completion of berm construction ~~the berm~~ but prior to planting the berm to allow inspection of the berm;
- (b) Obtain permission in writing from the Town Director of Public Works Plan Commission and Town Board prior to modifying the berm plan;
- (c) Maintain all road drainage systems, stormwater drainage systems, best management practices and other facilities identified in the berm plan; and
- (d) Allow Town personnel or other agents authorized by the Town to enter the site for the purpose of inspecting compliance with the berm plan or for performing any work necessary to bring the site into compliance with the berm plan.

E. Inspection. If berm development or berm activities are being carried out without a permit, Town personnel shall enter the land pursuant to the provisions of § 66.0119, Wis. Stats.

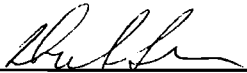
F. Fees. Fees referred to in this section shall be the fee for a conditional use permit application as established by the Town Board as provided in the Town schedule of fees. The permittee shall also be responsible to pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection with the enforcement of this section.

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

PASSED AND ADOPTED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 6th day of June, 2018.



Eric Ryer
Assistant Administrator/Clerk



David M. Salvaggio
Town Chairman

