City of Mequon

Virtual Meeting
Mequon, WI 53092
Phone: 262-236-8145
Fax: 262-242-9655

www.ci.mequon.wi.us
Public Works Department

PUBLIC WORKS COMMITTEE
Tuesday, May 11, 2021
7:00 PM
Virtual Meeting

ELECTRONIC MEETING NOTICE: Pursuant to the current recommendation of the CDC limiting the size of public gatherings and the various federal and state orders implementing that recommendation, and to help protect our community from the Coronavirus (COVID-19) pandemic, this meeting will be held virtually through the GoToMeeting platform with each member accessing the meeting remotely. Citizens may join the meeting online or by phone. Please go to https://www.gotomeet.me/KristenLundeen/public-works-commission to join the meeting online or call into the meeting by dialing 1-877-568-4106 and enter access code 713-854-821.

WRITTEN PUBLIC COMMENTS may be made in writing in advance of the meeting. Written comments should be directed to the Public Works Department at least 2 hours prior to the meeting by email at klundeen@ci.mequon.wi.us addressed to the intended committee. Written public comment may also be deposited in the drop box at City Hall on 11333 N. Cedarburg Road, Mequon at least 2 hours prior to the meeting. Comments received timely will be forwarded to all members of the body for their consideration.

VERBAL PUBLIC COMMENTS will be accepted only from members of the public who register in advance. Registration shall be made by sending an email to Director of Public Works/City Engineer, Kristen Lundeen at klundeen@ci.mequon.wi.us or by leaving a message at 262-236-2938 no later than 2 hours prior to the meeting.

Reasonable accommodations will be made for those citizens who are unable to attend the meeting in the methods identified above upon at least two hours' notice. Notice can be given to the City Clerk's Office at 262-236-2914.

AGENDA

1) Call to Order, Roll Call

2) Election of a Chair

3) Approval of Minutes

    a. April 13, 2021 Minutes

4) Resolutions

Action requested: review and recommend approval

a. **RESOLUTION 3841** A Resolution Authorizing an Agreement with the Wisconsin Department of Transportation to Purchase a Temporary Limited Easement at Katherine Kearney Carpenter Park for the I-43 North South Freeway Project

5) Discussion Items

a. WisDOT Update 5.11.21

b. Berm Policy Review

c. 2020 Work Plan (5.11.21)

6) Adjourn

Dated: May 11, 2021 */s/ Brian Parrish, Chair*

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the Public Works Department at 262-236-2913, Monday through Friday, 7:00 AM – 3:30 PM.

City of Mequon

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www.ci.mequon.wi.us
Public Works Department

PUBLIC WORKS COMMITTEE
Tuesday, April 13, 2021
6:30 PM
Virtual Meeting

Minutes

1) Call to Order, Roll Call
Chair Parrish called the meeting to order at 6:30 PM.

Present:
Chairman Brian Parrish
Alderman Jeffrey Hansher
Alderman Mark Gierl
Alderman Dale Mayr **-- Excused**
Alderman Andrew Nerbun **-- Excused**

Also present were Director of Public Works/City Engineer Lundeen, City Administrator Jones, City Attorney Sajdak, Deputy Director of Public Works Weyker, Parks and Forestry Superintendent Gies, Engineering Technician Dandy, and Administrative Assistant Deuster.

2) Approval of Minutes

a. March 09, 2021 Minutes

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Gierl
SECONDED BY: Alderman Hansher

AYES:	Parrish, Hansher, Gierl

3) Resolutions

Action requested: review and recommend approval

a. **RESOLUTION 3829** A Resolution Repealing the 2021 Policy for Mequon Community Pool and Parks Operations Due to COVID-19 and Establishing the Mequon Community Pool and Parks Standard Operating Procedures Due to COVID-19

The board agreed with item #1 to approve the proposed resolution which transitions from the restrictions included in the 2020 policy towards full reopening.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Parrish

Attachment: 04-13-21 Mins_Public Works (6237 : April 13, 2021 Minutes)

AYES:	Parrish, Hansher, Gierl

b. **RESOLUTION 3826** A Resolution Authorizing Execution of an Amended State Municipal Agreement with the Wisconsin Department of Transportation for Design and Construction of the Highland Road Interchange and Subsequent Authorization for Execution of an Amendment to the Intergovernmental Agreement with Ozaukee County for the Same

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Hansher

AYES:	Parrish, Hansher, Gierl

c. **RESOLUTION 3835** A Resolution Authorizing City Staff to Exceed the Public Works Equipment Replacement Capital Account Balance by $225,000 During 2021 for the Purchase of a New Loader Vehicle with Snowplow and Wing Attachments

Staff is requesting approval to bring forward purchases that exceed the capital budget.
Deputy Director of Public Works stated the main reason is that the loader would be most useful to cut down time during a snowfall event. The city currently has one loader with a plow and wing. This is the only piece of equipment that can complete snow removal in cul-de-sacs and push back snow in the courts. In addition to the loader, there are several pieces of equipment replacement recommended and the total would exceed the 2021 allocation.

Director of Public Works/City Engineer Lundeen clarified staff is asking for permission ahead of time so that staff can make the purchase allocation accordingly. The approval of this does not actually purchase the loader, it gives staff the authority to move forward with quotes and bids. If it does not get approval, staff would review the equipment purchases for this year and bring those forward accordingly.

Alderman Parrish inquired if this is something the city could outsource for in the courts or subdivisions or is that not cost effective.

Director of Public Works/City Engineer Lundeen stated it is not cost effective, some municipalities have done it and gone back to municipal services. Recognizing that it is a large piece of equipment, it is not one exclusive to snow removal. It is one that would be able to be put to use in the summer and is a year round piece of equipment.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Hansher

Attachment: 04-13-21 Mins_Public Works (6237 : April 13, 2021 Minutes)

AYES:	Parrish, Hansher, Gierl

d. **RESOLUTION 3828** A Resolution Approving the Purchase of a 2016 Dynapac CP142 9-Wheel Rubber Tire Roller from Centex Equipment Sales of Early, Texas for a Total Cost of $39,000

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Gierl

AYES:	Parrish, Hansher, Gierl

e. **RESOLUTION 3831** A Resolution Awarding the 2021 Crack Sealing Contract to Thunder Road of Genesee, Wisconsin in an Amount Not-to-Exceed $181,000

Engineering Technician Dandy stated the bids came in favorable and which allowed award for the base bid & additives.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Gierl
SECONDED BY: Alderman Hansher

AYES:	Parrish, Hansher, Gierl

f. **RESOLUTION 3830** A Resolution Awarding the 2021 GSB-88 Bituminous Seal Contract to Fahrner Asphalt Sealers, of Waunakee, Wisconsin, in an Amount Not-to-Exceed $188,000

Engineering Technician Dandy stated the bids came in favorable and which allowed award for the base bid & additives.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Gierl

AYES:	Parrish, Hansher, Gierl

g. **RESOLUTION 3832** A Resolution Awarding the 2021 Road Improvements Contract to Payne & Dolan of Jackson, Wisconsin, in the Amount of $1,047,750

Engineering Technician Dandy stated the bids came in favorable and which allowed award for the base bid & additives.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Gierl

Attachment: 04-13-21 Mins_Public Works (6237 : April 13, 2021 Minutes)

AYES:	Parrish, Hansher, Gierl

h. **RESOLUTION 3833** A Resolution Awarding the Rotary Park Parking Lot Improvements Contract to Stark Pavement of Brookfield, Wisconsin in the Amount of $487,000

Engineering Technician Dandy stated the bids came in favorable and which allowed award for the base bid & additives.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Gierl
SECONDED BY: Alderman Hansher

AYES:	Parrish, Hansher, Gierl

i. **RESOLUTION 3834** A Resolution Authorizing Execution of an Agreement with WE Energies for the Replacement of Street Lights in Phase I of the Mequon Business Park at a Cost of $275,000

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Hansher

AYES:	Parrish, Hansher, Gierl

j. **RESOLUTION 3827** A Resolution Awarding a Contract for HVAC Preventative Maintenance Services During the Period May 1, 2021 - April 30, 2022 to Dillett Mechanical Services, Waukesha, Wisconsin in the Amount of $21,168

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Gierl

AYES:	Parrish, Hansher, Gierl

k. **RESOLUTION 3818** A Resolution Approving a Contract with SMB Landscape Contractors, Thiensville, Wisconsin for Baseball Field Management Services at Rennicke and Schmit Fields During the 2021 Season in the Amount of $15,500

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Gierl
SECONDED BY: Alderman Hansher

AYES:	Parrish, Hansher, Gierl

l. **RESOLUTION 3837** A Resolution Awarding a Contract for Ash Tree Removal Services to Wallace Tree and Landscape Inc. of Glendale, Wisconsin in the Amount of $13,750

Attachment: 04-13-21 Mins_Public Works (6237 : April 13, 2021 Minutes)

Parks and Forestry Superintendent Gies stated staff would like to contract out the tree topping to allow for our crews to go through and take the stem, stumping, and restoration. This is to take care of the larger trees in the different neighborhoods.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Hansher

AYES: Parrish, Hansher, Gierl

m. **RESOLUTION 3836** A Resolution Awarding a Three-Year Contract for Median Maintenance to Northern Exposure Landscaping, Inc., of Mequon, Wisconsin at an Annual Cost of $25,000

Alderman Parrish provided some comments from the Mayor. The Mayor cited weeds are not being sprayed, grass over hanging on the curbs and, not replacing trees when they are removed. He would like to improve the median maintenance program or have a higher level of ongoing maintenance by staff. He also requested a review of Wauwatosa Road and making sure they are covered by the program that are not covered by the County.

Alderman Parrish stated he told staff to add beautification toward median maintenance to the budget process and if Common Council wants to put money toward that, it can be taken up at budget time. The mayor felt more could be done at a day to day basis.

Alderman Hansher inquired if he wants us to increase the budget now.

Director of Public Works/City Engineer Lundeen stated two years ago staff was in front of the Public Welfare Committee to discuss the potential of an adopt a median program. Where staff evaluated the median maintenance that with both contracted maintenance and that we would perform ourselves. At that time the Public Welfare Committee made it clear they were not looking to spend additional money and looking for another source to maintain the medians. That is to have either property owners, or landscape companies adopt medians and maintain them and potentially enhance them with plantings. Some hurdles faced, Mequon Road is a state road and under the jurisdiction of WisDOT and Port Washington Road is a jurisdiction of Ozaukee County. Staff will be in front of Ozaukee County Public Works Committee next month to discuss an adopt a median program for Port Washington Road. The medians on Mequon Road while under state jurisdiction are maintained by the City while they are encumbered by trees.

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Gierl

AYES: Parrish, Hansher, Gierl

4) Discussion Items

a. 2020 Work Plan (4.13.21)

Attachment: 04-13-21 Mins_Public Works (6237 : April 13, 2021 Minutes)

Director of Public Works/City Engineer Lundeen provided an overview on the work plan.

5) Motion to Adjourn at 7:17PM.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Gierl
SECONDED BY:	Alderman Hansher

AYES:	Parrish, Hansher, Gierl

Respectfully Submitted,

Casey Deuster
Administrative Assistant

Attachment: 04-13-21 Mins_Public Works (6237 : April 13, 2021 Minutes)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2913
Fax: 262-242-9655

www.ci.mequon.wi.us **Office of Engineering**

TO: **Public Works Committee**
FROM: **Kristen Lundeen, Director of Public Works/City Engineer**
DATE: **May 11, 2021**
SUBJECT: **RESOLUTION 3841 A Resolution Authorizing an Agreement with the Wisconsin Department of Transportation to Purchase a Temporary Limited Easement at Katherine Kearney Carpenter Park for the I-43 North South Freeway Project**

Background

The Wisconsin Department of Transportation (WisDOT) is requesting a temporary limited easement (TLE) on City-owned property (Katherine Kearney Carpenter Park). The TLE includes 0.142 acres of impact, near the west parking lot, including one of the driveways. If the City authorizes the TLE, it must execute an Agreement for Purchase, which includes compensation of $600.

Analysis

The purpose of the TLE will be to connect in the temporary diversion channel while a new box culvert is being constructed, grade the new channel to match back into the existing, and put in riprap along the banks to stabilize them after the grading is complete.

As indicated, the impact will be temporary and only required during construction. Upon completion, the property will be restored and there are no long-term legal impacts due to the easement nor any requirement for property acquisition.

Fiscal Impact

WisDOT hired Corre to complete an appraisal of the property and calculate the value of the impact of the TLE. Based upon that analysis, WisDOT is offering $600 in compensation for the TLE.

Recommendation

Staff recommends that the Public Works Committee favorably endorse and the Common Council approve the resolution authorizing an agreement with the Wisconsin Department of Transportation to purchase for a temporary limited easement at Katherine Kearney Carpenter Park for the I-43 North South Freeway Project.

Attachments:
WisDOT TLE (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3841

A Resolution Authorizing an Agreement with the Wisconsin Department of Transportation to Purchase a Temporary Limited Easement at Katherine Kearney Carpenter Park for the I-43 North South Freeway Project

RECITALS

A. WisDOT has requested a temporary limited easement on City of Mequon property (Katherine Kearney Carpenter Park) for the purpose of connecting the temporary diversion channel while a new box culvert is being constructed, grade the new channel to match back into the existing, and put in riprap along the banks to stabilize them after the grading is complete.

B. The temporary limited term easement encompasses 0.142 acres near the west parking lot, including the driveway.

C. The temporary limited term easement expires at the completion of the construction project.

D. Authorization requires the City to execute an Agreement for Purchase, in exchange for $600 compensation.

E. The Public Works Committee recommended approval of the SMA and amendment to the IGA at its meeting on May 11, 2021.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin that:

1. The Agreement for Purchase for Project I.D.: 1229-04-23 is approved, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.

2. The $600 compensation shall be deposited into Capital Project Account #10009 to be applied to the Highland Road Interchange local share expenses.

3. The Mayor and the City Clerk are authorized and directed to execute and deliver the same.

_____
Approved by: John Wirth, Mayor

Date Approved: May 11, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 11, 2021.

_____

Caroline Fochs, City Clerk

WisDOT Division of Transportation
System Development
Southeast Region
141 NW Barstow Street
PO Box 798
Waukesha WI 53187-0798

Governor Tony Evers
Secretary Craig Thompson
wisconsindot.gov
Telephone: (262) 548-5903
FAX: (262) 548-5888
Email: ser.dtsd@dot.wi.gov

April 27, 2021

CERTIFIED MAIL
7017 3040 0000 0632 1893

CITY OF MEQUON
11333 N. CEDARBURG ROAD
MEQUON, WI 53092

RECEIVED
APR 29 2021
ENGINEERING DEPARTMENT
CITY OF MEQUON

Reference: Initiation of Negotiations-AS
Project ID: 1229-04-23, Parcel No. 10
I-43 NORTH SOUTH FREEWAY
IH - 043, Ozaukee County

Dear CITY OF MEQUON:

As you may know, the Wisconsin Department of Transportation (WisDOT) is planning a highway safety project in your area. This project will affect your property and I look forward to working with you to answer your questions.

In compliance with Wisconsin statutes and federal regulations, I am writing to initiate negotiations to acquire property and/or property interests needed for the above highway project.

To explain the process, I ask you to review the following documents:

- Legal description of the land and/or interest(s) needed for the project
- Names of neighboring landowners affected by the project
- Appraisal Guidelines and Agreement
- Appraisal Report
- Agreement for Purchase and Sale of Real Estate
- "The Rights of Landowners Under Wisconsin Eminent Domain Law" pamphlet

Based on the fair market value of your affected interests, the Wisconsin Department of Transportation has determined compensation to be: $600.00.

Allocation	Description	Size	Unit	Per Unit	Value ($)
Temporary Limited Easement (TLE)		0.142	Acres	$3,549.30	$504.00
Appraiser Rounding					$96.00
			Total Allocation		$600.00

Return the Agreement for Purchase in the enclosed envelope for final review and approval. Once WisDOT is satisfied that the negotiations are complete, we will send you a fully executed (signed) copy of the agreement and I will contact you to arrange for payment and closing. Please note that your signature alone on the Agreement for Purchase and Sale of Real Estate is not sufficient to result in an enforceable contract for the purchase of the needed property.

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

If you are not satisfied with the compensation offered for your property, you have 60 days and no later than June 29, 2021 to obtain a second appraisal from a qualified appraiser of your choice. Please see the enclosed Appraisal Guidelines and Agreement document for requirements for reimbursement of another appraisal. If your appraisal report is submitted to my office after the 60-day statutory date, the department may consider it for negotiation purposes, but it will not be eligible for reimbursement.

I want you to be satisfied that the Wisconsin Department of Transportation treated you fairly, we answered your questions, addressed your concerns, and fully considered your property and property interests. I am happy to provide any additional information requested, if available, or discuss any additional concerns. Please contact me at 262-548-6457 or email me at dean.veling@dot.wi.gov .

Thank you for your part in contributing to safer Wisconsin roadways.

Sincerely,

Dean Veling
Real Estate Specialist

Enclosures

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE - SHORT FORM

Wisconsin Department of Transportation
RE1895 10/2018

THIS AGREEMENT made and entered into by and between City of Mequon, hereinafter called Seller, and the Wisconsin Department of Transportation. If accepted, this offer can create a legally enforceable contract. Both parties should read this document carefully and understand it before signing.

Seller and the Wisconsin Department of Transportation agree that the Wisconsin Department of Transportation is purchasing this property for highway or other transportation related purposes, within the meaning of Chapter 84 of the Wisconsin Statutes.

Seller warrants and represents to the Wisconsin Department of Transportation that Seller has no notice or knowledge of any of the following:

1) Planned or commenced public improvements which may result in special assessments which would otherwise materially affect the property, other than the planned transportation facility for which the Wisconsin Department of Transportation is purchasing this property;

2) Government agency or court order requiring repair, alteration, or correction of any existing condition;

3) Shoreland or special land use regulations affecting the property; and,

4) Underground storage tanks and the presence of any dangerous or toxic materials or conditions affecting the property.

DESCRIPTION: The Seller agrees to sell and the Wisconsin Department of Transportation agrees to buy, upon the terms and conditions hereinafter named, the following described real estate situated in Ozaukee County, Wisconsin:

Legal description is attached hereto and made a part hereof by reference.

The purchase price of said real estate shall be the sum of Six Hundred and 0/100 Dollars, ($600.00) payable in full by check at closing.

General taxes shall be prorated at the time of closing based on the net general taxes for the current year, if known, otherwise on the net general taxes for the preceding year.

Seller shall, upon payment of purchase price, convey the property by warranty deed or other conveyance provided herein, free and clear of all liens and encumbrances, including special assessments, except recorded public utility easements and recorded restrictions on use running with the land or created by lawfully enacted zoning ordinances and none, provided none of the foregoing prohibit present use.

Legal possession of premises shall be delivered to the Wisconsin Department of Transportation on the date of closing.

Physical occupancy of property shall be given to the Wisconsin Department of Transportation on the date of closing. Seller may not occupy property after closing unless a separate lease agreement is entered into between the Wisconsin Department of Transportation and Seller.

SPECIAL CONDITIONS: None noted.

This agreement is binding upon acceptance by the Wisconsin Department of Transportation as evidenced by the signature of an authorized representative of the Wisconsin Department of Transportation. If this agreement is not accepted by the Wisconsin Department of Transportation within 30 days after Seller's signature, this agreement shall be null and void.

This transaction is to be closed at the office of TBD on or before TBD or at such other time and place as may be agreed to in writing by the Seller and the Wisconsin Department of Transportation.

No representations other than those expressed here, either oral or written, are part of this sale.

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

Seller and the Wisconsin Department of Transportation agree to act in good faith and use diligence in completing the terms of this agreement. This agreement binds and inures to the benefit of the parties to this agreement and their successors in interest, assigns, personal representatives, heirs, executors, trustees, and administrators.

Seller Signature / Title — Date

City of Mequon
Print Name

Seller Signature — Date

Print Name

Seller Signature — Date

Print Name

Seller Signature — Date

Print Name

The above agreement is accepted.

Signature — Date

Print Name

Title

Must be signed by administrator or an authorized representative of the Wisconsin Department of Transportation.

Project ID
1229-04-23

Parcel No.
10

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

LEGAL DESCRIPTION

Temporary Limited Easement for the right to construct cut and/or fill slopes, including for such purpose the right to operate the necessary equipment thereon and the right of ingress and egress as long as required for such public purpose, including the right to preserve, protect, remove, or plant thereon any vegetation that the highway authorities may deem necessary or desirable, in and to the following tract of land, in the City of Mequon, Ozaukee County, State of Wisconsin, described as:

Being that part of the Northwest 1/4 of the Southwest 1/4 of Section 32, Town 9 North, Range 22 East, described as follows:

Commencing at the Northwest corner of said Southwest 1/4 of said Section 32; thence South 89°23′06″ East along the north line of said Southwest 1/4 of Section 32, 618.67 feet; thence South 02°17′56″ West along the east line of I-43, 505.91 feet to the point of beginning; thence South 87°42′04″ East, 35.00 feet; thence South 02°17′56″ West, 84.84 feet; thence North 87°42′04″ West, 35.00 feet to said east line; thence North 02°17′56″ East along said east line, 84.84 feet to the point of beginning.

This portion contains **0.068 acres**, more or less

Also, commencing at the Northwest corner of said Southwest 1/4 of Section 32; thence South 89°23′06″ East along the north line of said Southwest 1/4 of Section 32, 618.67 feet; thence South 02°17′56″ West along the east line of I-43, 733.83 feet to the point of beginning; South 87°42′04″ East, 15.00 feet; thence South 02°17′56″ West, 183.69 feet; thence South 11°48′12″ West, 64.27 feet to the said east line; thence North 01°25′29″ West along said east line, 67.55 feet; thence North 02°17′56″ East along said east line, 179.67 feet to the point of beginning.

This portion contains **0.074 acres,** more or less.

Said parcel contains **0.142 acres**, more or less

The above temporary limited easement is to terminate upon the completion of this project or on the day the highway is open to the traveling public, whichever is later.

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

Color Key to Real Estate Interests

Fee (Fee Simple) – Pink

Fee simple is a term that refers to real estate or land ownership. The owner of the property has full and irrevocable ownership of the land and any improvements on that land. Fee simple is the highest form of property ownership.

PLE (Permanent Limited Easement) – Green

Permanent Limited Easement (PLE) is a right for construction and maintenance purposes, as defined herein, including the right to operate necessary equipment thereon and the right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove, or plant thereon any vegetation that the highway authorities may deem necessary or desirable. But without prejudice to the owner's right to make or construct improvement on said lands or to flatten the slopes, providing said activities with not impair or otherwise adversely affect the highway facilities. A PLE is a permanent acquisition for a specific purpose. It is typically used for construction outside the normal right-of-way that does not seriously impair the property owner's use but does require occasional access for maintenance purposes.

TLE (Temporary Limited Easement) – Blue

Temporary Limited Easement (TLE) is a right for construction purposes, as defined herein, including the right to operate necessary equipment thereon and the right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove, or plant thereon any vegetation that the highway authorities may deem necessary or desirable. All TLE's are to expire at the completion of the construction project for which this instrument is given.

PL (Property Line) - Orange

Property Line (PL) the boundary line between two pieces of property.

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

CONVENTIONAL SYMBOLS

SECTION LINE
QUARTER LINE
SIXTEENTH LINE
NEW REFERENCE LINE
NEW R/W LINE
EXISTING R/W LINE
PROPERTY LINE (P.L.)
LOT, TIE, AND OTHER MINOR LINES
SLOPE INTERCEPT
CORPORATE LIMITS
UNDERGROUND FACILITY (COMMUNICATIONS, ELECTRIC, ETC) (W (TYPE))
FEE ACQUISITION AREA (HATCHING VARIES BY OWNER)
TEMP. LIMITED EASEMENT AREA
EASEMENT AREA (HIGHWAY, PERMANENT LIMITED, OR RESTRICTED DEVELOPMENT)
TRANSMISSION STRUCTURES
BUILDING
BUILDING (TO BE REMOVED)
BRIDGE

PARCEL NUMBER 25
SECTION CORNER
NOTATION FOR COMBUSTIBLE FLUIDS (CAUTION)
NOTATION FOR HIGH VOLTAGE TRANSMISSION LINES (CAUTION)

UTILITY NUMBER 40
R/W MONUMENT
NON-MONUMENTED R/W POINT
FOUND IRON PIN IP
VALVE (GAS, WATER, ETC.) (TYPE)
SIGN (SIGN)
OFF-PREMISE SIGN (#1-25) (SIGN)

ACCESS CONTROLLED BY ACQUISITION
NO ACCESS (BY STATUTORY AUTHORITY)
ACCESS RESTRICTED (BY PREVIOUS PROJECT OR CONTROL)
NO ACCESS (NEW HIGHWAY)
NATIONAL GEODETIC SURVEY MONUMENT
SIXTEENTH CORNER MONUMENT
PARALLEL OFFSETS

CONVENTIONAL UTILITY SYMBOLS

WATER	W
GAS	G
TELEPHONE	T
OVERHEAD TRANSMISSION LINES	OH
ELECTRIC	E
CABLE TELEVISION	TV
FIBER OPTIC	FO
SANITARY SEWER	SAN
STORM SEWER	SS
ELECTRIC TOWER	

	NON-COMPENSABLE	COMPENSABLE
POWER POLE		
TELEPHONE POLE		
TELEPHONE PEDESTAL		

CURVE DATA ABBREVIATIONS

LONG CHORD	LCH
LONG CHORD BEARING	LCB
RADIUS	R
DEGREE OF CURVE	D
CENTRAL ANGLE	Δ /DELTA
LENGTH OF CURVE	L
TANGENT	T
DIRECTION AHEAD	DA
DIRECTION BACK	DB

CONVENTIONAL ABBREVIATIONS

ACCESS RIGHTS	AR	OUTLOT	OL
ACRES	AC	PAGE	P
AHEAD	AH	POINT OF TANGENCY	PT
ALUMINUM	ALUM	PROPERTY LINE	PL
AND OTHERS	ET AL	RECORDED AS	(100')
BACK	BK	REEL / IMAGE	R/I
BLOCK	BLK	REFERENCE LINE	R/L
CENTERLINE	C/L	PERMANENT LIMITED EASEMENT	PLE
CERTIFIED SURVEY MAP	CSM	POINT OF BEGINNING	POB
CONCRETE	CONC	POINT OF CURVATURE	PC
COUNTY	CO	POINT OF COMPOUND CURVE	PCC
COUNTY TRUNK HIGHWAY	CTH	POINT OF INTERSECTION	PI
DISTANCE	DIST	REMAINING	REM
CORNER	COR	RESTRICTIVE DEVELOPMENT EASEMENT	RDE
DOCUMENT NUMBER	DOC	RIGHT	RT
EASEMENT	EASE	RIGHT OF WAY	R/W
EXISTING	EX	SECTION	SEC
GAS VALVE	GV	SEPTIC VENT	SEPV
GRID NORTH	GN	SQUARE FEET	SF
HIGHWAY EASEMENT	HE	STATE TRUNK HIGHWAY	STH
IDENTIFICATION	ID	STATION	STA
LAND CONTRACT	LC	TELEPHONE PEDESTAL	TP
LEFT	LT	TEMPORARY LIMITED EASEMENT	TLE
MONUMENT	MON	TRANSPORTATION PROJECT PLAT	TPP
NATIONAL GEODETIC SURVEY	NGS	UNITED STATES HIGHWAY	USH
NUMBER	NO	VOLUME	V

THIS PLAT IS A GRAPHIC REPRESENTATION AND IS FOR REFERENCE PURPOSES ONLY. DEEDS MUST BE CHECKED TO DETERMINE PROPERTY BOUNDARIES AND ACCESS RIGHTS.

NOTES:

POSITIONS SHOWN ON THIS PLAT ARE BASED ON THE WISCONSIN COUNTY COORDINATE SYSTEM, OZAUKEE COUNTY ZONE, NAD-83 (2007) ADJUSTMENT (IN US SURVEY FEET). COORDINATES SHOWN ARE GRID COORDINATES AND ARE TO BE USED AS GRID OR GROUND VALUES ON THIS PLAT.

RIGHT OF WAY MONUMENTS ARE TYPE 2 MONUMENTS (TYPICALLY 3/4"X24" REBAR) AND WILL BE PLACED PRIOR TO COMPLETION OF THE PROJECT.

RIGHT OF WAY BOUNDARIES ARE DEFINED WITH COURSES OF THE PERIMETER OF THE HIGHWAY LANDS REFERENCED TO THE U.S. PUBLIC LAND SURVEY SYSTEM OR OTHER "SURVEYS OF PUBLIC RECORD".

PROPERTY LINES SHOWN ON THIS PLAT ARE DRAWN FROM DATA DERIVED FROM MAPS AND DOCUMENTS OF PUBLIC RECORD AND/OR EXISTING OCCUPATIONAL LINES. THIS MAY NOT BE A TRUE REPRESENTATION OF EXISTING PROPERTY LINES, EXCLUDING RIGHT-OF-WAY LINES, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR AN ACCURATE FIELD SURVEY.

FOR CURRENT ACCESS/DRIVEWAY INFORMATION, CONTACT THE PLANNING UNIT OF THE WISCONSIN DEPARTMENT OF TRANSPORTATION OFFICE IN WAUKESHA.

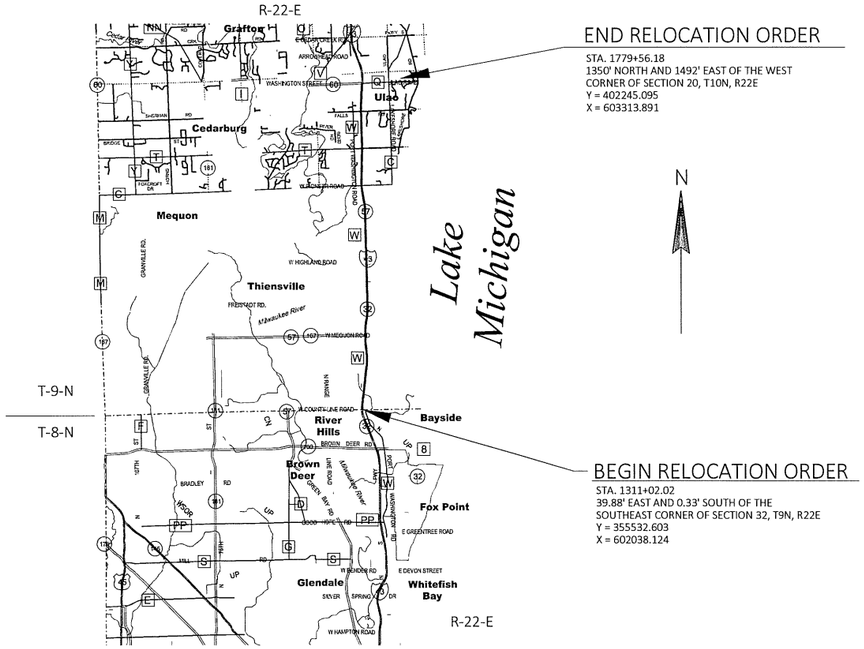
INFORMATION FOR BASIS OF EXISTING HIGHWAY RIGHT-OF-WAY POINTS OF REFERENCE AND ACCESS CONTROL ARE LISTED ON DETAIL SHEETS.

DIMENSIONING FOR THE NEW RIGHT-OF-WAY IS MEASURED ALONG AND PERPENDICULAR TO NEW REFERENCE LINES.

A TEMPORARY LIMITED EASEMENT (TLE) IS A RIGHT FOR CONSTRUCTION PURPOSES. AS DEFINED HEREIN. INCLUDING THE RIGHT TO OPERATE NECESSARY EQUIPMENT THEREON. THE RIGHT OF INGRESS AND EGRESS. AS LONG AS REQUIRED FOR SUCH PUBLIC PURPOSE, INCLUDING THE RIGHT TO PRESERVE, PROTECT, REMOVE, OR PLANT THEREON ANY VEGETATION THAT THE HIGHWAY AUTHORITIES MAY DEEM DESIRABLE. ALL (TLES) ON THIS PLAT EXPIRE AT THE COMPLETION OF THE CONSTRUCTION PROJECT FOR WHICH THIS INSTRUMENT IS GIVEN.

A PERMANENT LIMITED EASEMENT (PLE) IS A RIGHT FOR CONSTRUCTION AND MAINTENANCE PURPOSES. AS DEFINED HEREIN. INCLUDING THE RIGHT TO OPERATE NECESSARY EQUIPMENT THEREON AND THE RIGHT OF INGRESS AND EGRESS, AS LONG AS REQUIRED FOR SUCH PUBLIC PURPOSE, INCLUDING THE RIGHT TO PRESERVE, PROTECT, REMOVE, OR PLANT THEREON ANY VEGETATION THAT THE HIGHWAY AUTHORITIES MAY DEEM DESIRABLE. BUT WITHOUT PREJUDICE TO THE OWNER ' S RIGHTS TO MAKE DR CONSTRUCT IMPROVEMENTS ON SAID LANDS OR TO FLATTEN THE SLOPES. PROVIDING SAID ACTIVITIES WILL NOT IMPAIR OR OTHERWISE ADVERSELY AFFECT THE HIGHWAY FACILITIES.

AN EASEMENT FOR HIGHWAY PURPOSES (HE), AS LONG AS SO USED. INCLUDING THE RIGHT TO PRESERVE, PROTECT, REMOVE, OR PLANT THEREON ANY VEGETATION THAT THE HIGHWAY AUTHORITIES MAY DEEM DESIRABLE.



LAYOUT

SCALE 0 2.0 MI.

TOTAL NET LENGTH OF CENTERLINE - 9.122 MI.

R/W PROJECT NUMBER 1229-04-23	SHEET NUMBER	TOTAL SHEETS
	4.01	--

PLAT OF RIGHT OF WAY REQUIRED FOR
IH-43 NORTH - SOUTH FREEWAY

W. COUNTY LINE RD.- HIGHWAY 60

IH-43 OZAUKEE COUNTY

CONSTRUCTION PROJECT NUMBER
1229-04-71 1229-04-74 1229-04-76

kapur all in
7711 N. Port Washington Road
Milwaukee, Wisconsin 53217
414.751.7200
kapurinc.com

ORIGINAL PLANS PREPARED BY

WISCONSIN BRIAN M. DODGE S-2848 WAUKESHA, WI LAND SURVEYOR

8/17/2020 (Date)

Brian M. Dodge
BRIAN M. DODGE
KAPUR & ASSOCIATES
P.L.S. NUMBER 2848

REVISION DATE
01/21/2021
03/05/2021

STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION

APPROVED FOR THE DEPARTMENT
DATE: 09/08/20 Robert D Duffke (Signature)

FILE NAME : S:\DOT\DOT_SE\200113_I43_NORTH_SOUTH_RE_EVALUATION\SURVEY\RW_PLATS\1229-04-23_(OZAUKEE)\RW_PLAT-1229-04-23_TITLE.DWG PLOT DATE : 3/3/2021 3:00 PM PLOT BY : RAISA KHAYTINA PLOT NAME :
LAYOUT NAME - RW_PLAT-1229-04-23_TITLE - TITLE 4.01

I-43 1229-04-23

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

SCHEDULE OF LANDS & INTERESTS REQUIRED

OWNER'S NAMES ARE SHOWN FOR REFERENCE PURPOSES ONLY AND ARE SUBJECT TO CHANGE PRIOR TO THE TRANSFER OF LAND INTERESTS TO THE DEPARTMENT.

* DENOTES AREAS COMPUTED

PARCEL NUMBER	SHEET NUMBER	*OWNER	INTEREST REQUIRED	R/W ACRE(S) REQUIRED (ACRES) NEW	EXISTING	TOTAL	HE	TLE AREA	PLE AREA	PARCEL NUMBER
1	4.07	JAMES A VITUCCI	FEE, TLE	0.010		0.010		0.020		1
2	4.07	CHRISTOPHER J DUNLOP	TLE					0.008		2
3	4.07	MICHAEL T. TROTNOW	TLE					0.012		3
4	4.09	GEORGE E LEDERER	FEE,	0.028		0.028				4
5	4.09	THEODORE A CLAUSING	FEE	0.080		0.080				5
6	4.09	AMIR YAVOR	FEE, TLE	0.035		0.035		0.010		6
7	4.09	TEISUTIS MIKALAUSKAS & ALINA MIKALUSKIENE	FEE	0.047		0.047				7
8	4.09	SCOTT A. NEHRING	FEE	0.117		0.117				8
9	4.09	JLT INVESTMENS LLC	FEE, TLE	0.067		0.067		0.071		9
10(3)	4.09	CITY OF MEQUON	TLE					0.142		10
11	4.12	JESSICA DICKSON	FEE	0.059		0.059				11
12	4.26	EAST MEQUON IVA LLC	FEE, TLE	0.015		0.015		0.120		12
13	4.26	MAJOR PHARMACEUTICALS, LLC	FEE, TLE	0.034		0.034		0.069		13
14	4.26	EAST MEQUON III LLC	FEE, TLE	0.024		0.024		0.066		14
15(3)	4.27 - 4.29	MEQUON WI SENIOR PROPERTY, LLC	FEE, TLE	2.265		2.265		0.234		15
16	4.29	G-H PARTNERSHIP	FEE, TLE	0.156		0.156		0.037		16
17	4.29, 4.31	MISSING LINKS 1 LLC & MISSING LINKS 2 LLC	FEE, PLE	0.015		0.015			0.021	17
18(2)	4.28, 4.31, 4.33,4.35, 4.40	UNION PACIFIC RAILROAD CO.	HE, TLE				1.431	0.457		18
19(2)	4.30	CONCORDIA UNIVERSITY WISCONSIN FOUNDATION INC	FEE, TLE	0.502	0.159	0.661		0.043		19
20(2)	4.30, 4.31	CONCORDIA UNIVERSITY WISCONSIN INC	FEE, PLE, TLE	0.143		0.143		0.072	0.030	20
21	4.32	LEDERER LIVING, SOLE TRUST ET AL	FEE, PLE	0.041		0.041			0.018	21
22	4.33	JAMES H HOFFMAN	FEE	0.363		0.363				22
23	4.08	CITY OF MEQUON	TLE					0.056		23
24	4.33	RAYMOND J CLAUSING MARY B CLAUSING	FEE	0.129		0.129				24
25	4.33	AUDREY L KRAMSKY JOELY ANN STRASESKI	FEE	0.201		0.201				25
26	4.34	CHRIST CHURCH LUTHERAN CHURCH IN AMERICA	FEE	0.180		0.180				26
27(2)	4.37	ALOYS W HOSPEL	FEE	0.446		0.446				27
28(2)	4.37	Alloys W. Hospel and Rita M Hospel, Husband and Wife	FEE	0.521		0.521				28
29(3)	4.37 - 4.39	MARK B MALETZKE	FEE	2.443		2.443				29
30	4.40	SUZANNE HUPY HERBERT C SPENNER, et al	FEE	0.272	0.350	0.622				30
31	4.40	RAPHAEL L BRUNETTE RAYMOND A BRUNETTE	FEE	0.278		0.278				31
32(3)	4.40, 4.41	OZAUKEE COUNTY	FEE, TLE	0.458		0.458		0.105		32
33	4.41, 4.42	RMMI LLC	FEE	1.507		1.507				33
34	4.39	WALIA INVESTMENTS INC	FEE, TLE	0.003		0.003		0.012		34
35	4.39, 4.41	PIONEER PARTNERSHIP	FEE, TLE	0.132		0.132		0.028		35
36	4.41, 4.42	MARKO J MUSICH JANE HAMILTON	FEE, TLE	0.641		0.641		0.184		36
37	4.44	NEAL MACIEJEWSKI	FEE	0.020		0.020				37
38	4.45	OZAUKEE CONGREGATIONAL CHURCH INC	FEE	0.013		0.013				38
39	4.45, 4.46	RONALD R YOKES AND ETHEL T YOKES	TLE					0.130		39
40(2)	4.44	LAKEFIELD HOLDINGS LLC	PLE						0.014	40
41(2)	4.45, 4.46	GERALDINE E YENCH REVOCABLE TRUST AND DARICE YENCH	FEE, TLE	0.237		0.237		0.126		41
42	4.46	GREGORY M WEGNER	TLE					0.032		42
43	4.46	GREGORY M WEGNER AND HEIDI A WEGNER	TLE					0.037		43
44	4.46	ROLLAND E ROEBUCK	TLE					0.049		44
45(3)	4.46	JAMES M OHM	FEE	0.119		0.119				45
46	4.47, 4.48	HEP LLC	FEE	0.956		0.956				46
47	4.48, 4.49	CORNERSTONE CHURCH OF OZAUKEE COUNTY INC	FEE	0.226		0.226				47
48(2)	4.47, 4.48	KEVIN KOLES AND ANN KOLES	FEE, TLE	0.999		0.999		0.215		48
49	4.49, 4.50	EDWARD R KINSFOGEL & LOIS A KINSFOGEL REVOCABLE TRUST	FEE, TLE	0.245	0.024	0.269		0.094		49
50(3)	4.50	SCHNEIDER CO LLC, THE	FEE, TLE	0.037		0.037		0.055		50
51(3)	4.51	MEIJER STORES LIMITED PARTNERSHIP	FEE, TLE	0.154		0.154		0.172		51
52	4.52	RYAN COMPANIES, US, INC ET AL	FEE, TLE	0.025		0.025		0.034		52
53	4.52	HOME DEPOT U.S.A. INC	FEE	0.144		0.144				53
54(3)	4.52	DAYTON HUDSON CORP	FEE	0.314		0.314				54
55(3)	4.50	GRAIG J CASSEL AND JOHN G CASSEL	FEE, TLE	0.246		0.246		0.036		55

PARCEL NUMBER	SHEET NUMBER	*OWNER	INTEREST REQUIRED	R/W ACRE(S) REQUIRED (ACRES) NEW	EXISTING	TOTAL	HE	TLE AREA	PLE AREA	PARCEL NUMBER
56	4.51	GRAFTON STORE LLC	TLE					0.007		56
57	4.53	GRAFTON HOTEL ASSOCIATES LLC	FEE, TLE	0.167		0.167		0.029		57
58	4.53	WSB-GRAFTON REAL ESTATE LLC	FEE	0.067		0.067				58
59	4.51	GATEWAY DRIVE HOTEL ASSOCIATES LLC	TLE					0.063		59
60	4.51	GRAFTON 43-60 LLC	TLE					0.006		60
61	4.12	FRANCISCO N CRUZ &AND KRISTIN DE CRUZ	TLE					0.035		61
62	4.08	REBECCA L. KANE	TLE					0.012		62
63	4.10	CHARLES BURTON JR WILLIE E BURTON	TLE					0.019		63
64	4.10	SUSAN R. GLESEN	TLE					0.027		64
65	4.25, 4.26	EAST MEQUON IVB LLC	TLE					0.089		65
66	4.11	SOBELMANS	FEE, TLE	0.038	0.104	0.142		0.010		66
67	4.13	FERRANTE, INC.	TLE					0.010		67
68	4.12	MARY H JOHNSON LIVING TRUST, EDWARD B JOHNSON	FEE, TLE	0.013		0.013		0.116		68
69	4.12	MARY FORTSON	FEE	0.008		0.008				69
70	4.12	CHRISTIAN G GIESEN	TLE					0.022		70
71(2)	4.14	STERN REAL ESTATE, LLC	FEE, TLE	0.018		0.018		0.359		71
72	4.35	ORERNDORFER LANDSCAPE DEVELOPMENT, LLC	TLE					0.076		72
73	4.35	JAWA, LLC	TLE					0.074		73
74(2)	4.16, 4.17	CENTRO BRADLEY SPE 1 LLC	FEE, TLE	0.447		0.447		0.030		74
75(2)	4.17	J HORTON FOODS LLC	FEE, TLE	0.040		0.040		0.089		75
76(2)	4.20	HEMAOM, LLC	FEE, PLE, TLE	0.019		0.019		0.050	0.018	76
77(2)	4.20	MRED II, INC.	TLE					0.023		77
78(2)	4.23	STORE MASTER FUNDING XVII, LLC	TLE					0.071		78
79(2)	4.24	GLEN OAKS OFFICE PARK, LLC	TLE					0.104		79
80(2)	4.25	VB 765 LLC	TLE					0.018		80
81(2)	4.16, 4.18	SIDNEY KOHL, ET AL	FEE, TLE	0.948		0.948		0.100		81
82(2)	4.18	TSANG	TLE					0.035		82
83(2)	4.21	STATE OF WISCONSIN	FEE	0.044		0.044				83
84(2)	4.21,4.22	CENTRO BRADLEY SPE 1 LLC	FEE	0.702		0.702				84
85(2)	4.26	OZAUKEE DEVELOPMENT CORPORATION	TLE					0.077		85
86(3)	4.37, 4.38, 4.40	MARK B MALETZKE	FEE	2.886		2.886				86
87(3)	4.46	JAMES M OHM	FEE	0.099		0.099				87
88(3)	4.50	OZAUKEE COUNTY	FEE	0.182		0.182				88

PARCEL NUMBER	SHEET NUMBER	*OWNER	INTEREST REQUIRED
500(3)	4.09, 4.10, 4.12, 4.16, 4.17, 4.20, 4.26, 4.27, 4.29, 4.30, 4.39, 4.41, 4.50 - 4.53	WE ENERGIES - ELECTRIC	RELEASE OF RIGHTS
504(2)	4.09, 4.10, 4.12, 4.16-4.18, 4.20, 4.26, 4.27, 4.28, 4.29, 4.30 4.40, 4.47, 4.48 -4.53	AT&T Wisconsin	RELEASE OF RIGHTS
507(2)	4.20, 4.29, 4.50 - 4.52	CHARTER	RELEASE OF RIGHTS
508	4.40	VERIZON	RELEASE OF RIGHTS
512	4.40, 4.41	US CELLULAR	RELEASE OF RIGHTS
531(2)	4.09, 4.10, 4.17, 4.20, 4.23, 4.24	MEQUON, CITY OF - SEWER	RELEASE OF RIGHTS
541(2)		ELIMINATED	
551(2)	4.51	GRAFTON, VILLAGE OF - SANITARY	RELEASE OF RIGHTS
552(2)	4.51	GRAFTON, VILLAGE OF - WATER	RELEASE OF RIGHTS

4

4

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

REVISION DATE 01/21/2021, 03/05/2021	DATE: AUGUST 17, 2020	SCALE, FEET 0	HWY: IH - 43	STATE R/W PROJECT NUMBER 1229-04-23 / PLAT SHEET 4.02
	GRID FACTOR		COUNTY: OZAUKEE	CONSTRUCTION PROJECT NUMBER 1229-04-70 1229-04-74 1229-04-76 / PS&E SHEET E

FILE NAME : RW_PLAT-1229-04-23_LANDSCH_LAYOUT.DWG
LAYOUT NAME - 4.02

PLOT DATE : 3/3/2021 3:00 PM PLOT BY : RAISA KHAYTINA PLOT NAME :

WISDOT

BLOCK 2 | 11 | PRW3008 | PRW3007 | 4 LEDERER | NE-SE | N00°31'15"E 403.39' | S89°21'59"E 73.75' | 50' | N65°04'35"W 89.98' | 33.31' | 59'

DOC. NO. 95358 LINE OF POLES UTILITY EASEMENT TO WI GAS AND ELEC. CO. AND CHICAGO, MILWAUKEE AND LAKE SUPERIOR TELEGRAPH CO., NO WIDTH GIVEN. SEPT. 3, 1927.

W. FIESTA LANE

ASSESSOR'S PLAT NO. 2 | BLOCK 1 | PRW3009 | PRW3012 | PRW3011 | PRW3010 | 3 | 5 CLAUSING | N89°28'45"W 20.00' | 142.35' | 203.00' | 77.93' | N1°30'51"E 72.01' | 63' | 69' | 10' | 32.38' | 30' | 4.23' | L5

DOC. NO. 143846 10' WIDE UTILITY EASEMENT TO WI TELEPHONE CO. & WEPCO. SEPT. 1,1950.

DOC. NO. 95358 LINE OF POLES UTILITY EASEMENT TO WI GAS AND ELEC. CO. AND CHICAGO, MILWAUKEE AND LAKE SUPERIOR TELEGRAPH CO., NO WIDTH GIVEN. SEPT. 3, 1927.

2 | 6 YAVOR | PRW3343 | PRW3013 | TLE3341 | TLE3342 | TLE3340 | TLE3339 | 28.26' | 25' | 73' | 10' | 63.45' | 60.29' | 152.00' | TLE FOR SLOPES | 504

7 MIKALAUSKIENE | PRW3015 | PRW3014 | 1 | L6 | 5.00' | 15' | 73' | 52.59' | 154.01' | 101.45'

BROOKDALE ESTATES ADDITION NO. 1 | DOC. NO. 164292 10' WIDE WEPCO EASEMENT MARCH 3, 1956 | 8 NEHRING | BLOCK 5 | 8 | PRW3016 | PRW3017 | 500 | N89°16'50"W 30' | N00°43'10"E 30.00' | N89°16'50"W 30' | N09°26'24"W 88.43' | 18.01' | 15' | 214.53' | 283.97' | 21.60' S34°20'26"E | 90.19' | 69'

N89°21'59"W | N89°16'50"W

N00°31'15"E 2654.31' S/L

N. PORT WASHINGTON ROAD

CONC. MON. W/ SEWRPC BRASS CAP Y = 356187.13 X = 602022.37

T 09 N R 22 E 31 32 31 32

NW-SW

500 WE ENERGIES - ELECTRIC
PARCEL 5 - DOC. NO. 143846
PARCEL 6 - DOC. NO. 143846
PARCEL 7 - DOC. NO. 95358
PARCEL 8 - DOC. NO. 164292
PARCEL 9 - NO RECORD OF EASEMENT

504 AT&T WISCONSIN
PARCEL 5 - DOC. NO. 143846
PARCEL 6 - DOC. NO. 143846

531 CITY OF MEQUON - SEWER
PARCEL 9 - DOC. NO. 299566

195.32'

1325 | N08°58'17"E | 1330 | PI: 1330+65.0

TLE FOR SLOPES | PRW3019 | PRW3021 | 84.52' | N00°31'15"E 98.98' | 106 | 83.05' | 221.68' | 4.99' | TLE3178 | 6.50' | TLE3179 | N00°50'30"E | 107 | TLE3177 | 34.66' | 38' | 10' | PRW3020 | 20' | N16°14'54"W 210.78' | 207.77' | 10.96' | TLE3176 | S82°05'11"E 75.00' | 10' | PRW3018 | IP

ACCESS CONTROL PER PROJECT T01-3(21)

DOC 449807 EASEMENT AGREEMENT - DRIVEWAY SEP. 13, 1991

9 JLT INVESTMENTS, LLC

IP | 1/4 LINE | 378.39' | N89°23'06"W 2649.60' S/L | 1335 | N07°51'28"E | R/L EXISTING IH - 43

LINE TABLE		
LINE #	LENGTH	DIRECTION
L6	5.00'	N89°28'45"W
L106	10.00'	S89°28'45"E
L107	15.01'	S89°23'06"E

NW-SW

CITY OF MEQUON

N. PORT WASHINGTON ROAD

409.04'

MATCHLINE SEE SHEET 4.08 STA. 1324+39.97

MATCHLINE SEE SHEET 4.10 STA. 1337+79.23

N. KATHERINE DRIVE

ACCESS CONTROL PER PROJECT T01-3(21)

TLE3180 | 346.03' | N01°25'29"W | 179.67' | 15.00' | L121 | 15' | TLE3181 | TLE FOR SLOPES 0.074 Acres

10 CITY OF MEQUON

TLE3183 | TLE3182 | 143.07' | 84.84' | 35' | TLE3022 | TLE3023 | TLE3025 | TLE3024 | TLE FOR DRIVEWAY 0.068 Acres

DOC. NO. 206335 70' WIDE LIMITED HIGHWAY EASEMENT TO CONSTRUCT AND MAINTAIN A CHANNEL CHANGE TO OZAUKEE COUNTY, AUG. 11, 1965

SLOPE INTERCEPT

N02°17'56"E 40.02' | 465.90' | N02°17'56"E | 2271.21'

ROAD NAME	BASIS OF EXISTING R/W AND ACCESS	YEAR	WIDTH
IH-43	T01-3(21)	1964	VARIES
FIESTA LANE	ASSESSOR'S PLAT NO. 2	1953	50'
ZEDLER LANE	BROOKDALE ESTATES ADD'N. NO 1	1955	60'

W. ZEDLER LANE | 40' | 1/4 LINE | N89°23'06"E

RR SPIKE IN HANDHOLE Y = 358195.70 X = 609671.81

T 09 N R 22 E 31 32

POINT	STATION	OFFSET
PRW3007	1328+01.62	-311.86
PRW3008	1328+23.88	-389.72
TLE3180	1328+40.25	342.19
PRW3009	1328+72.73	-401.21
TLE3181	1329+04.45	345.36
PRW3010	1329+06.36	-337.53
PRW3012	1330+44.22	-378.23
PRW3011	1330+47.16	-358.45
TLE3183	1330+78.54	309.54
TLE3182	1330+80.59	324.38
PRW3343	1330+83.69	-382.70
PRW3013	1330+86.24	-362.86
TLE3341	1331+51.46	-386.38
TLE3342	1331+53.37	-371.50
TLE3340	1331+79.48	-389.99
TLE3339	1331+81.40	-375.11

POINT	STATION	OFFSET
TLE3022	1332+21.54	295.59
TLE3023	1332+24.93	330.43
PRW3015	1332+92.72	-394.49
PRW3014	1332+93.35	-389.53
TLE3025	1333+05.98	287.37
TLE3024	1333+09.38	322.21
PRW3018	1333+51.06	-194.49
TLE3176	1335+11.82	-266.42
PRW3019	1335+43.46	-280.58
PRW3016	1336+06.11	-434.84
PRW3021	1336+24.55	-301.10
PRW3020	1336+25.83	-291.18
PRW3017	1336+90.54	-461.13
TLE3178	1337+23.35	-308.79
TLE3179	1337+29.80	-309.62
TLE3177	1337+31.69	-294.73

POSITIONS SHOWN ON THIS PLAT ARE WISCONSIN COORDINATE REFERENCE SYSTEM COORDINATES (WISCRS), MILWAUKEE & OZAUKEE COUNTY, NAD 83 (2007) IN US SURVEY FEET. VALUES SHOWN ARE GRID COORDINATES, GRID BEARINGS, AND GRID DISTANCES. GRID DISTANCES MAY BE USED AS GROUND DISTANCES.

RIGHT OF WAY MONUMENTS ARE TYPE 2 MONUMENTS (TYPICALLY 3/4"X24" REBAR) AND WILL BE PLACED PRIOR TO COMPLETION OF THE PROJECT.

RIGHT OF WAY BOUNDARIES ARE DEFINED WITH COURSES OF THE PERIMETER OF THE HIGHWAY LANDS REFERENCED TO THE U.S. PUBLIC LAND SURVEY SYSTEM OR OTHER "SURVEYS OF PUBLIC RECORD".

PROPERTY LINES SHOWN ON THIS PLAT ARE DRAWN FROM DATA DERIVED FROM MAPS AND DOCUMENTS OF PUBLIC RECORD AND/OR EXISTING OCCUPATIONAL LINES. THIS MAY NOT BE A TRUE REPRESENTATION OF EXISTING PROPERTY LINES, EXCLUDING RIGHT-OF-WAY LINES, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR AN ACCURATE FIELD SURVEY.

IH-43 REFERENCE LINE IS CENTER OF MEDIAN.

FOR THE LATEST ACCESS / DRIVEWAY INFORMATION, CONTACT THE PLANNING UNIT OF THE WISCONSIN DEPARTMENT OF TRANSPORTATION OFFICE OF WAUKESHA.

REVISION DATE			
01/21/2021			
03/05/2021			

DATE: AUGUST 17, 2020

GRID FACTOR

SCALE, FEET 0 50 100

HWY: IH - 43

COUNTY: OZAUKEE

STATE R/W PROJECT NUMBER 1229-04-23

CONSTRUCTION PROJECT NUMBER 1229-04-70 1229-04-74

PLAT SHEET 4.09

PS&E SHEET

E

FILE NAME : RW_PLAT-1229-04-23_DETAIL.DWG
LAYOUT NAME 4.09

PLOT DATE : 3/3/2021 3:24 PM | PLOT BY : RAISA KHAYTINA | PLOT NAME : ---- | PLOT SCALE : 1:100

Attachment: WisDOT TLE (RESOLUTION 3841 : WisDOT TLE for I-43)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2913
Fax: 262-242-9655

www.ci.mequon.wi.us **Office of Engineering**

TO: **Public Works Committee**
FROM: **Kristen Lundeen, Director of Public Works/City Engineer**
DATE: **May 11, 2021**
SUBJECT: **WisDOT Update 5.11.21**

At the Public Works Committee request, Staff will provide quarterly updates on projects or initiatives of the Wisconsin Department of Transportation (WisDOT).

I-43 North/South Corridor Project
From the City's perspective, staff is busy working with WisDOT to resolve utility conflicts, address localized impact such as the TLE on the agenda as a separate item and sidewalk, etc. According to the I-43 North-South Freeway Update—April 2021 issued by WisDOT:

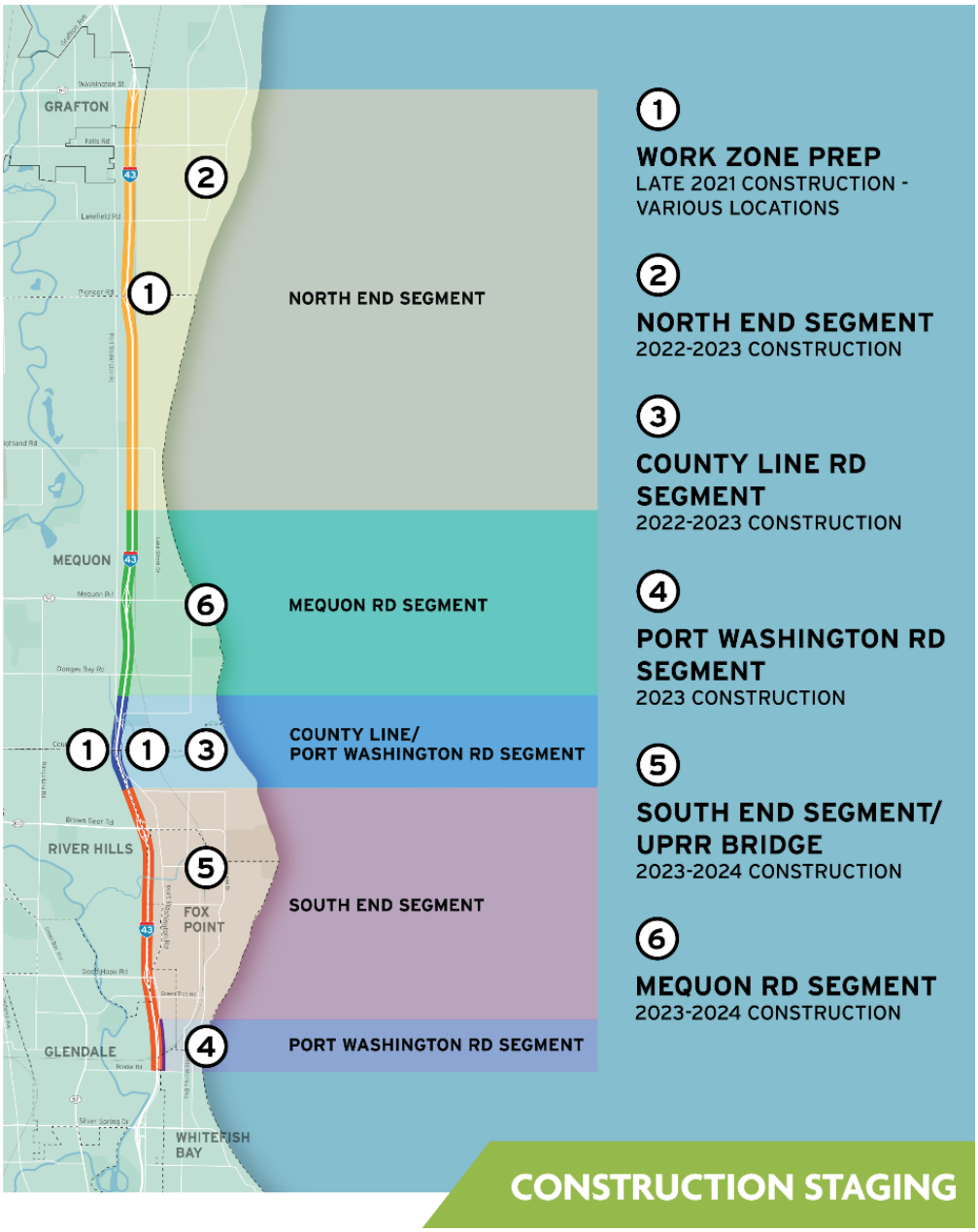
Project Overview
The I-43 North-South Freeway project spans from Silver Spring Drive up to WIS 60, spanning 14 miles in Milwaukee and Ozaukee Counties. The project includes reconstruction of the mainline freeway, adjacent arterial roadways, reconstructing 5 interchanges, and adding a 6th at Highland Road.

Project Status
Public involvement meetings (PIMs) were held in January 2020 as part of the environmental document re-evaluation process. Hundreds of residents turned out to speak with project staff and share their thoughts on the project. Since the last round of PIMs, project teams have been working hard on the final design for I-43. Additionally, many stakeholder meetings have been held (virtually) with schools, municipalities, businesses, and neighborhood groups. The project team will continue outreach efforts throughout the duration of the project.

Noise Barriers
After a detailed noise analysis, noise barriers have been determined to be reasonable and feasible at five locations along the I-43 corridor. In order to be built, each wall must receive a vote of support from a simple majority of all votes cast by owners and residents of the benefited areas. The voting process, which included a virtual public involvement meeting about the noise walls, occurred this winter. Four of the 5 walls have been voted in and the 5th wall will have its voting period later this spring.

What's Next
Late this summer, prior to the start of construction, additional public involvement meetings will be held (either virtually and/or potentially in person). Construction schedules along with traffic control and construction staging will be shared. While major construction won't begin for another year or so, work zone prep will get underway late 2021. This work will include shoulder widening and/or paving at strategic locations to prepare for construction.

Project Website: https://wisconsindot.gov/Pages/projects/by-region/se/43crdr/default.aspx



Wauwatosa Road (south of Mequon Road)
WisDOT initiated an Operational Planning Meeting to discuss the resurfacing of Wauwatosa Road/STH 181 south of Mequon Road. The presentation from the initial meeting is attached, but in general, the project will consist of:

- Base patching, Joint/crack repair
- Replace existing concrete pavement as needed
- Overlay concrete pavement with 3-inches of HMA
- No intersection geometric improvements will be done
- Upgrade curb ramps to meet ADA standards
- Retie or replace 2 apron endwalls
- Clean ditches and pipes at 4 locations
- Signal Scope:
    - Remove Trombone arm Assemblies at Donges Bay Road
    - Replace with monotube signals

- Reconstruct all underground conduit
- Replace all inductive loops

Bidding is anticipated in September 2025, with construction likely the following season.

Cedarburg Road (south of Mequon Road)
Sewer Utility staff is coordinating with WisDOT for improvements at Donges Bay Road in conjunction with the road project. Staff requested that WisDOT provide frequent quality communication, especially as it relates to potential impact on local traffic.

In general, the project consists of resurfacing from Milwaukee County to Mequon Road, with intersection improvements at Donges Bay Road. The following is from a WisDOT plan, specification and estimate (PS&E) meeting:

Project Schedule

- Draft PS&E – February 1, 2021
- PS&E – May 1, 2021
- Let – August 10, 2021
- Construction fall 2021-2022

Project Overview
The project includes three separate project IDs:

- 2270-04-00 will remove the existing diamond interchange at WIS 57/100 and replace with an at-grade intersection. Roadway reconstruction of WIS 57 from Ruth Place to Deerwood Drive and WIS 100 from the railroad crossing to Kildeer Court. Roadway rehabilitation will be completed on WIS 57 from Deerwood Dr to Mequon Road.
- 2565-07-70 will construct a roundabout that the intersection of WIS 57/Teutonia Ave.
- 2150-00-72 will construct a concrete overlay on the WIS 100 bridges (B-40-504/505) over the Milwaukee River.

Attachments:
OPM presentation STH 181 (PDF)

Operational Planning Meeting
Project ID: 2729-07-00/70

STH 181 – Wauwatosa Road
County Line Road to Mequon Road

Resurfacing Project
Ozaukee County & Milwaukee County

April 14, 2021

1

Topics

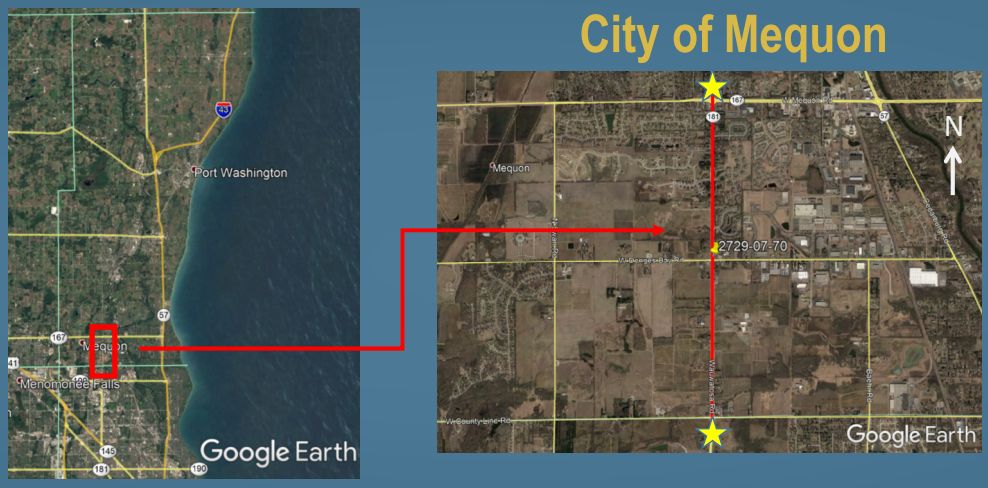
- Project Location
- Roadway Information
- Purpose & Need
- Existing Conditions
- Proposed Scope
- Safety/Crash Analysis
- Utility Coordination
- Environmental Concerns
- Bike/Ped Accommodations
- Schedule



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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Project Location



STH 181 Project Limits: South of County Line Rd to W Mequon Rd (STH 167)

3

Project Location



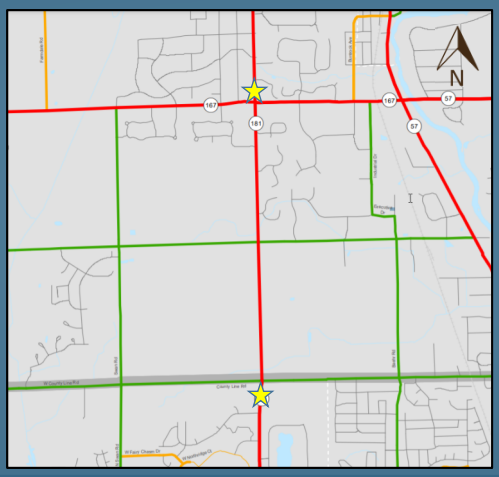
STH 181 Project Limits: South of County Line Rd to W Mequon Rd (STH 167)

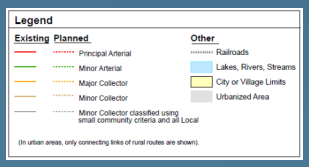
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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

STH 181 Roadway Information

Functional Classification: Principal Arterial





AADT: 10,500 (2019)

Additional Classifications:

- National Highway System (NHS) Route
- Not a Designated Long Truck Route
- Not an Oversize/Overweight (OSOW) Truck Route
- Not a High Clearance Route
- Not a Wind Tower Corridor

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Purpose & Need

- Purpose
  - To address the deteriorating pavement conditions on STH 181, outdated signals, and drainage maintenance.
- Need
  - The pavement along STH 181 is experiencing a decrease in ride quality and an increase in pavement distresses.
  - Trombone arm assemblies are nearing end of service life, and monotube signal with head per lane is a safer condition.
  - 2 existing concrete culvert pipes are experiencing endwall separation with embankment erosion.
  - 4 existing culvert locations are experiencing significant sediment build up leading to improper stormwater drainage.

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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Existing Conditions

Pavement Condition

- Pavement PCI ratings now and at time of construction:
  - NB Lanes: 47-67 (2020) and 28-51 (2026)
    (poor to fair) (very poor to poor)
  - SB Lanes: 69-81 (2020) and 58-65 (2026)
    (fair to good) (fair)

Figure 1: Pavement Condition Index (PCI) Thresholds

PCI Ratings	Pavement Condition
85-100	Very Good to Excellent
70-85	Good
55-70	Fair
40-55	Poor
25-40	Very Poor
10-25	Serious
0-10	Failed

Project History

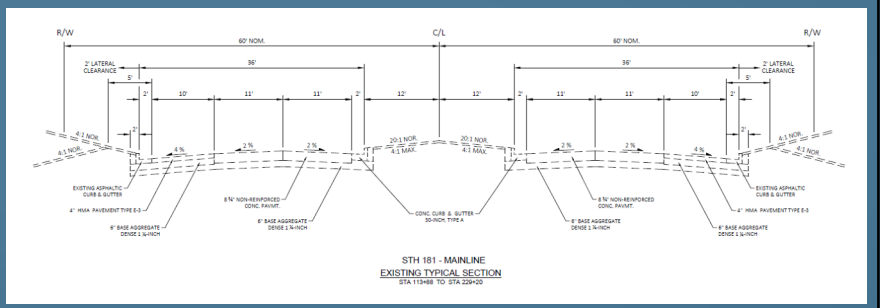
- Reconstructed in 1987
  - 9 inches concrete over 6 inches base
- Rehabbed in 2008
  - Diamond grind on lanes
  - Shoulders replaced with 6" of base overlaid with 4" HMA

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Existing Conditions

STH 181– County Line Rd to W Mequon Rd

- North-South, 4-lane divided principal arterial highway
  - 11 ft lanes
  - 10 ft paved shoulders
- Posted speed: 45 mph
- STH 181 is an urban section with curb & gutter
  - Mostly asphaltic curb



STH 181 - MAINLINE
EXISTING TYPICAL SECTION
STA 113+88 TO STA 229+20

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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Proposed Scope

Pavement Scope:

- Base patching, Joint/crack repair
- Replace existing concrete pavement as needed
- Overlay concrete pavement with 3-inches of HMA
- No intersection geometric improvements will be done



NB STH 181 south of Donges Bay Rd



NB STH 181 just south of Hidden Creek Dr.

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Proposed Scope

Signal Scope:

- Remove Trombone arm Assemblies at Donges Bay Road
- Replace with monotube signals
- Reconstruct all underground conduit
- Replace all inductive loops



Donges Bay RD NE quadrant

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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Proposed Scope

Curb Ramp Scope:

- Upgrade curb ramps to meet ADA standards



SW corner at Mourning Dove Ln



Path at County Line Rd

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Proposed Scope

- **Drainage Scope:**
- Retie or replace 2 apron endwalls
- Clean ditches and pipes at 4 locations



Separated endwall at Wayside Nurseries



Culvert under water at SE corner of County Line Rd

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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Safety/Crash Analysis

- Safety Cert was completed on 11/8/2020
- All crashes were vetted out due to:
  - Driver errors, poor road conditions, faulty vehicles, or driver condition
- No recommended improvements
- Signal Operations are proposing to install monotube signals at Donges Bay Rd due to end of service life
  - There's potential that crashes might be reduced due to signal head per lane



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Utility Coordination

- DT 1077 Process started 3/9/2021
- Responses as of 4/6/2021:

Utility	DT1077 Status
AT&T WI - Comm Line	Facilities
City of Mequon DPW - Road Facility	Facilities
City of Mequon DPW - Sewer	Facilities
City of Milwaukee - Lighting, Water, Sewer	Facilities
Level 3 Com LLC - Comm Line	Facilities
Spectrum - Comm Line	Facilities
WisDOT - Lighting & Signal	Facilities
WE Energies - Electricity, Gas	Facilities

Utility	DT1077 Status
AT&T Local Network – Comm Line	No Facilities
ATC Mgmt Inc - Electricity, transmission	No Facilities
ATR Pull Boxes - Electricity	No Facilities
City of Mequon DPW – Lighting & Signals	No Facilities
Midwest Fiber Networks - Comm Line	No Facilities
Milwaukee County DPW - Road Facility	No Facilities
Milwaukee County Parks - Electricity	No Facilities
Milwaukee Metro SD - Sewer	No Facilities
Ozaukee County - Road Facility	No Facilities
Sprint Com Co LP - Comm Line	No Facilities

Utility	DT1077 Status
City of Mequon DPW - Water	No Reply
Everstream - Comm Line	No Reply
PaeTec Com LLC - Comm Line	No Reply
Village of Brown Deer – Sewer, Water	No Reply
Village of Thiensville – Road, Sewer, Water	No Reply
Windstream KDL NTI LLC - Comm Line	No Reply

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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Utility Coordination

- Utility Work Schedule
  - Send DT1078 Plans – June 2023
  - Permit Submittal –
    - October 2023-January 2024
    - 3 months to review/approve
  - Utility Relocation Plan Approved – January 2024 (7 months prior to PSE)
- Any planned relocations?



Potential conflicts with OH utilities and monotubes

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Environmental Concerns

- Anticipate a CEC environmental document
  - Risk Based Environmental Screening will be completed during final scoping
- Threatened and Endangered Species
  - Northern Long-eared Bat, Red Knot (bird), Hine's Emerald Dragonfly (insect), and Eastern Prairie Fringed Orchid (flowering plant)
  - No Critical Habitats flagged during the USFWS IPaC process
  - Will coordinate with WDNR (Kristina Betzold) during the final scoping process
- Section 106
  - Tribal Notification – letters sent 03/16/2021
  - Historic/arch review will be completed
- Hazardous Materials
  - Phase 1 Assessment will be completed
- Wetlands
  - May have impacts on wetlands due to culvert work, monotube installation, and curb ramp upgrades
  - Delineation to be requested in summer of 2021

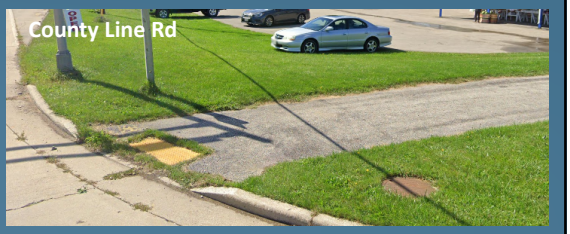
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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Bike/Ped Accommodations

Bikes:

- Shared use path at Donges Bay Rd
  - Update curb ramp, overgrown and not compliant
  - Shared use path would be connected to future Bike/Ped facilities if they are constructed.
- Shared use path just south of Knights Bridge Dr
  - Path was installed by the developer with the adjacent subdivision construction
  - Path would be connected if future sidewalk is constructed along STH 181
- Wide paved shoulder accommodates bikes on STH 181
- Bike slip lanes present at various intersections





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Bike/Ped Accommodations

Pedestrians:

- 2 shared use paths, County Line and Knights Bridge Dr
- Preserve Parkway
  - New sidewalk and curb ramps serve new development
- Mourning Dove Ln
  - Sidewalk and curb ramps serve development
  - Outer curb ramps non-compliant, will replace
- Mequon Rd
  - All curb ramps to be upgraded to meet standards





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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

Full Project Schedule

- **OPM** – April 2021
- **LOM** – June 2021
- **Final Scoping Plan Review** – July 2021
- **PIM** – May 2022
- **Environmental Document** – May 2022
- **60% Plan Meeting** – July 2022
- **DSR** – August 2022
- **Final Plat** – November 2022
- **DT1078 Start** – June 2023
- **PS&E** – May 2025
- **LET** – September 2025



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Attachment: OPM presentation STH 181 (6240 : WisDOT Update 5.11.21)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2913
Fax: 262-242-9655

www.ci.mequon.wi.us **Office of Engineering**

TO: **Public Works Committee**
FROM: **Kristen Lundeen, Director of Public Works/City Engineer**
DATE: **May 11, 2021**
SUBJECT: **Berm Policy Review**

Background

The standard specifications for technical requirements for development and construction within the City of Mequon are outlined in the Standard Specifications for Land Development (SSLD). Typically, that document is reviewed and updated on a two-year cycle. Both staffing limitations and COVID-19 impacted Staff's ability to complete an update on schedule in 2020.

While typically updates are to address emerging technology, unintended administrative errors, or changes in construction techniques, occasionally Staff receives a request to review a policy level change. In 2018, this included an update to both the City's Code of Ordinances and SSLD as it relates to the City's regulation and oversight of fill, excavation and berms. The documents associated with that update are attached to this memo.

Recently, a berm was approved by staff and the Planning Commission that resulted in further examination of the technical requirements. Residents and many officials are dissatisfied with the aesthetic of the project and requested a further review of the SSLD.

The intent of this memo is to initiate the discussion with the Public Works Committee with respect to regulation of berms specifically. Later this year, Staff would incorporate changes into the semi-annual update to the SSLD. Please note that as changes in policy would also impact the Planning Commission, proposed changes would be considered by that body as well.

While staff invites discussion on any section of the SSLD, this memo will focus on the issues presented to staff to date. This memo is structured to ask some guiding questions of the Committee, that would ultimately be structured as amendments to the SSLD.

For those not familiar, the ordinances regulating berms and Chapter 7 of the SSLD are attached to this memo.

Analysis

As indicated, staff is providing several questions for guiding the discussion, but welcomes all feedback from the Committee on additional items that warrant discussion.

Should berms be regulated on basis of purpose?

Currently, neither the Code of Ordinances nor the SSLD have a requirement for the applicant to disclose the purpose of a berm. While many property owners request berms to address road noise, to block the view of adjacent uses and/or as landscaping enhancement, the purpose is not an item for review. If the City is interested in restricting berm installation for certain purposes, a list of permitted purposes should be generated and included in either the ordinance or SSLD.

Under what circumstances can/should Staff or the Planning Commission deny a request for a berm?

While there are standard specifications related to the size, location, slope, restoration, etc., there is no clear language relating to when a berm would not be permitted. Section 7.2.2 reads as follows:

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

The SSLD does not define "the objectional factors" or nuisance; and appearance, unless further defined, is subject to interpretation. If the legislative bodies are looking for Staff or the Planning Commission to deny berm permits, the guiding documents need to define the parameters for denial.

What, if any, technical standards should be reconsidered or modified?
One concern with the recent berm approval related to the allowable slope. The current allowance of 4-to-1 was considered too steep. The concern cited that the berm looks unnatural, can't be cut/mowed and is difficult to maintain. If the technical standard is changed, both the allowable slope could be reduced and there could be additional considerations including, but not limited to:

- Maximum allowable height
- Restriction on height to width ratio; while the slope require can regulate the pitch on the berm, specifying a height to width ratio could prevent berms that results in an earthen fence appearance and instead are more natural changes in grade

Fiscal Impact
Modifying the technical requirements could impact the design and/or construction cost of a berm, but there is no direct fiscal impact to the City for modifications to the requirements.

Recommendation
Staff recommends that the Public Works Committee review the guiding questions, provide feedback to staff and identify any other berm policy related items that require review or modification. Depending on the level of discussion and feedback, the policy item will return to the Committee for further review. After discussion is complete, staff will generate proposed modifications to the SSLD for review and approval by both the Public Works Committee and Planning Commission.

Attachments:
Section 58-603 (PDF)
SSLD Chapter 7 (PDF)
2018 Berm Policy Discussion (PDF)

Sec. 58-603. - Filling, excavating and berms.

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received planning commission approval may be approved at a staff level.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and that are reviewed by the city engineer with the building permit process are exempt.

(3) The city engineer or assigned designee may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than 25 cubic yards of fill and the city engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4) The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5) All land disturbing activities shall comply with the "City of Mequon Standard Specifications for Land Development", in effect at the time of permit application or unless otherwise agreed to by the applicant.

(6) A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five calendar days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

(7) The applicant must complete and file with the city a filling, excavating and berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development", latest edition.

(8) Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the planning commission for review and approval. A berm exceeding four and one-half feet in vertical height shall be permitted only after approval by the planning commission as to the height, location, and landscaping of the berm.

(9) The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10) A permit does not authorize any work other than what was described in the application and approved plan.

(11) The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12) The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

Attachment: Section 58-603 (6236 : Berm Policy Review)

(13) The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14) The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

(15) The applicant shall contact the City of Mequon Engineering Division within five calendar days of completion for closure inspection. Final documentation of permitted activities shall be provided to the city no more than ten calendar days after final completion.

(16) The city engineer has the authority to stop work, amend, or alter any measures in the construction. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.

(Ord. No. 2018-1520, § I, 8-15-2018)

Editor's note— Ord. No. 2018-1520, § I, adopted Aug. 15, 2018, amended § 58-603 in its entirety to read as herein set out. Former § 58-603 pertained to filling and excavating and derived from Code 1957, § 3.12(6); Ord. No. 97-913, adopted April 8, 1997; Ord. No. 2004-1117, § I, adopted Dec. 20, 2004; and Ord. No. 2008-1238, § I, adopted April 8, 2008.

Attachment: Section 58-603 (6236 : Berm Policy Review)

CHAPTER 7

FILLING, EXCAVATING, AND BERMS

7.0 GENERAL

7.0.1 No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a permit in compliance with Engineering Division policies and specifications. Filling and excavation shall be in compliance with article VIII, Section 58-671 to 58-678, of the Mequon Code of Ordinances.

7.0.2 Preservation of topography. No change in topography of any land shall be permitted which would result in increasing any portion of the slope to a ratio steeper than one and one-half (1½) feet horizontal to one (1) foot vertical within a distance of five (5) feet from an adjoining property line, except with the written consent of the abutting property owner(s) and approval by the city engineer.

7.1 LAND DISTURBING ACTIVITIES

7.1.1 The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII, Section 58-674, erosion and storm water run-off control regulation.

7.1.2 The applicant must complete and file with the City an Erosion Control Permit Application, an Application for Filling, Excavating, Berm Construction or Grading, and provide construction plans.

7.1.3 Plans must be submitted in compliance with the City of Mequon's Standard Specifications for Land Development – Chapter 2.

7.1.4 An application which limits fill to less than one-thousand (1,000) cubic yards may be approved by staff. Land disturbing activities requiring fill in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval.

7.1.5 The city engineer may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the city engineer is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

7.1.6 All land disturbing activities shall comply with the Storm Water Management Technical Standards developed by the Wisconsin Department of Natural Resources.

7.1.7 A permittee under this section shall file a Water Resources Application for Project Permit (WRAPP) and shall follow the WDNR submittal process and procedures.

7.1.8 The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.

Attachment: SSLD Chapter 7 (6236 : Berm Policy Review)

7.1.9 A permittee under this section shall notify the Engineering Division before starting any land disturbing activity and again not more than five calendar days after the project is complete.

7.1.10 Permit closure inspections shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 calendar days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 calendar days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,000 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

7.2 BERMS

7.2.1 Construction of a berm(s) shall require a Filling, Excavating, Berm Construction or Grading Permit from the Engineering Division. The City's Landscape Architect consultant may also be required to review more extensive plans.

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

7.2.3 The construction of the berm shall not adversely affect drainage of surrounding properties.

7.2.4 Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.

7.2.5 Berm requirements shall also apply to modifications to any existing berms.

7.2.6 The construction of earth berms shall be permitted subject to the following:

A. Berm(s) shall not exceed four and one-half (4½) feet in vertical height. The nearest toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners. An earth berm exceeding four and one-half (4½) feet in vertical height shall be permitted only after approval of the Planning Commission.

B. All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.

C. All berms shall be constructed such that the side-slopes shall be graded no steeper than four (4) feet horizontal to one (1) foot vertical. The vertical height of a berm

Attachment: SSLD Chapter 7 (6236 : Berm Policy Review)

shall be measured from an average of the adjacent preconstruction ground elevations on either side of the berm to the top of the berm. Berms shall also be designed to provide a natural appearance, with a serpentine and undulating grade.

D. A cover growth of City approved plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.

1. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three (3) months. Ground cover plants other than grasses must be at least the four (4) inch pot size and must be planted at a rate of one per twelve (12) inches on center, in triangular spacing.
2. Landscape plantings shall be spaced randomly to help visually break up the continuous line of the berm.
3. Prairie Landscaping. The use of prairie, wet meadow sedge, wildflower and tall grass prairie ground covers on berms shall require a narrative that includes:
4. The seed source
5. The seed mixture
6. The proposed nurse crop
7. The planting time line
8. The maintenance requirements for years 1-5.

7.3 RECREATIONAL AND AESTHETIC PONDS

7.3.1 Construction of a recreational or aesthetic pond shall require a permit from the Engineering Division.

7.3.2 The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point, placement of excavated material, erosion control devices and final grading for Engineering Division review and approval.

7.3.3 For ponds that serve as a storm-water management facility the design shall follow MMSD, WDNR and City of Mequon standards.

7.3.4 The construction of new recreational or aesthetic ponds or enlargement of existing recreational or aesthetic ponds shall be subject to the following:

A. A minimum four (4) foot wide safety shelf with a maximum depth of twelve (12) inches shall be constructed.

B. The slopes leading to the pond edge shall be landscaped with materials which provide adequate traction for foot traffic, avoiding slippage above the permanent waterline.

C. The pond buffer shall be set back no less than thirty (30) feet from the property line. The high watermark of a pond may not fall within a (periphery) buffer yard. The Planning Commission has the authority to require reasonable conditions including increased set-backs. The set-back requirements may be reduced or waived by staff or the Planning Commission in the case of the joint construction of a pond by adjacent property owners.

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D. The outside pond slope shall be no steeper than five (5) feet horizontal to one (1) foot vertical above the permanent water surface level and three feet horizontal to one foot vertical below the safety shelf.

E. The area of the pond at the ordinary high water mark shall be no greater than twenty percent (20%) of the total lot area.

F. All detention/retention ponds shall have a buffer and landscape plan.

7.4 RETAINING WALLS

7.4.1 Retaining walls are structures that are constructed to support almost vertical (steeper than 70 degrees) or vertical slopes of earth masses.

7.4.2 The construction of retaining walls shall be subject to the following:

A. Retaining walls shall have a minimum offset of three (3) feet from an adjoining lot line and five (5) feet from a street right-of-way or the fall height of the wall whichever is greater. This offset may be increased by the city engineer if the physical conditions of a property, such as drainage or trees, require a larger offset.

B. Retaining walls in excess of 3 feet in height require retaining wall design and certification by a State of Wisconsin Professional Structural Engineer.

Attachment: SSLD Chapter 7 (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone:
Fax: 262-242-9655

www.ci.mequon.wi.us
Office of Planning Commission

TO: Planning Commission
FROM: Bridget Henk, Assistant City Engineer
DATE: April 9, 2018
SUBJECT: An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

Analysis

Requirements for filling, excavating and berms appear in the City of Mequon Code of Ordinances both in Section 58-603 and Section 58-564. Staff proposes that Section 58-603 be eliminated and simply refer to the Standard Specifications, to avoid the duplication in language. Staff also proposes a simplification of Section 58-564, leaving only the governing language and moving the detailed requirements to the Standard Specifications.

The Engineering Division fully reviewed the fill permit process and revised the permit application, permit instructions, ordinance Section 58-564, ordinance Section 58-603 and the Standard Specifications for Land Development. The enforcement remains largely the same, with an administrative relocation of the language. The ordinance language was also updated to be more uniform with other Chapter 58 sections.

Fiscal Impact

There is no fiscal impact of the text amendment, permit application, or the Standard Specifications for Land Development.

Recommendation

Staff recommends that the Planning Commission favorably endorse and the Common Council approve the ordinance amending Chapters 58 of the Mequon Municipal Code as it relates to Filling, Excavating and Berms.

The approval of the Standard Specifications for Land Development would be reviewed by the Public Works Committee concurrent to the ordinance approval process.

Attachments:
Sec._58_564 - final (PDF)
Sec._58_603 - final (PDF)
Standard Specifications Chapter 7 (PDF)
Fill Permit App - 2018 revision (PDF)
Permit Instructions (PDF)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

COMMON COUNCIL
OF THE
CITY OF MEQUON

An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

WHEREAS, the Common Council previously adopted Chapter 58 of the Mequon Municipal Code which includes regulations concerning filling excavating and berms; and

WHEREAS, the Planning Commission and the Common Council desire for the City of Mequon regulations concerning filing, excavating and bermsbe consistent with other Chapter 58 regulations; and

WHEREAS, the regulation of filling, excavating and berms is reasonable and necessary to protect the health, safety and welfare of the residents and the Community;

NOW, THEREFORE, THE MAYOR AND THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 58-564 and Section 58-603 of the Mequon Municipal Code is hereby amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

(i) *Berm requirements*. The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant. ~~be permitted subject to the following:~~

~~(1) The berm shall not exceed 4½ feet in vertical height, shall be located at least ten feet from a side or rear lot line and five feet from the road right-of way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(2) An earth berm exceeding 4½ feet in vertical height shall be permitted only after approval of the planning commission, or park board if the berm is proposed within a City owned park or preserve, as to the height and location and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission, or park board if appropriate.~~

~~(3) All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground~~

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~~grades on either side of the berm.~~

~~(4) A cover growth of city approved plant material or mulching containing no noxious weeds shall be immediately established over the entire berm to prevent erosion or unsightly conditions.~~

~~(5) In addition to a cover growth of plant material, all berms shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. Berm and landscape plans for commercial, multi-family, condominium and subdivision development shall be approved by the planning commission. Berm plans for single-family residential lots shall be approved by the building inspector. Berm plans proposed within a city owned park or preserve shall be approved by the park board.~~

~~(6) If the construction of a berm requires more than 250 cubic yards of fill to be brought to the site, a filling permit shall be obtained from the city engineering department.~~

~~(7) Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three months after planting.~~

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant. ~~shall be subject to the following: Note: Pond standards shall be periodically reviewed by the public safety committee to determine what, if any, amendments are necessary.~~

~~(1) The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point for engineering department review and approval.~~

~~(2) A four-foot-wide safety shelf with a depth of 12 inches shall be constructed.~~

~~(3) The pond shall be lined with materials to avoid slippage.~~

~~(4) The pond shall be set back no less than 30 feet from the property line.~~

~~(5) The pond slope shall be no steeper than five feet horizontal to one foot vertical.~~

SECTION II

Sec. 58-603. - Filling, ~~and~~ excavating and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling

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permit in compliance with engineering department policies and specifications. ~~Filling and excavation~~ Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling ~~for single-family residential lots and residential subdivisions~~ shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval on the filling, excavating and berms are exempt from the requirements of Section 58-603.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4)~~(1)~~ The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5)~~(2)~~ All land disturbing activities shall comply with the city "City of Mequon Standard Specifications for Land Development, in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~Seventh Edition, December, 2002, or any amendment or revision thereof approved by the common council~~.

~~(3) All land disturbing activities shall comply with the Stormwater Management Technical Standards developed by the Wisconsin department of natural resources.~~

(6)~~(4)~~ A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

~~(5) A permittee under this section shall obtain a Wisconsin department of natural resources (WDNR) grading permit, Wis. Stats. § 30.19(1)(c) for the grading of slopes of a waterway.~~

~~(6) A permittee under this section shall file a notice of intent (NOI), which falls under the general construction site stormwater discharge permit. follow WDNR submittal process and procedures.~~

~~(7) The NOI must be filed with the stormwater section located in Madison. Disturbing one or more acres requires submittal of NOI WDNR Form #3400-161 (compliance with NR 216).~~

~~(8) If waters of the state are involved, a chapter 30~~ <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTI

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~~ICOOR_CH30FIPRPR> permit is required from the WDNR, Form #3500-53.~~

~~(9) The permit applicant shall notify the Water Management Specialist at the WDNR.~~

~~(10) The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.~~

(7)~~(11)~~ The applicant must complete and file with the city a ~~land disturbing~~ Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development", latest edition. ~~City of Mequon's standard specifications for land development.~~

~~(12) Plans shall be submitted and approved by the engineering department once the appropriate WDNR permits have been obtained. Plans shall be submitted on a plat of survey, subdivision grading and drainage plan or landscape plan. Plans shall include the following:~~

~~Footprint of residence~~

~~Property lines~~

~~Contour lines at two-foot minimum~~

~~Location of the berm/land disturbing activity with setbacks, offsets, height, and width~~

~~Type of landscaping and cover to be planted~~

~~Cross-section of berm with slopes~~

~~Scale, north arrow, date~~

~~Name of the person who prepared or obtained the information~~

~~Significant tree and vegetation removal~~

(8)~~(13)~~ ~~Construction of a berm requiring more than 250 cubic yards of fill, either brought on to the site or from excavating or grading the site, shall require a filling permit from the engineering department. Land disturbing activities/berms that require between 250 to 1,000 cubic yards of fill shall be approved by staff.~~ Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

~~(14) The berm shall not exceed 4½ feet in vertical height. The toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

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~~(15) Any berm in excess of 4½ feet, but not more than six feet, may be permitted to within five feet of a street right-of-way provided the side facing the street line is attractively landscaped. Such berm shall be attractively landscaped and that shall be subject to approval by the department of community development.~~

~~(16) A berm exceeding six feet in vertical height shall be permitted only after approval by the planning commission as to the height, location, and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission.~~

~~(17) All berms shall be constructed such that the width of the base of the berm, measured from toe to toe, shall be no less that three times the vertical height of the berm. The vertical height of the berm shall be measured from an average of the existing undisturbed ground surfaces at the toe on either side of the berm.~~

~~(18) A cover growth of plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.~~

~~(19) In addition to a cover growth of plant material, all berms/land disturbing activities shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. City approval of landscaping plans for berms less than six feet is not required.~~

~~(20) Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and provide reasonable complete coverage within three months after planting.~~

~~(21) No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.~~

~~(22) The construction of the berm shall not adversely affect drainage of surrounding properties.~~

(9)~~(23)~~ The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10)~~(24)~~ A permit does not authorize any work other than what was described in the application and approved plan.

(11)~~(25)~~ The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12)~~(26)~~ The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions

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of the permit.

(13)~~(27)~~ The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14)~~(28)~~ The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

~~(29) Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.~~

~~(30) The aforementioned requirements shall also apply to modifications to any existing berms.~~

(16)~~(31)~~ The city engineer has the authority to stop work, amend, or alter any measures in the construction. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD> of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. ~~of the berm. Failure to comply will result in the issuance of a municipal citation in an amount not less than $30.00, nor more than $500.00, and the costs to prosecute for each violation. Each day a violation exists shall constitute a separate offense.~~

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SECTION III

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION IV

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION V

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

_____
Approved by: Dan Abendroth, Mayor

Date Approved: April 9, 2018

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on April 9, 2018.

_____
Caroline Fochs, City Clerk

Published: _____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-564. - Landscaping, screening, berming and ponds.

(a) *Street trees* . The developer shall provide for the planting or retention of street trees on both sides of all new roadways and, where deemed appropriate by the planning commission for aesthetic purposes, along existing roadways adjacent to the development. Such trees shall have an average trunk dimension of three inches at a point six inches above the grade. To insure proper planting and growth, the trees shall be balled, burlapped and staked in accordance with city specifications. Such trees shall be provided at a rate of notless than one tree every 30 feet of new roadway frontage and located within the road right-of-way at a point two feet from the right-of-way line unless otherwise required by the planning commission. The species of trees shall be subject to planning commission approval and should be selected from an established list of street trees supplied by the Mequon tree board. Planting of native species shall be encouraged. The city reserves the right to retain the services of a qualified consultant to verify proper installation and health of required landscaping.

(b) *Retention of existing trees* . See tree preservation regulations in Chapter 84 and the City of Mequon Policy Manual for Tree Protection and Preservation.

(c) *Parking lot landscaping.* Off street parking lots with more than ten stalls shall have at least ten percent of the interior parking area landscaped. The species of landscape plantings are subject to planning commission approval, or park board approval if the landscaping is to be located within a public park or preserve.

(d) *Parking lot shading.* Landscaping in and around parking lots shall be designed, planted and maintained so that a minimum of 30 percent of the parking area will be shaded during summer growth within ten years of planting.

(e) *Screening.* The following requirements apply:

(1) Every development shall provide sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, streets or railroads.

(2) Where a non-residential or multifamily residential site adjoins a single-family residential site, a solid wall or fence, vine covered fence or compact vegetative screen not less than 4½ nor more than six feet in height, shall be located adjoining the property line except in a required front yard.

(3) In non-residential or multifamily residential developments a landscaping area at least 25 feet in depth between the abutting ultimate road right-of-way and parking/driveway areas will be planted with materials suitable for screening or ornamenting the site, whichever is appropriate.

(4) A compact landscaping hedgerow or undulating berm, not more than three feet in height, shall be located directly adjacent to commercial and multi-family residential parking and driveway areas facing public roads. Hedges shall be a minimum of two feet in height when measured immediately after planting and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting. This landscaping buffer is intended to screen the view of parked cars and asphalt from pedestrian and motorist view.

(5) Dumpsters shall be located and screened in accordance with city approval.

(f) *Landscaping standards.* The following standards apply to commercial or multi-family residential sites.

(1) The undeveloped area of any commercial or multi-family residential site (exclusive of areas under roof or pavement) shall be landscaped with approved living trees, shrubs, vines, flowers, grass and ground covers and may include water bodies, crushed rock, sand, wood chips, landscaping furniture and ornamental pieces.

(2) At least one tree and two shrubs shall be planted for each 1,000 square feet or portion thereof of the area to be landscaped. Each required tree shall have an initial caliper of no less than two inches and a height of at least seven feet.

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(3) No tree as measured from its center shall be located within five feet of a vehicular accessway, bike trail or public sidewalk or within ten feet of a street light, stop sign, fire hydrant, street sign or directional sign.

(4) All landscaping material located within a sight distance triangle shall be two feet or less in height or have a clearance of eight feet beneath the lowest branch or projection.

(5) No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede growth of said plant.

(6) Landscaping plans for development proposals shall be designed and stamped by a licensed landscaped architect. This requirement may be waived for minor alteration or improvement plans that, in the discretion of the department of community development, do not require the services of such a professional.

Additionally, the department of community development and/or planning commission may require the applicant to pay an additional administrative fee for the city to contract with a landscape architect to review and comment on the applicant's proposed landscape plan.

(g) *Landscaping installation.* All landscaping shall be installed in a sound workmanship manner and according to accepted good planting procedures with quality plant materials. A qualified representative of the city shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided or the appropriate escrow is established in compliance with section 58-110 for future installation of the required landscaping.

(h) *Landscaping maintenance.* The owner and/or agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance that shall be kept free from refuse and debris. All landscaping areas shall be provided with a readily available water supply. The developer or property owner of an industrial, institutional, park, commercial or multi-family residential site shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement planting shall be the same size and quality as in the approved landscaping plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscaping plan on file in the department of community development or department of parks. The planning commission shall require the developer to establish an escrow account equal to 25 percent of the initial landscape contract cost to insure that landscaping that dies within three years of planting will be replaced by the developer. Note: This escrow amount is in addition to the escrow account required by section 58-110, and will be returned after three years.

(i) *Berm requirements.* The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(Code 1957, § 3.14(3); Ord. No. 96-878, 5-14-1996; Ord. No. 97-910, 2-11-1997; Ord. No. 98-952, 7-14-1998; Ord. No. 2007-1202, § IV, 6-12-2007; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-603. – Filling, excavating, and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval on the filling, excavating and berms are exempt from the requirements of Section 58-603.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4) The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5) All land disturbing activities shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant.

(6) A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

(7) The applicant must complete and file with the city a Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development, latest edition

(8) Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

(9) The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10) A permit does not authorize any work other than what was described in the application and approved plan.

(11) The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12) The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13) The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14) The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

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(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

(16) The city engineer has the authority to stop work, amend, or alter any measures. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.

(Code 1957, § 3.12(6); Ord. No. 97-913, 4-8-1997; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

CHAPTER 7

FILLING, EXCAVATING, AND BERMS

7.0 GENERAL

7.0.1 No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a permit in compliance with Engineering Division policies and specifications. Filling and excavation shall be in compliance with article VIII, Section 58-671 to 58-678, of the Mequon Code of Ordinances.

7.0.2 Preservation of topography. No change in topography of any land shall be permitted which would result in increasing any portion of the slope to a ratio steeper than one and one-half (1½) feet horizontal to one (1) foot vertical within a distance of five (5) feet from an adjoining property line, except with the written consent of the abutting property owner(s) and approval by the city engineer.

7.1 LAND DISTURBING ACTIVITIES

7.1.1 The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII, Section 58-674, erosion and storm water run-off control regulation.

7.1.2 The applicant must complete and file with the City an Erosion Control Permit Application, a Application for Filling, Excavating, Berm Construction or Grading, and provide construction plans.

7.1.3 Plans must be submitted in compliance with the City of Mequon's Standard Specifications for Land Development – Chapter 2.

7.1.4 An application which limits fill to less than one-thousand (1,000) cubic yards may be approved by staff. Land disturbing activities requiring fill in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval.

7.1.5 The city engineer may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the city engineer is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

7.1.6 All land disturbing activities shall comply with the Storm Water Management Technical Standards developed by the Wisconsin Department of Natural Resources.

7.1.7 A permittee under this section shall file a Water Resources Application for Project Permit (WRAPP) and shall follow the WDNR submittal process and procedures.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

7.1.8 The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.

7.1.9 A permittee under this section shall notify the Engineering Division before starting any land disturbing activity and again not more than five days after the project is complete.

7.1.10 Permit closure inspections. shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

7.2 BERMS

7.2.1 Construction of a berm(s) shall require an Filling, Excavating, Berm Construction or Grading Permit from the Engineering Division. The City's Landscape Architect consultant may also be required to review more extensive plans.

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

7.2.3 The construction of the berm shall not adversely affect drainage of surrounding properties.

7.2.4 Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.

7.2.5 Berm requirements shall also apply to modifications to any existing berms.

7.2.6 The construction of earth berms shall be permitted subject to the following:

A. Berm(s) shall not exceed four and one-half (4½) feet in vertical height. The nearest toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line

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may be waived in the case of the joint construction of a berm by adjacent property owners. An earth berm exceeding four and one-half (4½) feet in vertical height shall be permitted only after approval of the Planning Commission.

B. All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.

C. All berms shall be constructed such that the side-slopes shall be graded no steeper than four (4) feet horizontal to one (1) foot vertical. The vertical height of a berm shall be measured from an average of the adjacent preconstruction ground elevations on either side of the berm to the top of the berm. Berms shall also be designed to provide a natural appearance, with a serpentine and undulating grade.

D. A cover growth of City approved plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.

1. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three (3) months. Ground cover plants other than grasses must be at least the four (4) inch pot size and must be planted at a rate of one per twelve (12) inches on center, in triangular spacing.
2. Landscape plantings shall be spaced randomly to help visually break up the continuous line of the berm.
3. Prairie Landscaping. The use of prairie, wet meadow sedge, wildflower and tall grass prairie ground covers on berms shall require a narrative that includes:
    1. The seed source
    2. The seed mixture
    3. The proposed nurse crop
    4. The planting time line
    5. The maintenance requirements for years 1-5.

7.3 RECREATIONAL AND AESTHETIC PONDS

7.3.1 Construction of a recreational or aesthetic pond shall require a permit from the Engineering Division.

7.3.2 The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point, placement of excavated material, erosion control devices and final grading for Engineering Division review and approval.

7.3.3 For ponds that serve as a storm-water management facility the design shall follow MMSD, WDNR and City of Mequon standards.

7.3.4 The construction of new recreational or aesthetic ponds or enlargement of existing recreational or aesthetic ponds shall be subject to the following:

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

A. A minimum four (4) foot wide safety shelf with a maximum depth of twelve (12) inches shall be constructed.

B. The slopes leading to the pond edge shall be landscaped with materials which provide adequate traction for foot traffic, avoiding slippage above the permanent waterline.

C. The pond buffer shall be set back no less than thirty (30) feet from the property line. The high watermark of a pond may not fall within a (periphery) bufferyard. The Planning Commission has the authority to require reasonable conditions including increased set-backs. The set-back requirements may be reduced or waived by staff or the Planning Commission in the case of the joint construction of a pond by adjacent property owners.

D. The outside pond slope shall be no steeper than five (5) feet horizontal to one (1) foot vertical above the permanent water surface level and three feet horizontal to one foot vertical below the safety shelf.

E. The area of the pond at the ordinary high water mark shall be no greater than twenty percent (20%) of the total lot area.

F. All detention/retention ponds shall have a buffer and landscape plan.

7.4 RETAINING WALLS

7.4.1 Retaining walls are structures that are constructed to support almost vertical (steeper than 70 degrees) or vertical slopes of earth masses.

7.4.2 The construction of retaining walls shall be subject to the following:

A. Retaining walls shall have a minimum offset of three (3) feet from an adjoining lot line and five (5) feet from a street right-of-way or the fall height of the wall whichever is greater. This offset may be increased by the city engineer if the physical conditions of a property, such as drainage or trees, require a larger offset.

B. Retaining walls in excess of 3 feet in height require retaining wall design and certification by a State of Wisconsin Professional Structural Engineer.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon
11333 N. Cedarburg Road, 60W
Mequon, Wisconsin 53092

Permit No. _____
Date Filed _____
Exp. Date _____
Fees Paid _____
Permit Closed

Engineering Division

Permit Application for Filling, Excavating and Berms

PLEASE PRINT CLEARLY

Agent / Contact Name: _____ Phone #:_____

Property Owner Name: _____ Phone #:_____

Agent Or Owner Contact Address: _____

_____

Location Or Address Of Work Site: _____

Or: Description _____ 1/4 Section _____ T9n, R _____E

Tax Key No. _____

Subdivision _____ Lot _____ Block _____

Estimated Date Of Completion: _____

Reason For Fill/Removal/Excavation _____

_____

Name Of Contact Other Than Applicant:_____ Phone #:_____

FEE COMPUTATION

$60.00 – 0 – 250 C.Y.

$120.00 – 250 C.Y. – 1,000 C.Y. Total Fee $_____

Total Cubic Yards To Be Deposited/Removed/Excavated _____C.Y.*

**Over 1000 cubic yards and Berms greater than 4½- feet in height requires Planning Commission approval. Separate application to the next available Planning Commission meeting is necessary. When Planning Commission review is required, the Filling, Excavating and Berm Permit fee is waived. Planning Commission review fees would be required.*

SIGNED: _____ DATE: _____

Department of Community Development Approval _____ *Date*_____
Engineering Division Approval _____ *Date*_____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Rd 60W
Mequon, WI 53092-1930
Phone (262) 236-2936
Fax (262) 242-9655

www.ci.mequon.wi.us

ENGINEERING\PUBLIC WORKS

FILLING, EXCAVATING AND BERMS PERMIT INSTRUCTIONS

The filling of land is regulated by the City of Mequon Code of Ordinances Sections 58-598/606, Engineering Requirements and Sections 58-671/677, Erosion and Storm Water Runoff. A filling permit shall be necessary under most circumstances.

1. **Apply for Filling, Excavation and Berms Permit**

   Application form filled out and submitted by owner or agent. Applicant provides necessary information, plat of survey or diagram of proposed plan, and fee. Reference Chapter 7 of the Standard Specifications for Land Development for specific requirements for the plans.

   The request for filling will be referred to the Department of Community Development for Planning Commission review and approval if amount of fill or earth moving exceeds 1000 cubic yards or if the height of a berm is greater than 4.5 feet. A Planning Commission Application is required.

2. **Staff and Planning Commission Review**
   Staff conducts an on-site inspection and/or reviews stormwater drainage and topographic maps, DNR Wetland Inventory maps, flood plain maps and as-built record drawings for potential conflict with city utilities.

   For projects requiring Planning Commission approval
   Staff prepares a report of the findings for Planning Commission consideration of the project. At the Planning Commission meeting approval, conditional approval, tabling, or denial will be evaluated. Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

   For projects not requiring Planning Commission approval
   Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

3. **Inspections**
   Staff conducts periodic inspections depending upon the amount of fill requested or type of grading work.

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4. Permit Closure

Permit closure inspections. Inspection shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone:
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of Planning Commission

TO: Planning Commission
FROM: Bridget Henk, Assistant City Engineer
DATE: May 14, 2018
SUBJECT: An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

Background

Requirements for filling, excavating and berms appear in the City of Mequon Code of Ordinances in Sections 58-8, 58-564 and Section 58-603. Staff proposes that Section 58-8 include definitions for Aesthetic and Recreational Ponds, Fill, and Excavation and Section 58-603 refer to the Standard Specifications, to avoid the duplication in language. Staff also proposes a simplification of Section 58-564, leaving only the governing language and moving the detailed requirements to the Standard Specifications.

The Engineering Division fully reviewed the fill permit process and revised the permit application, permit instructions, ordinance Section 58-564, ordinance Section 58-603 and the Standard Specifications for Land Development. The enforcement remains largely the same, with an administrative relocation of the language. The ordinance language was also updated to be more uniform with other Chapter 58 sections.

At the April 9, 2018 meeting, Planning Commission indicated that staff should evaluate whether 1,000 cubic yards was an appropriate threshold for Planning Commission review.

Analysis

The revisions to Section 58-603 exempts projects that have previously been reviewed and approved by Planning Commission for filling and excavation. Sites that would still require Planning Commission approval would include single family homes that deviate from the Master Grading Plan or that were not a part of a Master Grading Plan.

Requiring planning commission review for the single family lots would allow for neighbors to be notified that filling would be occurring in their neighborhood for a single family home. Without planning commission review no notifications would be sent.

Staff looked into the options for planning commission review and evaluated whether other communities used a ratio or volume to trigger reviews. Many local communities do not require Planning Commission review for filling and excavation.

Fiscal Impact

There is no fiscal impact of the text amendment, permit application, or the Standard Specifications for Land Development.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Recommendation
Staff recommends that the Planning Commission favorably endorse and the Common Council approve the ordinance amending Chapters 58 of the Mequon Municipal Code as it relates to Filling, Excavating and Berms.

The approval of the Standard Specifications for Land Development would be reviewed by the Public Works Committee concurrent to the ordinance approval process.

Attachments:
Fill Permit App - 2018 revision (PDF)
Permit Instructions (PDF)
Sec._58_8.___Definitions (PDF)
Sec._58_564 - final (PDF)
Sec._58_603 - final (PDF)
Standard Specifications Chapter 7 (PDF)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

COMMON COUNCIL
OF THE
CITY OF MEQUON

An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

WHEREAS, the Common Council previously adopted Chapter 58 of the Mequon Municipal Code which includes regulations concerning filling excavating and berms; and

WHEREAS, the Planning Commission and the Common Council desire for the City of Mequon regulations concerning filing, excavating and berms be consistent with other Chapter 58 regulations; and

WHEREAS, the regulation of filling, excavating and berms is reasonable and necessary to protect the health, safety and welfare of the residents and the Community;

NOW, THEREFORE, THE MAYOR AND THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 58-8, Section 58-564 and Section 58-603 of the Mequon Municipal Code is hereby amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. - Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that that modifies the existing elevation

Sec. 58-564. - Landscaping, Screening, Berming and Ponds

(i) *Berm requirements*. The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant. ~~be~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~permitted subject to the following:~~

~~(1) The berm shall not exceed 4½ feet in vertical height, shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(2) An earth berm exceeding 4½ feet in vertical height shall be permitted only after approval of the planning commission, or park board if the berm is proposed within a City owned park or preserve, as to the height and location and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission, or park board if appropriate.~~

~~(3) All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.~~

~~(4) A cover growth of city approved plant material or mulching containing no noxious weeds shall be immediately established over the entire berm to prevent erosion or unsightly conditions.~~

~~(5) In addition to a cover growth of plant material, all berms shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. Berm and landscape plans for commercial, multi-family, condominium and subdivision development shall be approved by the planning commission. Berm plans for single-family residential lots shall be approved by the building inspector. Berm plans proposed within a city owned park or preserve shall be approved by the park board.~~

~~(6) If the construction of a berm requires more than 250 cubic yards of fill to be brought to the site, a filling permit shall be obtained from the city engineering department.~~

~~(7) Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three months after planting.~~

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant. ~~shall be subject to the following: Note: Pond standards shall be periodically reviewed by the public safety committee to determine what, if any, amendments are necessary.~~

~~(1) The property owner shall submit a pond plan that identifies maximum pond~~

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~~size, maintenance plan, pond depth, and pond overflow point for engineering department review and approval.~~

~~(2) A four-foot-wide safety shelf with a depth of 12 inches shall be constructed.~~

~~(3) The pond shall be lined with materials to avoid slippage.~~

~~(4) The pond shall be set back no less than 30 feet from the property line.~~

~~(5) The pond slope shall be no steeper than five feet horizontal to one foot vertical.~~

Sec. 58-603. - Filling, ~~and~~ excavating and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. ~~Filling and excavation~~ Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling ~~for single-family residential lots and residential subdivisions~~ shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval may be approved at a staff level.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4)~~(1)~~ The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5)~~(2)~~ All land disturbing activities shall comply with the city "City of Mequon Standard Specifications for Land Development, in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~Seventh Edition, December, 2002, or any amendment or revision thereof approved by the common council~~.

~~(3) All land disturbing activities shall comply with the Stormwater Management Technical Standards developed by the Wisconsin department of natural resources.~~

(6)~~(4)~~ A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the

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project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

~~(5) A permittee under this section shall obtain a Wisconsin department of natural resources (WDNR) grading permit, Wis. Stats. § 30.19(1)(c) for the grading of slopes of a waterway.~~

~~(6) A permittee under this section shall file a notice of intent (NOI), which falls under the general construction site stormwater discharge permit. follow WDNR submittal process and procedures.~~

~~(7) The NOI must be filed with the stormwater section located in Madison. Disturbing one or more acres requires submittal of NOI WDNR Form #3400-161 (compliance with NR 216).~~

~~(8) If waters of the state are involved, a chapter 30 <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTIICOOR_CH30FIPRPR> permit is required from the WDNR, Form #3500-53.~~

~~(9) The permit applicant shall notify the Water Management Specialist at the WDNR.~~

~~(10) The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.~~

(7)~~(11)~~ The applicant must complete and file with the city a ~~land disturbing~~ Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development", latest edition. ~~City of Mequon's standard specifications for land development.~~

~~(12) Plans shall be submitted and approved by the engineering department once the appropriate WDNR permits have been obtained. Plans shall be submitted on a plat of survey, subdivision grading and drainage plan or landscape plan. Plans shall include the following:~~

~~Footprint of residence~~

~~Property lines~~

~~Contour lines at two-foot minimum~~

~~Location of the berm/land disturbing activity with setbacks, offsets, height, and width~~

~~Type of landscaping and cover to be planted~~

~~Cross section of berm with slopes~~

~~Scale, north arrow, date~~

~~Name of the person who prepared or obtained the information~~

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~~Significant tree and vegetation removal~~

(8)~~(13) Construction of a berm requiring more than 250 cubic yards of fill, either brought on to the site or from excavating or grading the site, shall require a filling permit from the engineering department. Land disturbing activities/berms that require between 250 to 1,000 cubic yards of fill shall be approved by staff.~~ Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

~~(14) The berm shall not exceed 4½ feet in vertical height. The toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(15) Any berm in excess of 4½ feet, but not more than six feet, may be permitted to within five feet of a street right-of-way provided the side facing the street line is attractively landscaped. Such berm shall be attractively landscaped and that shall be subject to approval by the department of community development.~~

~~(16) A berm exceeding six feet in vertical height shall be permitted only after approval by the planning commission as to the height, location, and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission.~~

~~(17) All berms shall be constructed such that the width of the base of the berm, measured from toe to toe, shall be no less that three times the vertical height of the berm. The vertical height of the berm shall be measured from an average of the existing undisturbed ground surfaces at the toe on either side of the berm.~~

~~(18) A cover growth of plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.~~

~~(19) In addition to a cover growth of plant material, all berms/land disturbing activities shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. City approval of landscaping plans for berms less than six feet is not required.~~

~~(20) Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and provide reasonable complete coverage within three months after planting.~~

~~(21) No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.~~

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~~(22) The construction of the berm shall not adversely affect drainage of surrounding properties.~~

(9)~~(23)~~ The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10)~~(24)~~ A permit does not authorize any work other than what was described in the application and approved plan.

(11)~~(25)~~ The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12)~~(26)~~ The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13)~~(27)~~ The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14)~~(28)~~ The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

~~(29) Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.~~

~~(30) The aforementioned requirements shall also apply to modifications to any existing berms.~~

(16)~~(31)~~ The city engineer has the authority to stop work, amend, or alter any measures in the construction. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD> of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. ~~of the berm. Failure to comply will result in the~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~issuance of a municipal citation in an amount not less than $30.00, nor more than $500.00, and the costs to prosecute for each violation. Each day a violation exists shall constitute a separate offense.~~

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

_____
Approved by: Dan Abendroth, Mayor

Date Approved: May 14, 2018

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 14, 2018.

_____
Caroline Fochs, City Clerk

Published: _____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon
11333 N. Cedarburg Road, 60W
Mequon, Wisconsin 53092

Permit No. _____
Date Filed _____
Exp. Date _____
Fees Paid _____
Permit Closed

Engineering Division

Permit Application for Filling, Excavating and Berms

PLEASE PRINT CLEARLY

Agent / Contact Name: _____ Phone #:_____

Property Owner Name: _____ Phone #:_____

Agent Or Owner Contact Address: _____

_____

Location Or Address Of Work Site: _____

Or: Description _____ 1/4 Section _____ T9n, R _____E

Tax Key No. _____

Subdivision _____ Lot _____ Block _____

Estimated Date Of Completion: _____

Reason For Fill/Removal/Excavation _____

_____

Name Of Contact Other Than Applicant:_____ Phone #:_____

FEE COMPUTATION

$60.00 – 0 – 250 C.Y.

$120.00 – 250 C.Y. – 1,000 C.Y. Total Fee $_____

Total Cubic Yards To Be Deposited/Removed/Excavated _____C.Y.*

**Over 1000 cubic yards and Berms greater than 4½- feet in height requires Planning Commission approval. Separate application to the next available Planning Commission meeting is necessary. When Planning Commission review is required, the Filling, Excavating and Berm Permit fee is waived. Planning Commission review fees would be required.*

SIGNED: _____ DATE: _____

Department of Community Development Approval _____ *Date*_____
Engineering Division Approval _____ *Date*_____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Rd 60W
Mequon, WI 53092-1930
Phone (262) 236-2936
Fax (262) 242-9655

www.ci.mequon.wi.us

ENGINEERING\PUBLIC WORKS

FILLING, EXCAVATING AND BERMS PERMIT INSTRUCTIONS

The filling of land is regulated by the City of Mequon Code of Ordinances Sections 58-598/606, Engineering Requirements and Sections 58-671/677, Erosion and Storm Water Runoff. A filling permit shall be necessary under most circumstances.

1. **Apply for Filling, Excavation and Berms Permit**

   Application form filled out and submitted by owner or agent. Applicant provides necessary information, plat of survey or diagram of proposed plan, and fee. Reference Chapter 7 of the Standard Specifications for Land Development for specific requirements for the plans.

   The request for filling will be referred to the Department of Community Development for Planning Commission review and approval if amount of fill or earth moving exceeds 1000 cubic yards or if the height of a berm is greater than 4.5 feet. A Planning Commission Application is required.

2. **Staff and Planning Commission Review**
   Staff conducts an on-site inspection and/or reviews stormwater drainage and topographic maps, DNR Wetland Inventory maps, flood plain maps and as-built record drawings for potential conflict with city utilities.

   For projects requiring Planning Commission approval
   Staff prepares a report of the findings for Planning Commission consideration of the project. At the Planning Commission meeting approval, conditional approval, tabling, or denial will be evaluated. Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

   For projects not requiring Planning Commission approval
   Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

3. **Inspections**
   Staff conducts periodic inspections depending upon the amount of fill requested or type of grading work.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

4. Permit Closure

Permit closure inspections. Inspection shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. – Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that that modifies the existing elevation

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-564. - Landscaping, screening, berming and ponds.

(a) *Street trees* . The developer shall provide for the planting or retention of street trees on both sides of all new roadways and, where deemed appropriate by the planning commission for aesthetic purposes, along existing roadways adjacent to the development. Such trees shall have an average trunk dimension of three inches at a point six inches above the grade. To insure proper planting and growth, the trees shall be balled, burlapped and staked in accordance with city specifications. Such trees shall be provided at a rate of notless than one tree every 30 feet of new roadway frontage and located within the road right-of-way at a point two feet from the right-of-way line unless otherwise required by the planning commission. The species of trees shall be subject to planning commission approval and should be selected from an established list of street trees supplied by the Mequon tree board. Planting of native species shall be encouraged. The city reserves the right to retain the services of a qualified consultant to verify proper installation and health of required landscaping.

(b) *Retention of existing trees* . See tree preservation regulations in Chapter 84 and the City of Mequon Policy Manual for Tree Protection and Preservation.

(c) *Parking lot landscaping.* Off street parking lots with more than ten stalls shall have at least ten percent of the interior parking area landscaped. The species of landscape plantings are subject to planning commission approval, or park board approval if the landscaping is to be located within a public park or preserve.

(d) *Parking lot shading.* Landscaping in and around parking lots shall be designed, planted and maintained so that a minimum of 30 percent of the parking area will be shaded during summer growth within ten years of planting.

(e) *Screening.* The following requirements apply:

(1) Every development shall provide sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, streets or railroads.

(2) Where a non-residential or multifamily residential site adjoins a single-family residential site, a solid wall or fence, vine covered fence or compact vegetative screen not less than 4½ nor more than six feet in height, shall be located adjoining the property line except in a required front yard.

(3) In non-residential or multifamily residential developments a landscaping area at least 25 feet in depth between the abutting ultimate road right-of-way and parking/driveway areas will be planted with materials suitable for screening or ornamenting the site, whichever is appropriate.

(4) A compact landscaping hedgerow or undulating berm, not more than three feet in height, shall be located directly adjacent to commercial and multi-family residential parking and driveway areas facing public roads. Hedges shall be a minimum of two feet in height when measured immediately after planting and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting. This landscaping buffer is intended to screen the view of parked cars and asphalt from pedestrian and motorist view.

(5) Dumpsters shall be located and screened in accordance with city approval.

(f) *Landscaping standards.* The following standards apply to commercial or multi-family residential sites.

(1) The undeveloped area of any commercial or multi-family residential site (exclusive of areas under roof or pavement) shall be landscaped with approved living trees, shrubs, vines, flowers, grass and ground covers and may include water bodies, crushed rock, sand, wood chips, landscaping furniture and ornamental pieces.

(2) At least one tree and two shrubs shall be planted for each 1,000 square feet or portion thereof of the area to be landscaped. Each required tree shall have an initial caliper of no less than two inches and a height of at least seven feet.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(3) No tree as measured from its center shall be located within five feet of a vehicular accessway, bike trail or public sidewalk or within ten feet of a street light, stop sign, fire hydrant, street sign or directional sign.

(4) All landscaping material located within a sight distance triangle shall be two feet or less in height or have a clearance of eight feet beneath the lowest branch or projection.

(5) No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede growth of said plant.

(6) Landscaping plans for development proposals shall be designed and stamped by a licensed landscaped architect. This requirement may be waived for minor alteration or improvement plans that, in the discretion of the department of community development, do not require the services of such a professional.

Additionally, the department of community development and/or planning commission may require the applicant to pay an additional administrative fee for the city to contract with a landscape architect to review and comment on the applicant's proposed landscape plan.

(g) *Landscaping installation.* All landscaping shall be installed in a sound workmanship manner and according to accepted good planting procedures with quality plant materials. A qualified representative of the city shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided or the appropriate escrow is established in compliance with section 58-110 for future installation of the required landscaping.

(h) *Landscaping maintenance.* The owner and/or agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance that shall be kept free from refuse and debris. All landscaping areas shall be provided with a readily available water supply. The developer or property owner of an industrial, institutional, park, commercial or multi-family residential site shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement planting shall be the same size and quality as in the approved landscaping plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscaping plan on file in the department of community development or department of parks. The planning commission shall require the developer to establish an escrow account equal to 25 percent of the initial landscape contract cost to insure that landscaping that dies within three years of planting will be replaced by the developer. Note: This escrow amount is in addition to the escrow account required by section 58-110, and will be returned after three years.

(i) *Berm requirements.* The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(Code 1957, § 3.14(3); Ord. No. 96-878, 5-14-1996; Ord. No. 97-910, 2-11-1997; Ord. No. 98-952, 7-14-1998; Ord. No. 2007-1202, § IV, 6-12-2007; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-603. – Filling, excavating, and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval on the filling, excavating and berms are exempt from the requirements of Section 58-603.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4) The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5) All land disturbing activities shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant.

(6) A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

(7) The applicant must complete and file with the city a Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development, latest edition

(8) Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

(9) The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10) A permit does not authorize any work other than what was described in the application and approved plan.

(11) The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12) The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13) The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14) The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

(16) The city engineer has the authority to stop work, amend, or alter any measures. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.

(Code 1957, § 3.12(6); Ord. No. 97-913, 4-8-1997; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

CHAPTER 7

FILLING, EXCAVATING, AND BERMS

7.0 GENERAL

7.0.1 No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a permit in compliance with Engineering Division policies and specifications. Filling and excavation shall be in compliance with article VIII, Section 58-671 to 58-678, of the Mequon Code of Ordinances.

7.0.2 Preservation of topography. No change in topography of any land shall be permitted which would result in increasing any portion of the slope to a ratio steeper than one and one-half (1½) feet horizontal to one (1) foot vertical within a distance of five (5) feet from an adjoining property line, except with the written consent of the abutting property owner(s) and approval by the city engineer.

7.1 LAND DISTURBING ACTIVITIES

7.1.1 The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII, Section 58-674, erosion and storm water run-off control regulation.

7.1.2 The applicant must complete and file with the City an Erosion Control Permit Application, a Application for Filling, Excavating, Berm Construction or Grading, and provide construction plans.

7.1.3 Plans must be submitted in compliance with the City of Mequon's Standard Specifications for Land Development – Chapter 2.

7.1.4 An application which limits fill to less than one-thousand (1,000) cubic yards may be approved by staff. Land disturbing activities requiring fill in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval.

7.1.5 The city engineer may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the city engineer is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

7.1.6 All land disturbing activities shall comply with the Storm Water Management Technical Standards developed by the Wisconsin Department of Natural Resources.

7.1.7 A permittee under this section shall file a Water Resources Application for Project Permit (WRAPP) and shall follow the WDNR submittal process and procedures.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

7.1.8 The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.

7.1.9 A permittee under this section shall notify the Engineering Division before starting any land disturbing activity and again not more than five days after the project is complete.

7.1.10 Permit closure inspections. shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

7.2 BERMS

7.2.1 Construction of a berm(s) shall require an Filling, Excavating, Berm Construction or Grading Permit from the Engineering Division. The City's Landscape Architect consultant may also be required to review more extensive plans.

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

7.2.3 The construction of the berm shall not adversely affect drainage of surrounding properties.

7.2.4 Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.

7.2.5 Berm requirements shall also apply to modifications to any existing berms.

7.2.6 The construction of earth berms shall be permitted subject to the following:

A. Berm(s) shall not exceed four and one-half (4½) feet in vertical height. The nearest toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

may be waived in the case of the joint construction of a berm by adjacent property owners. An earth berm exceeding four and one-half (4½) feet in vertical height shall be permitted only after approval of the Planning Commission.

B. All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.

C. All berms shall be constructed such that the side-slopes shall be graded no steeper than four (4) feet horizontal to one (1) foot vertical. The vertical height of a berm shall be measured from an average of the adjacent preconstruction ground elevations on either side of the berm to the top of the berm. Berms shall also be designed to provide a natural appearance, with a serpentine and undulating grade.

D. A cover growth of City approved plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.

1. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three (3) months. Ground cover plants other than grasses must be at least the four (4) inch pot size and must be planted at a rate of one per twelve (12) inches on center, in triangular spacing.
2. Landscape plantings shall be spaced randomly to help visually break up the continuous line of the berm.
3. Prairie Landscaping. The use of prairie, wet meadow sedge, wildflower and tall grass prairie ground covers on berms shall require a narrative that includes:
    1. The seed source
    2. The seed mixture
    3. The proposed nurse crop
    4. The planting time line
    5. The maintenance requirements for years 1-5.

7.3 RECREATIONAL AND AESTHETIC PONDS

7.3.1 Construction of a recreational or aesthetic pond shall require a permit from the Engineering Division.

7.3.2 The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point, placement of excavated material, erosion control devices and final grading for Engineering Division review and approval.

7.3.3 For ponds that serve as a storm-water management facility the design shall follow MMSD, WDNR and City of Mequon standards.

7.3.4 The construction of new recreational or aesthetic ponds or enlargement of existing recreational or aesthetic ponds shall be subject to the following:

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

A. A minimum four (4) foot wide safety shelf with a maximum depth of twelve (12) inches shall be constructed.

B. The slopes leading to the pond edge shall be landscaped with materials which provide adequate traction for foot traffic, avoiding slippage above the permanent waterline.

C. The pond buffer shall be set back no less than thirty (30) feet from the property line. The high watermark of a pond may not fall within a (periphery) bufferyard. The Planning Commission has the authority to require reasonable conditions including increased set-backs. The set-back requirements may be reduced or waived by staff or the Planning Commission in the case of the joint construction of a pond by adjacent property owners.

D. The outside pond slope shall be no steeper than five (5) feet horizontal to one (1) foot vertical above the permanent water surface level and three feet horizontal to one foot vertical below the safety shelf.

E. The area of the pond at the ordinary high water mark shall be no greater than twenty percent (20%) of the total lot area.

F. All detention/retention ponds shall have a buffer and landscape plan.

7.4 RETAINING WALLS

7.4.1 Retaining walls are structures that are constructed to support almost vertical (steeper than 70 degrees) or vertical slopes of earth masses.

7.4.2 The construction of retaining walls shall be subject to the following:

A. Retaining walls shall have a minimum offset of three (3) feet from an adjoining lot line and five (5) feet from a street right-of-way or the fall height of the wall whichever is greater. This offset may be increased by the city engineer if the physical conditions of a property, such as drainage or trees, require a larger offset.

B. Retaining walls in excess of 3 feet in height require retaining wall design and certification by a State of Wisconsin Professional Structural Engineer.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone:
Fax: 262-242-9655

www.ci.mequon.wi.us
Office of Planning Commission

TO: Public Works Committee
FROM: Bridget Henk, Assistant City Engineer
DATE: May 14, 2018
SUBJECT: ORDINANCE 2018-1520 An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

Background

Requirements for filling, excavating and berms appear in the City of Mequon Code of Ordinances in Sections 58-8, 58-564 and Section 58-603. Staff proposes that Section 58-8 include definitions for Aesthetic and Recreational Ponds, Fill, and Excavation and Section 58-603 refer to the Standard Specifications, to avoid the duplication in language. Staff also proposes a simplification of Section 58-564, leaving only the governing language and moving the detailed requirements to the Standard Specifications.

The Engineering Division fully reviewed the fill permit process and revised the permit application, permit instructions, ordinance Section 58-564, ordinance 58-603 and the Standard Specifications for Land Development. Enforcement remains largely the same, with an administrative relocation of the language. The ordinance language was also updated to be more uniform with other Chapter 58 sections. The revised permit instructions, permit form and Chapter 7 of the Standard Specifications for Land Development are attached.

Analysis

The revisions to Section 58-603 exempts projects that have previously been reviewed and approved by Planning Commission for filling and excavation. Sites that would still require Planning Commission approval would include single family homes that deviate from the Master Grading Plan or that were not a part of a Master Grading Plan.

At the April 9, 2018 meeting, Planning Commission indicated that staff should evaluate whether 1,000 cubic yards was an appropriate threshold for requiring Planning Commission review. Planning Commission approved the ordinance, maintaining the requirement for Planning Commission review for fill greater than 1,000 cubic yards.

Fiscal Impact

There is no fiscal impact of the text amendment, permit application, or the Standard Specifications for Land Development.

Recommendation

Staff recommends that the Common Council approve the ordinance amending Chapter 58 of the Mequon Municipal Code as it relates to Filling, Excavating and Berms.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

The approval of the Standard Specifications for Land Development would be reviewed by the Public Works Committee concurrent to the ordinance approval process.

Attachments:
Permit Instructions (PDF)
Fill Permit App - 2018 revision (PDF)
Sec._58_8.___Definitions (PDF)
Sec._58_564 - final (PDF)
Sec._58_603 - final (PDF)
Standard Specifications Chapter 7 (PDF)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2018-1520

An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

WHEREAS, the Common Council previously adopted Chapter 58 of the Mequon Municipal Code which includes regulations concerning filling, excavating and berms; and

WHEREAS, the Planning Commission and the Common Council desire for that regulations concerning filing, excavating and berms be consistent with other Chapter 58 regulations; and

WHEREAS, the regulation of filling, excavating and berms is reasonable and necessary to protect the health, safety and welfare of the residents and the Community;

NOW, THEREFORE, THE MAYOR AND THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 58-8, Section 58-564 and Section 58-603 of the Mequon Municipal Code is hereby amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. - Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that modifies the existing elevation

Sec. 58-564. - Landscaping, Screening, Berming and Ponds

(i) *Berm requirements*. The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~be permitted subject to the following:~~

~~(1) The berm shall not exceed 4½ feet in vertical height, shall be located at least~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~ten feet from a side or rear lot line and five feet from the road right-of way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(2) An earth berm exceeding 4½ feet in vertical height shall be permitted only after approval of the planning commission, or park board if the berm is proposed within a City owned park or preserve, as to the height and location and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission, or park board if appropriate.~~

~~(3) All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.~~

~~(4) A cover growth of city approved plant material or mulching containing no noxious weeds shall be immediately established over the entire berm to prevent erosion or unsightly conditions.~~

~~(5) In addition to a cover growth of plant material, all berms shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. Berm and landscape plans for commercial, multi-family, condominium and subdivision development shall be approved by the planning commission. Berm plans for single-family residential lots shall be approved by the building inspector. Berm plans proposed within a city owned park or preserve shall be approved by the park board.~~

~~(6) If the construction of a berm requires more than 250 cubic yards of fill to be brought to the site, a filling permit shall be obtained from the city engineering department.~~

~~(7) Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three months after planting.~~

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~shall be subject to the following: Note: Pond standards shall be periodically reviewed by the public safety committee to determine what, if any, amendments are necessary.~~

~~(1) The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point for engineering department review and approval.~~

~~(2) A four-foot-wide safety shelf with a depth of 12 inches shall be constructed.~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~(3) The pond shall be lined with materials to avoid slippage.~~

~~(4) The pond shall be set back no less than 30 feet from the property line.~~

~~(5) The pond slope shall be no steeper than five feet horizontal to one foot vertical.~~

Sec. 58-603. - Filling, ~~and~~ excavating and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. ~~Filling and excavation~~ Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling ~~for single-family residential lots and residential subdivisions~~ shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval may be approved at a staff level.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and that are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4)~~(1)~~ The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5)~~(2)~~ All land disturbing activities shall comply with the "City of Mequon Standard Specifications for Land Development", in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~Seventh Edition, December, 2002, or any amendment or revision thereof approved by the common council~~.

~~(3) All land disturbing activities shall comply with the Stormwater Management Technical Standards developed by the Wisconsin department of natural resources.~~

(6)~~(4)~~ A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

~~(5) A permittee under this section shall obtain a Wisconsin department of natural resources (WDNR) grading permit, Wis. Stats. § 30.19(1)(c) for the grading of~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~slopes of a waterway.~~

~~(6) A permittee under this section shall file a notice of intent (NOI), which falls under the general construction site stormwater discharge permit. follow WDNR submittal process and procedures.~~

~~(7) The NOI must be filed with the stormwater section located in Madison. Disturbing one or more acres requires submittal of NOI WDNR Form #3400-161 (compliance with NR 216).~~

~~(8) If waters of the state are involved, a chapter 30 <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTIICOOR_CH30FIPRPR> permit is required from the WDNR, Form #3500-53.~~

~~(9) The permit applicant shall notify the Water Management Specialist at the WDNR.~~

~~(10) The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.~~

(7)~~(11)~~ The applicant must complete and file with the city a ~~land disturbing~~ Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development", latest edition. ~~City of Mequon's standard specifications for land development.~~

~~(12) Plans shall be submitted and approved by the engineering department once the appropriate WDNR permits have been obtained. Plans shall be submitted on a plat of survey, subdivision grading and drainage plan or landscape plan. Plans shall include the following:~~

~~Footprint of residence~~

~~Property lines~~

~~Contour lines at two-foot minimum~~

~~Location of the berm/land disturbing activity with setbacks, offsets, height, and width~~

~~Type of landscaping and cover to be planted~~

~~Cross section of berm with slopes~~

~~Scale, north arrow, date~~

~~Name of the person who prepared or obtained the information~~

~~Significant tree and vegetation removal~~

(8)~~(13)~~ ~~Construction of a berm requiring more than 250 cubic yards of fill, either brought on to the site or from excavating or grading the site, shall require a filling permit~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~from the engineering department. Land disturbing activities/berms that require between 250 to 1,000 cubic yards of fill shall be approved by staff.~~ Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

~~(14) The berm shall not exceed 4½ feet in vertical height. The toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(15) Any berm in excess of 4½ feet, but not more than six feet, may be permitted to within five feet of a street right-of-way provided the side facing the street line is attractively landscaped. Such berm shall be attractively landscaped and that shall be subject to approval by the department of community development.~~

~~(16) A berm exceeding six feet in vertical height shall be permitted only after approval by the planning commission as to the height, location, and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission.~~

~~(17) All berms shall be constructed such that the width of the base of the berm, measured from toe to toe, shall be no less that three times the vertical height of the berm. The vertical height of the berm shall be measured from an average of the existing undisturbed ground surfaces at the toe on either side of the berm.~~

~~(18) A cover growth of plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.~~

~~(19) In addition to a cover growth of plant material, all berms/land disturbing activities shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. City approval of landscaping plans for berms less than six feet is not required.~~

~~(20) Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and provide reasonable complete coverage within three months after planting.~~

~~(21) No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.~~

~~(22) The construction of the berm shall not adversely affect drainage of surrounding properties.~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(9)~~(23)~~ The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10)~~(24)~~ A permit does not authorize any work other than what was described in the application and approved plan.

(11)~~(25)~~ The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12)~~(26)~~ The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13)~~(27)~~ The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14)~~(28)~~ The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities shall be provided to the City no more than 10 days after final completion.

~~(29) Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.~~

~~(30) The aforementioned requirements shall also apply to modifications to any existing berms.~~

(16)~~(31)~~ The city engineer has the authority to stop work, amend, or alter any measures in the construction. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. ~~of the berm. Failure to comply will result in the issuance of a municipal citation in an amount not less than $30.00, nor more than $500.00, and the costs to prosecute for each violation. Each day a violation exists shall constitute a separate offense.~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

_____
Approved by: Dan Abendroth, Mayor

Date Approved: June 12, 2018

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on June 12, 2018.

_____
Caroline Fochs, City Clerk

Published: _____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Rd 60W
Mequon, WI 53092-1930
Phone (262) 236-2936
Fax (262) 242-9655

www.ci.mequon.wi.us

ENGINEERING\PUBLIC WORKS

FILLING, EXCAVATING AND BERMS PERMIT INSTRUCTIONS

The filling of land is regulated by the City of Mequon Code of Ordinances Sections 58-598/606, Engineering Requirements and Sections 58-671/677, Erosion and Storm Water Runoff. A filling permit shall be necessary under most circumstances.

1. **Apply for Filling, Excavation and Berms Permit**

   Application form filled out and submitted by owner or agent. Applicant provides necessary information, plat of survey or diagram of proposed plan, and fee. Reference Chapter 7 of the Standard Specifications for Land Development for specific requirements for the plans.

   The request for filling will be referred to the Department of Community Development for Planning Commission review and approval if amount of fill or earth moving exceeds 1000 cubic yards or if the height of a berm is greater than 4.5 feet. A Planning Commission Application is required.

2. **Staff and Planning Commission Review**
   Staff conducts an on-site inspection and/or reviews stormwater drainage and topographic maps, DNR Wetland Inventory maps, flood plain maps and as-built record drawings for potential conflict with city utilities.

   For projects requiring Planning Commission approval
   Staff prepares a report of the findings for Planning Commission consideration of the project. At the Planning Commission meeting approval, conditional approval, tabling, or denial will be evaluated. Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

   For projects not requiring Planning Commission approval
   Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

3. **Inspections**
   Staff conducts periodic inspections depending upon the amount of fill requested or type of grading work.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

4. Permit Closure

Permit closure inspections. Inspection shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon
11333 N. Cedarburg Road, 60W
Mequon, Wisconsin 53092

Permit No. _____
Date Filed _____
Exp. Date _____
Fees Paid _____
Permit Closed

Engineering Division

Permit Application for Filling, Excavating and Berms

PLEASE PRINT CLEARLY

Agent / Contact Name: _____ Phone #:_____

Property Owner Name: _____ Phone #:_____

Agent Or Owner Contact Address: _____

_____

Location Or Address Of Work Site: _____

Or: Description _____ 1/4 Section _____ T9n, R _____E

Tax Key No. _____

Subdivision _____ Lot _____ Block _____

Estimated Date Of Completion: _____

Reason For Fill/Removal/Excavation _____

_____

Name Of Contact Other Than Applicant:_____ Phone #:_____

FEE COMPUTATION

$60.00 – 0 – 250 C.Y.

$120.00 – 250 C.Y. – 1,000 C.Y. Total Fee $_____

Total Cubic Yards To Be Deposited/Removed/Excavated _____C.Y.*

**Over 1000 cubic yards and Berms greater than 4½- feet in height requires Planning Commission approval. Separate application to the next available Planning Commission meeting is necessary. When Planning Commission review is required, the Filling, Excavating and Berm Permit fee is waived. Planning Commission review fees would be required.*

SIGNED: _____ DATE: _____

Department of Community Development Approval _____ *Date*_____
Engineering Division Approval _____ *Date*_____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. – Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that that modifies the existing elevation

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-564. - Landscaping, screening, berming and ponds.

(a) *Street trees* . The developer shall provide for the planting or retention of street trees on both sides of all new roadways and, where deemed appropriate by the planning commission for aesthetic purposes, along existing roadways adjacent to the development. Such trees shall have an average trunk dimension of three inches at a point six inches above the grade. To insure proper planting and growth, the trees shall be balled, burlapped and staked in accordance with city specifications. Such trees shall be provided at a rate of notless than one tree every 30 feet of new roadway frontage and located within the road right-of-way at a point two feet from the right-of-way line unless otherwise required by the planning commission. The species of trees shall be subject to planning commission approval and should be selected from an established list of street trees supplied by the Mequon tree board. Planting of native species shall be encouraged. The city reserves the right to retain the services of a qualified consultant to verify proper installation and health of required landscaping.

(b) *Retention of existing trees* . See tree preservation regulations in Chapter 84 and the City of Mequon Policy Manual for Tree Protection and Preservation.

(c) *Parking lot landscaping.* Off street parking lots with more than ten stalls shall have at least ten percent of the interior parking area landscaped. The species of landscape plantings are subject to planning commission approval, or park board approval if the landscaping is to be located within a public park or preserve.

(d) *Parking lot shading.* Landscaping in and around parking lots shall be designed, planted and maintained so that a minimum of 30 percent of the parking area will be shaded during summer growth within ten years of planting.

(e) *Screening.* The following requirements apply:

(1) Every development shall provide sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, streets or railroads.

(2) Where a non-residential or multifamily residential site adjoins a single-family residential site, a solid wall or fence, vine covered fence or compact vegetative screen not less than 4½ nor more than six feet in height, shall be located adjoining the property line except in a required front yard.

(3) In non-residential or multifamily residential developments a landscaping area at least 25 feet in depth between the abutting ultimate road right-of-way and parking/driveway areas will be planted with materials suitable for screening or ornamenting the site, whichever is appropriate.

(4) A compact landscaping hedgerow or undulating berm, not more than three feet in height, shall be located directly adjacent to commercial and multi-family residential parking and driveway areas facing public roads. Hedges shall be a minimum of two feet in height when measured immediately after planting and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting. This landscaping buffer is intended to screen the view of parked cars and asphalt from pedestrian and motorist view.

(5) Dumpsters shall be located and screened in accordance with city approval.

(f) *Landscaping standards.* The following standards apply to commercial or multi-family residential sites.

(1) The undeveloped area of any commercial or multi-family residential site (exclusive of areas under roof or pavement) shall be landscaped with approved living trees, shrubs, vines, flowers, grass and ground covers and may include water bodies, crushed rock, sand, wood chips, landscaping furniture and ornamental pieces.

(2) At least one tree and two shrubs shall be planted for each 1,000 square feet or portion thereof of the area to be landscaped. Each required tree shall have an initial caliper of no less than two inches and a height of at least seven feet.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(3) No tree as measured from its center shall be located within five feet of a vehicular accessway, bike trail or public sidewalk or within ten feet of a street light, stop sign, fire hydrant, street sign or directional sign.

(4) All landscaping material located within a sight distance triangle shall be two feet or less in height or have a clearance of eight feet beneath the lowest branch or projection.

(5) No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede growth of said plant.

(6) Landscaping plans for development proposals shall be designed and stamped by a licensed landscaped architect. This requirement may be waived for minor alteration or improvement plans that, in the discretion of the department of community development, do not require the services of such a professional.

Additionally, the department of community development and/or planning commission may require the applicant to pay an additional administrative fee for the city to contract with a landscape architect to review and comment on the applicant's proposed landscape plan.

(g) *Landscaping installation.* All landscaping shall be installed in a sound workmanship manner and according to accepted good planting procedures with quality plant materials. A qualified representative of the city shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided or the appropriate escrow is established in compliance with section 58-110 for future installation of the required landscaping.

(h) *Landscaping maintenance.* The owner and/or agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance that shall be kept free from refuse and debris. All landscaping areas shall be provided with a readily available water supply. The developer or property owner of an industrial, institutional, park, commercial or multi-family residential site shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement planting shall be the same size and quality as in the approved landscaping plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscaping plan on file in the department of community development or department of parks. The planning commission shall require the developer to establish an escrow account equal to 25 percent of the initial landscape contract cost to insure that landscaping that dies within three years of planting will be replaced by the developer. Note: This escrow amount is in addition to the escrow account required by section 58-110, and will be returned after three years.

(i) *Berm requirements.* The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(Code 1957, § 3.14(3); Ord. No. 96-878, 5-14-1996; Ord. No. 97-910, 2-11-1997; Ord. No. 98-952, 7-14-1998; Ord. No. 2007-1202, § IV, 6-12-2007; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-603. – Filling, excavating, and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval on the filling, excavating and berms are exempt from the requirements of Section 58-603.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4) The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5) All land disturbing activities shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant.

(6) A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

(7) The applicant must complete and file with the city a Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development, latest edition

(8) Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

(9) The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10) A permit does not authorize any work other than what was described in the application and approved plan.

(11) The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12) The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13) The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14) The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

(16) The city engineer has the authority to stop work, amend, or alter any measures. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.

(Code 1957, § 3.12(6); Ord. No. 97-913, 4-8-1997; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Standard Specifications for Land Development

CHAPTER 7

FILLING, EXCAVATING, AND BERMS

7.0 GENERAL

7.0.1 No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a permit in compliance with Engineering Division policies and specifications. Filling and excavation shall be in compliance with article VIII, Section 58-671 to 58-678, of the Mequon Code of Ordinances.

7.0.2 Preservation of topography. No change in topography of any land shall be permitted which would result in increasing any portion of the slope to a ratio steeper than one and one-half (1½) feet horizontal to one (1) foot vertical within a distance of five (5) feet from an adjoining property line, except with the written consent of the abutting property owner(s) and approval by the city engineer.

7.1 LAND DISTURBING ACTIVITIES

7.1.1 The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII, Section 58-674, erosion and storm water run-off control regulation.

7.1.2 The applicant must complete and file with the City an Erosion Control Permit Application, an Application for Filling, Excavating, Berm Construction or Grading, and provide construction plans.

7.1.3 Plans must be submitted in compliance with the City of Mequon's Standard Specifications for Land Development – Chapter 2.

7.1.4 An application which limits fill to less than one-thousand (1,000) cubic yards may be approved by staff. Land disturbing activities requiring fill in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval.

7.1.5 The city engineer may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the city engineer is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

7.1.6 All land disturbing activities shall comply with the Storm Water Management Technical Standards developed by the Wisconsin Department of Natural Resources.

7.1.7 A permittee under this section shall file a Water Resources Application for Project Permit (WRAPP) and shall follow the WDNR submittal process and procedures.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

7.1.8 The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.

7.1.9 A permittee under this section shall notify the Engineering Division before starting any land disturbing activity and again not more than five days after the project is complete.

7.1.10 Permit closure inspections shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

7.2 BERMS

7.2.1 Construction of a berm(s) shall require a Filling, Excavating, Berm Construction or Grading Permit from the Engineering Division. The City's Landscape Architect consultant may also be required to review more extensive plans.

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

7.2.3 The construction of the berm shall not adversely affect drainage of surrounding properties.

7.2.4 Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.

7.2.5 Berm requirements shall also apply to modifications to any existing berms.

7.2.6 The construction of earth berms shall be permitted subject to the following:

A. Berm(s) shall not exceed four and one-half (4½) feet in vertical height. The nearest toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners. An earth berm exceeding four and one-half (4½) feet in vertical height shall be permitted only after approval of the Planning Commission.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

B. All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.

C. All berms shall be constructed such that the side-slopes shall be graded no steeper than four (4) feet horizontal to one (1) foot vertical. The vertical height of a berm shall be measured from an average of the adjacent preconstruction ground elevations on either side of the berm to the top of the berm. Berms shall also be designed to provide a natural appearance, with a serpentine and undulating grade.

D. A cover growth of City approved plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.

1. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three (3) months. Ground cover plants other than grasses must be at least the four (4) inch pot size and must be planted at a rate of one per twelve (12) inches on center, in triangular spacing.
2. Landscape plantings shall be spaced randomly to help visually break up the continuous line of the berm.
3. Prairie Landscaping. The use of prairie, wet meadow sedge, wildflower and tall grass prairie ground covers on berms shall require a narrative that includes:
4. The seed source
5. The seed mixture
6. The proposed nurse crop
7. The planting time line
8. The maintenance requirements for years 1-5.

7.3 RECREATIONAL AND AESTHETIC PONDS

7.3.1 Construction of a recreational or aesthetic pond shall require a permit from the Engineering Division.

7.3.2 The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point, placement of excavated material, erosion control devices and final grading for Engineering Division review and approval.

7.3.3 For ponds that serve as a storm-water management facility the design shall follow MMSD, WDNR and City of Mequon standards.

7.3.4 The construction of new recreational or aesthetic ponds or enlargement of existing recreational or aesthetic ponds shall be subject to the following:

A. A minimum four (4) foot wide safety shelf with a maximum depth of twelve (12) inches shall be constructed.

B. The slopes leading to the pond edge shall be landscaped with materials which provide adequate traction for foot traffic, avoiding slippage above the permanent waterline.

C. The pond buffer shall be set back no less than thirty (30) feet from the property line. The high watermark of a pond may not fall within a (periphery) buffer yard. The Planning Commission has the authority to require reasonable conditions including

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

increased set-backs. The set-back requirements may be reduced or waived by staff or the Planning Commission in the case of the joint construction of a pond by adjacent property owners.

D. The outside pond slope shall be no steeper than five (5) feet horizontal to one (1) foot vertical above the permanent water surface level and three feet horizontal to one foot vertical below the safety shelf.

E. The area of the pond at the ordinary high water mark shall be no greater than twenty percent (20%) of the total lot area.

F. All detention/retention ponds shall have a buffer and landscape plan.

7.4 RETAINING WALLS

7.4.1 Retaining walls are structures that are constructed to support almost vertical (steeper than 70 degrees) or vertical slopes of earth masses.

7.4.2 The construction of retaining walls shall be subject to the following:

A. Retaining walls shall have a minimum offset of three (3) feet from an adjoining lot line and five (5) feet from a street right-of-way or the fall height of the wall whichever is greater. This offset may be increased by the city engineer if the physical conditions of a property, such as drainage or trees, require a larger offset.

B. Retaining walls in excess of 3 feet in height require retaining wall design and certification by a State of Wisconsin Professional Structural Engineer.

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City of Mequon

11333 N. Cedarburg Road
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Phone:
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Office of Planning Commission

TO: Common Council
FROM: Bridget Henk, Assistant City Engineer
DATE: May 14, 2018
SUBJECT: ORDINANCE 2018-1520 An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

Background

Requirements for filling, excavating and berms appear in the City of Mequon Code of Ordinances in Sections 58-8, 58-564 and Section 58-603. Staff proposes that Section 58-8 include definitions for Aesthetic and Recreational Ponds, Fill, and Excavation and Section 58-603 refer to the Standard Specifications, to avoid the duplication in language. Staff also proposes a simplification of Section 58-564, leaving only the governing language and moving the detailed requirements to the Standard Specifications.

The Engineering Division fully reviewed the fill permit process and revised the permit application, permit instructions, ordinance Section 58-564, ordinance 58-603 and the Standard Specifications for Land Development. Enforcement remains largely the same, with an administrative relocation of the language. The ordinance language was also updated to be more uniform with other Chapter 58 sections. The revised permit instructions, permit form and Chapter 7 of the Standard Specifications for Land Development are attached.

Analysis

The revisions to Section 58-603 exempts projects that have previously been reviewed and approved by Planning Commission for filling and excavation. Sites that would still require Planning Commission approval would include single family homes that deviate from the Master Grading Plan or that were not a part of a Master Grading Plan.

At the April 9, 2018 meeting, Planning Commission indicated that staff should evaluate whether 1,000 cubic yards was an appropriate threshold for requiring Planning Commission review. Planning Commission approved the ordinance, maintaining the requirement for Planning Commission review for fill greater than 1,000 cubic yards.

Fiscal Impact

There is no fiscal impact of the text amendment, permit application, or the Standard Specifications for Land Development.

Recommendation

Staff recommends that the Common Council approve the ordinance amending Chapter 58 of the Mequon Municipal Code as it relates to Filling, Excavating and Berms.

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The approval of the Standard Specifications for Land Development would be reviewed by the Public Works Committee concurrent to the ordinance approval process.

Attachments:
Permit Instructions (PDF)
Fill Permit App - 2018 revision (PDF)
Sec._58_8.___Definitions (PDF)
Sec._58_564 - final (PDF)
Sec._58_603 - final (PDF)
Standard Specifications Chapter 7 (PDF)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2018-1520

An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

WHEREAS, the Common Council previously adopted Chapter 58 of the Mequon Municipal Code which includes regulations concerning filling, excavating and berms; and

WHEREAS, the Planning Commission and the Common Council desire for that regulations concerning filing, excavating and berms be consistent with other Chapter 58 regulations; and

WHEREAS, the regulation of filling, excavating and berms is reasonable and necessary to protect the health, safety and welfare of the residents and the Community;

NOW, THEREFORE, THE MAYOR AND THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 58-8, Section 58-564 and Section 58-603 of the Mequon Municipal Code is hereby amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. - Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that modifies the existing elevation

Sec. 58-564. - Landscaping, Screening, Berming and Ponds

(i) *Berm requirements*. The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~be permitted subject to the following:~~

~~(1) The berm shall not exceed 4½ feet in vertical height, shall be located at least~~

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

~~ten feet from a side or rear lot line and five feet from the road right-of way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(2) An earth berm exceeding 4½ feet in vertical height shall be permitted only after approval of the planning commission, or park board if the berm is proposed within a City owned park or preserve, as to the height and location and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission, or park board if appropriate.~~

~~(3) All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.~~

~~(4) A cover growth of city approved plant material or mulching containing no noxious weeds shall be immediately established over the entire berm to prevent erosion or unsightly conditions.~~

~~(5) In addition to a cover growth of plant material, all berms shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. Berm and landscape plans for commercial, multi-family, condominium and subdivision development shall be approved by the planning commission. Berm plans for single-family residential lots shall be approved by the building inspector. Berm plans proposed within a city owned park or preserve shall be approved by the park board.~~

~~(6) If the construction of a berm requires more than 250 cubic yards of fill to be brought to the site, a filling permit shall be obtained from the city engineering department.~~

~~(7) Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three months after planting.~~

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~shall be subject to the following: Note: Pond standards shall be periodically reviewed by the public safety committee to determine what, if any, amendments are necessary.~~

~~(1) The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point for engineering department review and approval.~~

~~(2) A four-foot-wide safety shelf with a depth of 12 inches shall be constructed.~~

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~~(3) The pond shall be lined with materials to avoid slippage.~~

~~(4) The pond shall be set back no less than 30 feet from the property line.~~

~~(5) The pond slope shall be no steeper than five feet horizontal to one foot vertical.~~

Sec. 58-603. - Filling, ~~and~~ excavating and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. ~~Filling and excavation~~ Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling ~~for single-family residential lots and residential subdivisions~~ shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval may be approved at a staff level.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and that are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4)~~(1)~~ The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5)~~(2)~~ All land disturbing activities shall comply with the "City of Mequon Standard Specifications for Land Development", in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~Seventh Edition, December, 2002, or any amendment or revision thereof approved by the common council~~.

~~(3) All land disturbing activities shall comply with the Stormwater Management Technical Standards developed by the Wisconsin department of natural resources.~~

(6)~~(4)~~ A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

~~(5) A permittee under this section shall obtain a Wisconsin department of natural resources (WDNR) grading permit, Wis. Stats. § 30.19(1)(c) for the grading of~~

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~~slopes of a waterway.~~

~~(6) A permittee under this section shall file a notice of intent (NOI), which falls under the general construction site stormwater discharge permit. follow WDNR submittal process and procedures.~~

~~(7) The NOI must be filed with the stormwater section located in Madison. Disturbing one or more acres requires submittal of NOI WDNR Form #3400-161 (compliance with NR 216).~~

~~(8) If waters of the state are involved, a chapter 30 <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTIICOOR_CH30FIPRPR> permit is required from the WDNR, Form #3500-53.~~

~~(9) The permit applicant shall notify the Water Management Specialist at the WDNR.~~

~~(10) The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.~~

(7)~~(11)~~ The applicant must complete and file with the city a ~~land disturbing~~ Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development", latest edition. ~~City of Mequon's standard specifications for land development.~~

~~(12) Plans shall be submitted and approved by the engineering department once the appropriate WDNR permits have been obtained. Plans shall be submitted on a plat of survey, subdivision grading and drainage plan or landscape plan. Plans shall include the following:~~

~~Footprint of residence~~

~~Property lines~~

~~Contour lines at two-foot minimum~~

~~Location of the berm/land disturbing activity with setbacks, offsets, height, and width~~

~~Type of landscaping and cover to be planted~~

~~Cross section of berm with slopes~~

~~Scale, north arrow, date~~

~~Name of the person who prepared or obtained the information~~

~~Significant tree and vegetation removal~~

(8)~~(13)~~ ~~Construction of a berm requiring more than 250 cubic yards of fill, either brought on to the site or from excavating or grading the site, shall require a filling permit~~

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~~from the engineering department. Land disturbing activities/berms that require between 250 to 1,000 cubic yards of fill shall be approved by staff.~~ Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

~~(14) The berm shall not exceed 4½ feet in vertical height. The toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(15) Any berm in excess of 4½ feet, but not more than six feet, may be permitted to within five feet of a street right-of-way provided the side facing the street line is attractively landscaped. Such berm shall be attractively landscaped and that shall be subject to approval by the department of community development.~~

~~(16) A berm exceeding six feet in vertical height shall be permitted only after approval by the planning commission as to the height, location, and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission.~~

~~(17) All berms shall be constructed such that the width of the base of the berm, measured from toe to toe, shall be no less that three times the vertical height of the berm. The vertical height of the berm shall be measured from an average of the existing undisturbed ground surfaces at the toe on either side of the berm.~~

~~(18) A cover growth of plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.~~

~~(19) In addition to a cover growth of plant material, all berms/land disturbing activities shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. City approval of landscaping plans for berms less than six feet is not required.~~

~~(20) Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and provide reasonable complete coverage within three months after planting.~~

~~(21) No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.~~

~~(22) The construction of the berm shall not adversely affect drainage of surrounding properties.~~

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(9)~~(23)~~ The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10)~~(24)~~ A permit does not authorize any work other than what was described in the application and approved plan.

(11)~~(25)~~ The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12)~~(26)~~ The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13)~~(27)~~ The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14)~~(28)~~ The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities shall be provided to the City no more than 10 days after final completion.

~~(29) Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.~~

~~(30) The aforementioned requirements shall also apply to modifications to any existing berms.~~

(16)~~(31)~~ The city engineer has the authority to stop work, amend, or alter any measures in the construction. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. ~~of the berm. Failure to comply will result in the issuance of a municipal citation in an amount not less than $30.00, nor more than $500.00, and the costs to prosecute for each violation. Each day a violation exists shall constitute a separate offense.~~

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SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

_____
Approved by: Dan Abendroth, Mayor

Date Approved: June 12, 2018

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on June 12, 2018.

_____
Caroline Fochs, City Clerk

Published: _____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

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ENGINEERING\PUBLIC WORKS

FILLING, EXCAVATING AND BERMS PERMIT INSTRUCTIONS

The filling of land is regulated by the City of Mequon Code of Ordinances Sections 58-598/606, Engineering Requirements and Sections 58-671/677, Erosion and Storm Water Runoff. A filling permit shall be necessary under most circumstances.

1. **Apply for Filling, Excavation and Berms Permit**

   Application form filled out and submitted by owner or agent. Applicant provides necessary information, plat of survey or diagram of proposed plan, and fee. Reference Chapter 7 of the Standard Specifications for Land Development for specific requirements for the plans.

   The request for filling will be referred to the Department of Community Development for Planning Commission review and approval if amount of fill or earth moving exceeds 1000 cubic yards or if the height of a berm is greater than 4.5 feet. A Planning Commission Application is required.

2. **Staff and Planning Commission Review**
   Staff conducts an on-site inspection and/or reviews stormwater drainage and topographic maps, DNR Wetland Inventory maps, flood plain maps and as-built record drawings for potential conflict with city utilities.

   For projects requiring Planning Commission approval
   Staff prepares a report of the findings for Planning Commission consideration of the project. At the Planning Commission meeting approval, conditional approval, tabling, or denial will be evaluated. Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

   For projects not requiring Planning Commission approval
   Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

3. **Inspections**
   Staff conducts periodic inspections depending upon the amount of fill requested or type of grading work.

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4. Permit Closure

Permit closure inspections. Inspection shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon
11333 N. Cedarburg Road, 60W
Mequon, Wisconsin 53092

Permit No. _____
Date Filed _____
Exp. Date _____
Fees Paid _____
Permit Closed

Engineering Division

Permit Application for Filling, Excavating and Berms

PLEASE PRINT CLEARLY

Agent / Contact Name: _____ Phone #:_____

Property Owner Name: _____ Phone #:_____

Agent Or Owner Contact Address: _____

_____

Location Or Address Of Work Site: _____

Or: Description _____ 1/4 Section _____ T9n, R _____E

Tax Key No. _____

Subdivision _____ Lot _____ Block _____

Estimated Date Of Completion: _____

Reason For Fill/Removal/Excavation _____

_____

Name Of Contact Other Than Applicant:_____ Phone #:_____

FEE COMPUTATION

$60.00 – 0 – 250 C.Y.

$120.00 – 250 C.Y. – 1,000 C.Y. Total Fee $_____

Total Cubic Yards To Be Deposited/Removed/Excavated _____C.Y.*

**Over 1000 cubic yards and Berms greater than 4½- feet in height requires Planning Commission approval. Separate application to the next available Planning Commission meeting is necessary. When Planning Commission review is required, the Filling, Excavating and Berm Permit fee is waived. Planning Commission review fees would be required.*

SIGNED: _____ DATE: _____

Department of Community Development Approval _____ *Date*_____
Engineering Division Approval _____ *Date*_____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. – Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that that modifies the existing elevation

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Sec. 58-564. - Landscaping, screening, berming and ponds.

(a) *Street trees* . The developer shall provide for the planting or retention of street trees on both sides of all new roadways and, where deemed appropriate by the planning commission for aesthetic purposes, along existing roadways adjacent to the development. Such trees shall have an average trunk dimension of three inches at a point six inches above the grade. To insure proper planting and growth, the trees shall be balled, burlapped and staked in accordance with city specifications. Such trees shall be provided at a rate of notless than one tree every 30 feet of new roadway frontage and located within the road right-of-way at a point two feet from the right-of-way line unless otherwise required by the planning commission. The species of trees shall be subject to planning commission approval and should be selected from an established list of street trees supplied by the Mequon tree board. Planting of native species shall be encouraged. The city reserves the right to retain the services of a qualified consultant to verify proper installation and health of required landscaping.

(b) *Retention of existing trees* . See tree preservation regulations in Chapter 84 and the City of Mequon Policy Manual for Tree Protection and Preservation.

(c) *Parking lot landscaping.* Off street parking lots with more than ten stalls shall have at least ten percent of the interior parking area landscaped. The species of landscape plantings are subject to planning commission approval, or park board approval if the landscaping is to be located within a public park or preserve.

(d) *Parking lot shading.* Landscaping in and around parking lots shall be designed, planted and maintained so that a minimum of 30 percent of the parking area will be shaded during summer growth within ten years of planting.

(e) *Screening.* The following requirements apply:

(1) Every development shall provide sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, streets or railroads.

(2) Where a non-residential or multifamily residential site adjoins a single-family residential site, a solid wall or fence, vine covered fence or compact vegetative screen not less than 4½ nor more than six feet in height, shall be located adjoining the property line except in a required front yard.

(3) In non-residential or multifamily residential developments a landscaping area at least 25 feet in depth between the abutting ultimate road right-of-way and parking/driveway areas will be planted with materials suitable for screening or ornamenting the site, whichever is appropriate.

(4) A compact landscaping hedgerow or undulating berm, not more than three feet in height, shall be located directly adjacent to commercial and multi-family residential parking and driveway areas facing public roads. Hedges shall be a minimum of two feet in height when measured immediately after planting and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting. This landscaping buffer is intended to screen the view of parked cars and asphalt from pedestrian and motorist view.

(5) Dumpsters shall be located and screened in accordance with city approval.

(f) *Landscaping standards.* The following standards apply to commercial or multi-family residential sites.

(1) The undeveloped area of any commercial or multi-family residential site (exclusive of areas under roof or pavement) shall be landscaped with approved living trees, shrubs, vines, flowers, grass and ground covers and may include water bodies, crushed rock, sand, wood chips, landscaping furniture and ornamental pieces.

(2) At least one tree and two shrubs shall be planted for each 1,000 square feet or portion thereof of the area to be landscaped. Each required tree shall have an initial caliper of no less than two inches and a height of at least seven feet.

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(3) No tree as measured from its center shall be located within five feet of a vehicular accessway, bike trail or public sidewalk or within ten feet of a street light, stop sign, fire hydrant, street sign or directional sign.

(4) All landscaping material located within a sight distance triangle shall be two feet or less in height or have a clearance of eight feet beneath the lowest branch or projection.

(5) No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede growth of said plant.

(6) Landscaping plans for development proposals shall be designed and stamped by a licensed landscaped architect. This requirement may be waived for minor alteration or improvement plans that, in the discretion of the department of community development, do not require the services of such a professional.

Additionally, the department of community development and/or planning commission may require the applicant to pay an additional administrative fee for the city to contract with a landscape architect to review and comment on the applicant's proposed landscape plan.

(g) *Landscaping installation.* All landscaping shall be installed in a sound workmanship manner and according to accepted good planting procedures with quality plant materials. A qualified representative of the city shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided or the appropriate escrow is established in compliance with section 58-110 for future installation of the required landscaping.

(h) *Landscaping maintenance.* The owner and/or agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance that shall be kept free from refuse and debris. All landscaping areas shall be provided with a readily available water supply. The developer or property owner of an industrial, institutional, park, commercial or multi-family residential site shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement planting shall be the same size and quality as in the approved landscaping plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscaping plan on file in the department of community development or department of parks. The planning commission shall require the developer to establish an escrow account equal to 25 percent of the initial landscape contract cost to insure that landscaping that dies within three years of planting will be replaced by the developer. Note: This escrow amount is in addition to the escrow account required by section 58-110, and will be returned after three years.

(i) *Berm requirements.* The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(Code 1957, § 3.14(3); Ord. No. 96-878, 5-14-1996; Ord. No. 97-910, 2-11-1997; Ord. No. 98-952, 7-14-1998; Ord. No. 2007-1202, § IV, 6-12-2007; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-603. – Filling, excavating, and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval on the filling, excavating and berms are exempt from the requirements of Section 58-603.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4) The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5) All land disturbing activities shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant.

(6) A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

(7) The applicant must complete and file with the city a Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development, latest edition

(8) Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

(9) The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10) A permit does not authorize any work other than what was described in the application and approved plan.

(11) The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12) The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13) The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14) The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

(16) The city engineer has the authority to stop work, amend, or alter any measures. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.

(Code 1957, § 3.12(6); Ord. No. 97-913, 4-8-1997; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Standard Specifications for Land Development

CHAPTER 7

FILLING, EXCAVATING, AND BERMS

7.0 GENERAL

7.0.1 No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a permit in compliance with Engineering Division policies and specifications. Filling and excavation shall be in compliance with article VIII, Section 58-671 to 58-678, of the Mequon Code of Ordinances.

7.0.2 Preservation of topography. No change in topography of any land shall be permitted which would result in increasing any portion of the slope to a ratio steeper than one and one-half (1½) feet horizontal to one (1) foot vertical within a distance of five (5) feet from an adjoining property line, except with the written consent of the abutting property owner(s) and approval by the city engineer.

7.1 LAND DISTURBING ACTIVITIES

7.1.1 The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII, Section 58-674, erosion and storm water run-off control regulation.

7.1.2 The applicant must complete and file with the City an Erosion Control Permit Application, an Application for Filling, Excavating, Berm Construction or Grading, and provide construction plans.

7.1.3 Plans must be submitted in compliance with the City of Mequon's Standard Specifications for Land Development – Chapter 2.

7.1.4 An application which limits fill to less than one-thousand (1,000) cubic yards may be approved by staff. Land disturbing activities requiring fill in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval.

7.1.5 The city engineer may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the city engineer is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

7.1.6 All land disturbing activities shall comply with the Storm Water Management Technical Standards developed by the Wisconsin Department of Natural Resources.

7.1.7 A permittee under this section shall file a Water Resources Application for Project Permit (WRAPP) and shall follow the WDNR submittal process and procedures.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

7.1.8 The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.

7.1.9 A permittee under this section shall notify the Engineering Division before starting any land disturbing activity and again not more than five days after the project is complete.

7.1.10 Permit closure inspections shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

7.2 BERMS

7.2.1 Construction of a berm(s) shall require a Filling, Excavating, Berm Construction or Grading Permit from the Engineering Division. The City's Landscape Architect consultant may also be required to review more extensive plans.

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

7.2.3 The construction of the berm shall not adversely affect drainage of surrounding properties.

7.2.4 Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.

7.2.5 Berm requirements shall also apply to modifications to any existing berms.

7.2.6 The construction of earth berms shall be permitted subject to the following:

A. Berm(s) shall not exceed four and one-half (4½) feet in vertical height. The nearest toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners. An earth berm exceeding four and one-half (4½) feet in vertical height shall be permitted only after approval of the Planning Commission.

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B. All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.

C. All berms shall be constructed such that the side-slopes shall be graded no steeper than four (4) feet horizontal to one (1) foot vertical. The vertical height of a berm shall be measured from an average of the adjacent preconstruction ground elevations on either side of the berm to the top of the berm. Berms shall also be designed to provide a natural appearance, with a serpentine and undulating grade.

D. A cover growth of City approved plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.

1. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three (3) months. Ground cover plants other than grasses must be at least the four (4) inch pot size and must be planted at a rate of one per twelve (12) inches on center, in triangular spacing.
2. Landscape plantings shall be spaced randomly to help visually break up the continuous line of the berm.
3. Prairie Landscaping. The use of prairie, wet meadow sedge, wildflower and tall grass prairie ground covers on berms shall require a narrative that includes:
4. The seed source
5. The seed mixture
6. The proposed nurse crop
7. The planting time line
8. The maintenance requirements for years 1-5.

7.3 RECREATIONAL AND AESTHETIC PONDS

7.3.1 Construction of a recreational or aesthetic pond shall require a permit from the Engineering Division.

7.3.2 The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point, placement of excavated material, erosion control devices and final grading for Engineering Division review and approval.

7.3.3 For ponds that serve as a storm-water management facility the design shall follow MMSD, WDNR and City of Mequon standards.

7.3.4 The construction of new recreational or aesthetic ponds or enlargement of existing recreational or aesthetic ponds shall be subject to the following:

A. A minimum four (4) foot wide safety shelf with a maximum depth of twelve (12) inches shall be constructed.

B. The slopes leading to the pond edge shall be landscaped with materials which provide adequate traction for foot traffic, avoiding slippage above the permanent waterline.

C. The pond buffer shall be set back no less than thirty (30) feet from the property line. The high watermark of a pond may not fall within a (periphery) buffer yard. The Planning Commission has the authority to require reasonable conditions including

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increased set-backs. The set-back requirements may be reduced or waived by staff or the Planning Commission in the case of the joint construction of a pond by adjacent property owners.

D. The outside pond slope shall be no steeper than five (5) feet horizontal to one (1) foot vertical above the permanent water surface level and three feet horizontal to one foot vertical below the safety shelf.

E. The area of the pond at the ordinary high water mark shall be no greater than twenty percent (20%) of the total lot area.

F. All detention/retention ponds shall have a buffer and landscape plan.

7.4 RETAINING WALLS

7.4.1 Retaining walls are structures that are constructed to support almost vertical (steeper than 70 degrees) or vertical slopes of earth masses.

7.4.2 The construction of retaining walls shall be subject to the following:

A. Retaining walls shall have a minimum offset of three (3) feet from an adjoining lot line and five (5) feet from a street right-of-way or the fall height of the wall whichever is greater. This offset may be increased by the city engineer if the physical conditions of a property, such as drainage or trees, require a larger offset.

B. Retaining walls in excess of 3 feet in height require retaining wall design and certification by a State of Wisconsin Professional Structural Engineer.

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City of Mequon

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Office of Planning Commission

TO: Common Council
FROM: Bridget Henk, Assistant City Engineer
DATE: May 14, 2018
SUBJECT: ORDINANCE 2018-1520 An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

Background

Requirements for filling, excavating and berms appear in the City of Mequon Code of Ordinances in Sections 58-8, 58-564 and Section 58-603. Staff proposes that Section 58-8 include definitions for Aesthetic and Recreational Ponds, Fill, and Excavation and Section 58-603 refer to the Standard Specifications, to avoid the duplication in language. Staff also proposes a simplification of Section 58-564, leaving only the governing language and moving the detailed requirements to the Standard Specifications.

The Engineering Division fully reviewed the fill permit process and revised the permit application, permit instructions, ordinance Section 58-564, ordinance 58-603 and the Standard Specifications for Land Development. Enforcement remains largely the same, with an administrative relocation of the language. The ordinance language was also updated to be more uniform with other Chapter 58 sections. The revised permit instructions, permit form and Chapter 7 of the Standard Specifications for Land Development are attached.

Analysis

The revisions to Section 58-603 exempts projects that have previously been reviewed and approved by Planning Commission for filling and excavation. Sites that would still require Planning Commission approval would include single family homes that deviate from the Master Grading Plan or that were not a part of a Master Grading Plan.

At the April 9, 2018 meeting, Planning Commission indicated that staff should evaluate whether 1,000 cubic yards was an appropriate threshold for requiring Planning Commission review. Planning Commission approved the ordinance, maintaining the requirement for Planning Commission review for fill greater than 1,000 cubic yards.

Fiscal Impact

There is no fiscal impact of the text amendment, permit application, or the Standard Specifications for Land Development.

Recommendation

Staff recommends that the Common Council adopt the ordinance amending Chapter 58 of the Mequon Municipal Code as it relates to Filling, Excavating and Berms.

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The Standard Specifications for Land Development was adopted by the Public Works Committee on June 12, 2018

Attachments:
Permit Instructions (PDF)
Fill Permit App - 2018 revision (PDF)
Sec._58_8.___Definitions (PDF)
Sec._58_564 - final (PDF)
Sec._58_603 - final (PDF)
Standard Specifications Chapter 7 (PDF)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2018-1520

An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to Filling, Excavating and Berms

WHEREAS, the Common Council previously adopted Chapter 58 of the Mequon Municipal Code which includes regulations concerning filling, excavating and berms; and

WHEREAS, the Planning Commission and the Common Council desire for that regulations concerning filing, excavating and berms be consistent with other Chapter 58 regulations; and

WHEREAS, the regulation of filling, excavating and berms is reasonable and necessary to protect the health, safety and welfare of the residents and the Community;

NOW, THEREFORE, THE MAYOR AND THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 58-8, Section 58-564 and Section 58-603 of the Mequon Municipal Code is hereby amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. - Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that modifies the existing elevation

Sec. 58-564. - Landscaping, Screening, Berming and Ponds

(i) *Berm requirements*. The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or

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unless otherwise agreed to by the applicant. ~~be permitted subject to the following:~~

~~(1) The berm shall not exceed 4½ feet in vertical height, shall be located at least ten feet from a side or rear lot line and five feet from the road right-of way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(2) An earth berm exceeding 4½ feet in vertical height shall be permitted only after approval of the planning commission, or park board if the berm is proposed within a City owned park or preserve, as to the height and location and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission, or park board if appropriate.~~

~~(3) All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.~~

~~(4) A cover growth of city approved plant material or mulching containing no noxious weeds shall be immediately established over the entire berm to prevent erosion or unsightly conditions.~~

~~(5) In addition to a cover growth of plant material, all berms shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. Berm and landscape plans for commercial, multi-family, condominium and subdivision development shall be approved by the planning commission. Berm plans for single-family residential lots shall be approved by the building inspector. Berm plans proposed within a city owned park or preserve shall be approved by the park board.~~

~~(6) If the construction of a berm requires more than 250 cubic yards of fill to be brought to the site, a filling permit shall be obtained from the city engineering department.~~

~~(7) Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three months after planting.~~

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~shall be subject to the following: Note: Pond standards shall be periodically reviewed by the public safety committee to determine what, if any, amendments are necessary.~~

~~(1) The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point for engineering~~

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~~department review and approval.~~

~~(2) A four-foot-wide safety shelf with a depth of 12 inches shall be constructed.~~

~~(3) The pond shall be lined with materials to avoid slippage.~~

~~(4) The pond shall be set back no less than 30 feet from the property line.~~

~~(5) The pond slope shall be no steeper than five feet horizontal to one foot vertical.~~

Sec. 58-603. - Filling, ~~and~~ excavating and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. ~~Filling and excavation~~ Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling ~~for single-family residential lots and residential subdivisions~~ shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval may be approved at a staff level.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and that are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4)~~(1)~~ The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5)~~(2)~~ All land disturbing activities shall comply with the "City of Mequon Standard Specifications for Land Development", in effect at the time of permit application or unless otherwise agreed to by the applicant. ~~Seventh Edition, December, 2002, or any amendment or revision thereof approved by the common council~~.

~~(3) All land disturbing activities shall comply with the Stormwater Management Technical Standards developed by the Wisconsin department of natural resources.~~

(6)~~(4)~~ A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five calendar days after the project is complete to allow the engineering staff sufficient time for

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coordination of the effort and inspection.

~~(5) A permittee under this section shall obtain a Wisconsin department of natural resources (WDNR) grading permit, Wis. Stats. § 30.19(1)(c) for the grading of slopes of a waterway.~~

~~(6) A permittee under this section shall file a notice of intent (NOI), which falls under the general construction site stormwater discharge permit. follow WDNR submittal process and procedures.~~

~~(7) The NOI must be filed with the stormwater section located in Madison. Disturbing one or more acres requires submittal of NOI WDNR Form #3400-161 (compliance with NR 216).~~

~~(8) If waters of the state are involved, a chapter 30 <https://library.municode.com/wi/mequon/codes/code_of_ordinances?nodeId=PTIICOOR_CH30FIPRPR> permit is required from the WDNR, Form #3500-53.~~

~~(9) The permit applicant shall notify the Water Management Specialist at the WDNR.~~

~~(10) The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.~~

(7)~~(11)~~ The applicant must complete and file with the city a ~~land disturbing~~ Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development", latest edition. ~~City of Mequon's standard specifications for land development.~~

~~(12) Plans shall be submitted and approved by the engineering department once the appropriate WDNR permits have been obtained. Plans shall be submitted on a plat of survey, subdivision grading and drainage plan or landscape plan. Plans shall include the following:~~

~~Footprint of residence~~

~~Property lines~~

~~Contour lines at two-foot minimum~~

~~Location of the berm/land disturbing activity with setbacks, offsets, height, and width~~

~~Type of landscaping and cover to be planted~~

~~Cross section of berm with slopes~~

~~Scale, north arrow, date~~

~~Name of the person who prepared or obtained the information~~

~~Significant tree and vegetation removal~~

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(8)~~(13)~~ ~~Construction of a berm requiring more than 250 cubic yards of fill, either brought on to the site or from excavating or grading the site, shall require a filling permit from the engineering department. Land disturbing activities/berms that require between 250 to 1,000 cubic yards of fill shall be approved by staff.~~ Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

~~(14) The berm shall not exceed 4½ feet in vertical height. The toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners.~~

~~(15) Any berm in excess of 4½ feet, but not more than six feet, may be permitted to within five feet of a street right-of-way provided the side facing the street line is attractively landscaped. Such berm shall be attractively landscaped and that shall be subject to approval by the department of community development.~~

~~(16) A berm exceeding six feet in vertical height shall be permitted only after approval by the planning commission as to the height, location, and landscaping of the berm. Neighbors adjacent to and across the street from the proposed berm shall be notified of the proposal prior to review by the planning commission.~~

~~(17) All berms shall be constructed such that the width of the base of the berm, measured from toe to toe, shall be no less that three times the vertical height of the berm. The vertical height of the berm shall be measured from an average of the existing undisturbed ground surfaces at the toe on either side of the berm.~~

~~(18) A cover growth of plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.~~

~~(19) In addition to a cover growth of plant material, all berms/land disturbing activities shall have landscape plantings spaced randomly to help visually break up the continuous line of the berm. City approval of landscaping plans for berms less than six feet is not required.~~

~~(20) Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and provide reasonable complete coverage within three months after planting.~~

~~(21) No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.~~

~~(22) The construction of the berm shall not adversely affect drainage of surrounding~~

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~~properties.~~

(9)~~(23)~~ The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10)~~(24)~~ A permit does not authorize any work other than what was described in the application and approved plan.

(11)~~(25)~~ The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12)~~(26)~~ The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13)~~(27)~~ The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14)~~(28)~~ The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

(15) The applicant shall contact the City of Mequon Engineering Division within 5 calendar days of completion for closure inspection. Final documentation of permitted activities shall be provided to the City no more than 10 calendar days after final completion.

~~(29) Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.~~

~~(30) The aforementioned requirements shall also apply to modifications to any existing berms.~~

(16)~~(31)~~ The city engineer has the authority to stop work, amend, or alter any measures in the construction. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. ~~of the berm. Failure to comply will result in the issuance of a municipal citation in an amount not less than $30.00, nor more than $500.00, and the costs to prosecute for each violation.~~

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~~Each day a violation exists shall constitute a separate offense.~~

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

_____
Approved by: Dan Abendroth, Mayor

Date Approved: August 15, 2018

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 15, 2018.

_____
Caroline Fochs, City Clerk

Published: _____

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City of Mequon

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ENGINEERING\PUBLIC WORKS

FILLING, EXCAVATING AND BERMS PERMIT INSTRUCTIONS

The filling of land is regulated by the City of Mequon Code of Ordinances Sections 58-598/606, Engineering Requirements and Sections 58-671/677, Erosion and Storm Water Runoff. A filling permit shall be necessary under most circumstances.

1. **Apply for Filling, Excavation and Berms Permit**

   Application form filled out and submitted by owner or agent. Applicant provides necessary information, plat of survey or diagram of proposed plan, and fee. Reference Chapter 7 of the Standard Specifications for Land Development for specific requirements for the plans.

   The request for filling will be referred to the Department of Community Development for Planning Commission review and approval if amount of fill or earth moving exceeds 1000 cubic yards or if the height of a berm is greater than 4.5 feet. A Planning Commission Application is required.

2. **Staff and Planning Commission Review**
   Staff conducts an on-site inspection and/or reviews stormwater drainage and topographic maps, DNR Wetland Inventory maps, flood plain maps and as-built record drawings for potential conflict with city utilities.

   For projects requiring Planning Commission approval
   Staff prepares a report of the findings for Planning Commission consideration of the project. At the Planning Commission meeting approval, conditional approval, tabling, or denial will be evaluated. Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

   For projects not requiring Planning Commission approval
   Staff prepares and provides applicant with a letter with approval, applicable conditions, or denial. Once the conditions are met and the permit is approved, a copy of permit will be forwarded to Building Inspection and address file.

3. **Inspections**
   Staff conducts periodic inspections depending upon the amount of fill requested or type of grading work.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

4. Permit Closure

Permit closure inspections. Inspection shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon
11333 N. Cedarburg Road, 60W
Mequon, Wisconsin 53092

Permit No. _____
Date Filed _____
Exp. Date _____
Fees Paid _____
Permit Closed

Engineering Division

Permit Application for Filling, Excavating and Berms

PLEASE PRINT CLEARLY

Agent / Contact Name: _____ Phone #:_____

Property Owner Name: _____ Phone #:_____

Agent Or Owner Contact Address: _____

_____

Location Or Address Of Work Site: _____

Or: Description _____ 1/4 Section _____ T9n, R _____E

Tax Key No. _____

Subdivision _____ Lot _____ Block _____

Estimated Date Of Completion: _____

Reason For Fill/Removal/Excavation _____

_____

Name Of Contact Other Than Applicant:_____ Phone #:_____

FEE COMPUTATION

$60.00 – 0 – 250 C.Y.

$120.00 – 250 C.Y. – 1,000 C.Y. Total Fee $_____

Total Cubic Yards To Be Deposited/Removed/Excavated _____C.Y.*

**Over 1000 cubic yards and Berms greater than 4½- feet in height requires Planning Commission approval. Separate application to the next available Planning Commission meeting is necessary. When Planning Commission review is required, the Filling, Excavating and Berm Permit fee is waived. Planning Commission review fees would be required.*

SIGNED: _____ DATE: _____

Department of Community Development Approval _____ *Date*_____
Engineering Division Approval _____ *Date*_____

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-8. - Definitions.

Aesthetic or Recreational Pond means a manmade body of water designed for aesthetic ornamentation, such as an architectural feature or in a recreational capacity, and not otherwise regulated by Section 58 Article VIII. – Erosion and Stormwater Runoff Control.

Fill means material placed on a property such as earth, stones, or sand that modifies the existing elevation. For purposes of a fill permit, fill does not include mulch.

Excavating means the removal of material from a property that that modifies the existing elevation

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-564. - Landscaping, screening, berming and ponds.

(a) *Street trees* . The developer shall provide for the planting or retention of street trees on both sides of all new roadways and, where deemed appropriate by the planning commission for aesthetic purposes, along existing roadways adjacent to the development. Such trees shall have an average trunk dimension of three inches at a point six inches above the grade. To insure proper planting and growth, the trees shall be balled, burlapped and staked in accordance with city specifications. Such trees shall be provided at a rate of notless than one tree every 30 feet of new roadway frontage and located within the road right-of-way at a point two feet from the right-of-way line unless otherwise required by the planning commission. The species of trees shall be subject to planning commission approval and should be selected from an established list of street trees supplied by the Mequon tree board. Planting of native species shall be encouraged. The city reserves the right to retain the services of a qualified consultant to verify proper installation and health of required landscaping.

(b) *Retention of existing trees* . See tree preservation regulations in Chapter 84 and the City of Mequon Policy Manual for Tree Protection and Preservation.

(c) *Parking lot landscaping.* Off street parking lots with more than ten stalls shall have at least ten percent of the interior parking area landscaped. The species of landscape plantings are subject to planning commission approval, or park board approval if the landscaping is to be located within a public park or preserve.

(d) *Parking lot shading.* Landscaping in and around parking lots shall be designed, planted and maintained so that a minimum of 30 percent of the parking area will be shaded during summer growth within ten years of planting.

(e) *Screening.* The following requirements apply:

(1) Every development shall provide sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, streets or railroads.

(2) Where a non-residential or multifamily residential site adjoins a single-family residential site, a solid wall or fence, vine covered fence or compact vegetative screen not less than 4½ nor more than six feet in height, shall be located adjoining the property line except in a required front yard.

(3) In non-residential or multifamily residential developments a landscaping area at least 25 feet in depth between the abutting ultimate road right-of-way and parking/driveway areas will be planted with materials suitable for screening or ornamenting the site, whichever is appropriate.

(4) A compact landscaping hedgerow or undulating berm, not more than three feet in height, shall be located directly adjacent to commercial and multi-family residential parking and driveway areas facing public roads. Hedges shall be a minimum of two feet in height when measured immediately after planting and shall be maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting. This landscaping buffer is intended to screen the view of parked cars and asphalt from pedestrian and motorist view.

(5) Dumpsters shall be located and screened in accordance with city approval.

(f) *Landscaping standards.* The following standards apply to commercial or multi-family residential sites.

(1) The undeveloped area of any commercial or multi-family residential site (exclusive of areas under roof or pavement) shall be landscaped with approved living trees, shrubs, vines, flowers, grass and ground covers and may include water bodies, crushed rock, sand, wood chips, landscaping furniture and ornamental pieces.

(2) At least one tree and two shrubs shall be planted for each 1,000 square feet or portion thereof of the area to be landscaped. Each required tree shall have an initial caliper of no less than two inches and a height of at least seven feet.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(3) No tree as measured from its center shall be located within five feet of a vehicular accessway, bike trail or public sidewalk or within ten feet of a street light, stop sign, fire hydrant, street sign or directional sign.

(4) All landscaping material located within a sight distance triangle shall be two feet or less in height or have a clearance of eight feet beneath the lowest branch or projection.

(5) No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede growth of said plant.

(6) Landscaping plans for development proposals shall be designed and stamped by a licensed landscaped architect. This requirement may be waived for minor alteration or improvement plans that, in the discretion of the department of community development, do not require the services of such a professional.

Additionally, the department of community development and/or planning commission may require the applicant to pay an additional administrative fee for the city to contract with a landscape architect to review and comment on the applicant's proposed landscape plan.

(g) *Landscaping installation.* All landscaping shall be installed in a sound workmanship manner and according to accepted good planting procedures with quality plant materials. A qualified representative of the city shall inspect all landscaping and no certificates of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided or the appropriate escrow is established in compliance with section 58-110 for future installation of the required landscaping.

(h) *Landscaping maintenance.* The owner and/or agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance that shall be kept free from refuse and debris. All landscaping areas shall be provided with a readily available water supply. The developer or property owner of an industrial, institutional, park, commercial or multi-family residential site shall promptly replace any landscaping which has died or is damaged beyond repair. The replacement planting shall be the same size and quality as in the approved landscaping plan. The site's landscaping shall be maintained perpetually in accordance with the approved landscaping plan on file in the department of community development or department of parks. The planning commission shall require the developer to establish an escrow account equal to 25 percent of the initial landscape contract cost to insure that landscaping that dies within three years of planting will be replaced by the developer. Note: This escrow amount is in addition to the escrow account required by section 58-110, and will be returned after three years.

(i) *Berm requirements.* The construction of earth berms shall require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(j) *Aesthetic and recreational pond requirements.* The construction of new aesthetic or recreational ponds or enlargement of existing aesthetic or recreational ponds require a Filling, Excavation and Berms Permit and shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of Filling, Excavation and Berms Permit application or unless otherwise agreed to by the applicant.

(Code 1957, § 3.14(3); Ord. No. 96-878, 5-14-1996; Ord. No. 97-910, 2-11-1997; Ord. No. 98-952, 7-14-1998; Ord. No. 2007-1202, § IV, 6-12-2007; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Sec. 58-603. – Filling, excavating, and berms

No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a filling permit in compliance with engineering department policies and specifications. Permits shall be in compliance with article VIII. The construction of berms, earth moving, grading and filling shall comply with the following.

(1) Land disturbing activities relating to land divisions or commercial developments that have received Planning Commission approval on the filling, excavating and berms are exempt from the requirements of Section 58-603.

(2) Lot grading plans associated with residential home construction that have excavation and fill volumes fewer than 1,000 cubic yards and are reviewed by the City Engineer with the building permit process are exempt.

(3) The City Engineer or assigned designee may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the City Engineer or assigned designee is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

(4) The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII of this Code, erosion and stormwater run-off control regulations.

(5) All land disturbing activities shall comply with the City of Mequon Standard Specifications for Land Development in effect at the time of permit application or unless otherwise agreed to by the applicant.

(6) A permittee under this section shall notify the engineering department before starting any land disturbing activity and again not more than five days after the project is complete to allow the engineering staff sufficient time for coordination of the effort and inspection.

(7) The applicant must complete and file with the city a Filling, Excavating and Berms permit and erosion control plan and application. Plans must be submitted in compliance with the "City of Mequon Standard Specifications for Land Development, latest edition

(8) Berms/land disturbing activities involving construction in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval. A berm exceeding four and a half (4.5) feet in vertical height shall be permitted only after approval by the Planning Commission as to the height, location, and landscaping of the berm.

(9) The applicant must complete the land disturbing project as described on or before a date specified by the city. The applicant may not begin or continue construction of the land disturbing activity after this date unless the city and/or WDNR grants a new permit extension in writing.

(10) A permit does not authorize any work other than what was described in the application and approved plan.

(11) The applicant must allow the free and unlimited access to the project site at any time to any city or state employee who is investigating the project's construction, operation or maintenance.

(12) The acceptance of the permit and commencement of land disturbing activities signify that the applicant has read, understands, and agrees to follow the conditions of the permit.

(13) The applicant must keep a copy of the permit and approved plans at the project site at all times until the project is complete.

(14) The city or WDNR may modify or revoke the permit if the project is not completed according to the terms of the permit, or if the city or WDNR determine the activity is detrimental to the public interest.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

(15) The applicant shall contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion.

(16) The city engineer has the authority to stop work, amend, or alter any measures. Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.

(Code 1957, § 3.12(6); Ord. No. 97-913, 4-8-1997; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2008-1238, § I, 4-8-2008)

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

Standard Specifications for Land Development

CHAPTER 7

FILLING, EXCAVATING, AND BERMS

7.0 GENERAL

7.0.1 No person, firm or corporation shall transfer to dump or place upon any lands, public or private, solid fill within the limits of the City of Mequon without first obtaining a permit in compliance with Engineering Division policies and specifications. Filling and excavation shall be in compliance with article VIII, Section 58-671 to 58-678, of the Mequon Code of Ordinances.

7.0.2 Preservation of topography. No change in topography of any land shall be permitted which would result in increasing any portion of the slope to a ratio steeper than one and one-half (1½) feet horizontal to one (1) foot vertical within a distance of five (5) feet from an adjoining property line, except with the written consent of the abutting property owner(s) and approval by the city engineer.

7.1 LAND DISTURBING ACTIVITIES

7.1.1 The construction of berms, earth moving, grading, land disturbing activities and filling shall comply with article VIII, Section 58-674, erosion and storm water run-off control regulation.

7.1.2 The applicant must complete and file with the City an Erosion Control Permit Application, an Application for Filling, Excavating, Berm Construction or Grading, and provide construction plans.

7.1.3 Plans must be submitted in compliance with the City of Mequon's Standard Specifications for Land Development – Chapter 2.

7.1.4 An application which limits fill to less than one-thousand (1,000) cubic yards may be approved by staff. Land disturbing activities requiring fill in excess of 1,000 cubic yards shall submit a plan to the Planning Commission for review and approval.

7.1.5 The city engineer may waive the permit requirement at his/ her discretion wherein the permit application seeks approval for less than twenty-five (25) cubic yards of fill and the city engineer is reasonably satisfied that there is no significant likelihood of adverse impact on drainage affecting adjoining properties.

7.1.6 All land disturbing activities shall comply with the Storm Water Management Technical Standards developed by the Wisconsin Department of Natural Resources.

7.1.7 A permittee under this section shall file a Water Resources Application for Project Permit (WRAPP) and shall follow the WDNR submittal process and procedures.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

7.1.8 The applicant is responsible for obtaining any permit or approval required for the project by local zoning ordinances, WDNR, or by the U.S. Corps of Engineers before starting the project.

7.1.9 A permittee under this section shall notify the Engineering Division before starting any land disturbing activity and again not more than five days after the project is complete.

7.1.10 Permit closure inspections shall indicate that the amount of fill or excavation was placed in accordance with the permit. Contact the City of Mequon Engineering Division within 5 days of completion for closure inspection. Final documentation of permitted activities to be provided to the City no more than 10 days after final completion. Permit is closures are based on the following:

A. 0-250 C.Y. – Visual inspection by City Staff

B. 251-1,000 C.Y. –Material volume certification (i.e. truck tickets) provided by the applicant and reviewed by City staff

C. Greater Than 1,001 C.Y. – Record drawings prepared by a Registered Land Surveyor in the State of Wisconsin. Drawings shall conform to the standard specifications for Land Development Grading Record Drawings (Section 8.4).

7.2 BERMS

7.2.1 Construction of a berm(s) shall require a Filling, Excavating, Berm Construction or Grading Permit from the Engineering Division. The City's Landscape Architect consultant may also be required to review more extensive plans.

7.2.2 No berm/land disturbing activity shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factors, creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of surrounding property.

7.2.3 The construction of the berm shall not adversely affect drainage of surrounding properties.

7.2.4 Single family residential subdivision restrictions may be more restrictive. If a single family residential subdivision has restrictions on the construction of berms, the subdivision must approve or conditionally approve the berm plan and acknowledge their approval to the engineering department prior to any city approval. The City of Mequon does not enforce single family residential subdivision covenants and restrictions regarding the construction, landscaping, or maintenance of berms.

7.2.5 Berm requirements shall also apply to modifications to any existing berms.

7.2.6 The construction of earth berms shall be permitted subject to the following:

A. Berm(s) shall not exceed four and one-half (4½) feet in vertical height. The nearest toe of the berm shall be located at least ten feet from a side or rear lot line and five feet from the road right-of-way. The offset requirements from a side or rear lot line may be waived in the case of the joint construction of a berm by adjacent property owners. An earth berm exceeding four and one-half (4½) feet in vertical height shall be permitted only after approval of the Planning Commission.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

B. All berms shall be constructed such that the width of the base of the berm shall be no less than three times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.

C. All berms shall be constructed such that the side-slopes shall be graded no steeper than four (4) feet horizontal to one (1) foot vertical. The vertical height of a berm shall be measured from an average of the adjacent preconstruction ground elevations on either side of the berm to the top of the berm. Berms shall also be designed to provide a natural appearance, with a serpentine and undulating grade.

D. A cover growth of City approved plant material or mulching, containing no noxious weeds, shall be immediately established over the entire land disturbed area to prevent erosion or unsightly conditions.

1. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three (3) months. Ground cover plants other than grasses must be at least the four (4) inch pot size and must be planted at a rate of one per twelve (12) inches on center, in triangular spacing.
2. Landscape plantings shall be spaced randomly to help visually break up the continuous line of the berm.
3. Prairie Landscaping. The use of prairie, wet meadow sedge, wildflower and tall grass prairie ground covers on berms shall require a narrative that includes:
4. The seed source
5. The seed mixture
6. The proposed nurse crop
7. The planting time line
8. The maintenance requirements for years 1-5.

7.3 RECREATIONAL AND AESTHETIC PONDS

7.3.1 Construction of a recreational or aesthetic pond shall require a permit from the Engineering Division.

7.3.2 The property owner shall submit a pond plan that identifies maximum pond size, maintenance plan, pond depth, and pond overflow point, placement of excavated material, erosion control devices and final grading for Engineering Division review and approval.

7.3.3 For ponds that serve as a storm-water management facility the design shall follow MMSD, WDNR and City of Mequon standards.

7.3.4 The construction of new recreational or aesthetic ponds or enlargement of existing recreational or aesthetic ponds shall be subject to the following:

A. A minimum four (4) foot wide safety shelf with a maximum depth of twelve (12) inches shall be constructed.

B. The slopes leading to the pond edge shall be landscaped with materials which provide adequate traction for foot traffic, avoiding slippage above the permanent waterline.

C. The pond buffer shall be set back no less than thirty (30) feet from the property line. The high watermark of a pond may not fall within a (periphery) buffer yard. The Planning Commission has the authority to require reasonable conditions including

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

increased set-backs. The set-back requirements may be reduced or waived by staff or the Planning Commission in the case of the joint construction of a pond by adjacent property owners.

D. The outside pond slope shall be no steeper than five (5) feet horizontal to one (1) foot vertical above the permanent water surface level and three feet horizontal to one foot vertical below the safety shelf.

E. The area of the pond at the ordinary high water mark shall be no greater than twenty percent (20%) of the total lot area.

F. All detention/retention ponds shall have a buffer and landscape plan.

7.4 RETAINING WALLS

7.4.1 Retaining walls are structures that are constructed to support almost vertical (steeper than 70 degrees) or vertical slopes of earth masses.

7.4.2 The construction of retaining walls shall be subject to the following:

A. Retaining walls shall have a minimum offset of three (3) feet from an adjoining lot line and five (5) feet from a street right-of-way or the fall height of the wall whichever is greater. This offset may be increased by the city engineer if the physical conditions of a property, such as drainage or trees, require a larger offset.

B. Retaining walls in excess of 3 feet in height require retaining wall design and certification by a State of Wisconsin Professional Structural Engineer.

Attachment: 2018 Berm Policy Discussion (6236 : Berm Policy Review)

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2913
Fax: 262-242-9655

www.ci.mequon.wi.us **Office of Engineering**

TO: **Public Works Committee**
FROM: **Kristen Lundeen, Director of Public Works/City Engineer**
DATE: **May 11, 2021**
SUBJECT: **2020 Work Plan (5.11.21)**

Attached for the Board's review is a copy of the proposed work plan for 2021.

Attachments:
2021 Work Plan (5.11.21) (PDF)

Public Works Committee
2021 Work Plan (May 11, 2021)

Month	Agenda Topics
May	• Authorization an agreement with the Wisconsin Department of Transportation to purchase for a temporary limited easement at Katherine Kearney Carpenter Park for the I-43 North South Freeway Project. • Review of Standard Specifications for Land Development, for update and specifically as it relates to regulations of berms • WisDOT Update (quarterly)
June	• Resolution Approving the Acquisition of a Drainage Easement and the Award of a Contract to Replace a Failed Storm Sewer Culvert Across the Property at 9731 N. Courtland Drive for a Total Cost of $34,625

Future Agenda Topics

- Prioritization of Drainage CIP
- Review/reprioritization of Shorecliff drain tile CIP project
- Prioritization of culvert replacement associated with the Prairie View Lane drainage study
- Hawthorne Road
- EAB Update
- Sidewalk Snow Removal Policy

2021 Completed Items:

- Contract Award for the Demolition of the City Owned Residential Structures at 11236 and 11242 North Cedarburg Road
- Approval of the Lion's Club Special Event Agreement for Lion's Fest at Rotary Park
- Extension of the 2020 Policy for Mequon Community Pool and Parks Operations Due to COVID-19
- Establishment a Template Memorandum of Understanding for Private Water Trusts Operating in the Public Right-of-Way
- Approval of a Special Event Agreement for Annual Gathering on the Green Festivities Held During the Third Week of July in Rotary Park
- Approval of an Annual Special Event Agreement for the Jewish Food Festival in August at Rotary Park
- Award of the Reuter Pavilion Roof and Gutter Replacement Contract to Larson's Building Services of Mequon, Wisconsin in the Amount of $28,660
- Notification to the Wisconsin Department of Transportation (WisDOT) of the City's Intent to Install an Eastbound Turn Lane on Mequon Road at its Intersection with Weston Drive, in Connection with the Ozaukee Inter-Urban Trail Crossing Improvement Project in the Town Center Neighborhood
- 2021 Road Program Contract Authorization
- Repeal of the 2021 Policy for Mequon Community Pool and Parks Operations Due to COVID-19 and Establishment of the Mequon Community Pool and Parks Standard Operating Procedures Due to COVID-19
- Authorization of the Execution of an Amended State Municipal Agreement with the Wisconsin Department of Transportation for Design and Construction of the
- Authorization of City Staff to Exceed the Public Works Equipment Replacement Capital Account Balance by $225,000 During 2021 for the Purchase of a New Loader Vehicle with Snowplow and Wing Attachments
- Approval of the Purchase of a 2016 Dynapac CP142 9-Wheel Rubber Tire Roller from Centex Equipment Sales of Early, Texas for a Total Cost of $39,000
- Award of the 2021 Crack Sealing Contract to Thunder Road of Genesee, Wisconsin in an Amount Not-to-Exceed $181,000
- Award of the 2021 GSB-88 Bituminous Seal Contract to Fahrner Asphalt Sealers, of Waunakee, Wisconsin, in an Amount Not-to-Exceed $188,000
- Awarding of the 2021 Road Improvements Contract to Payne & Dolan of Jackson, Wisconsin, in the Amount of $1,047,750
- Award of the Rotary Park Parking Lot Improvements Contract to Stark Pavement of Brookfield, Wisconsin in the Amount of $487,000
- Authorization for the Execution of an Agreement with WE Energies for the Replacement of Street Lights in Phase I of the Mequon Business Park at a Cost of $275,000
- Award of a Contract for HVAC Preventative Maintenance Services During the Period May 1, 2021 - April 30, 2022 to Dillett Mechanical Services, Waukesha, Wisconsin in the Amount of $21,168
- Approval of a Contract with SMB Landscape Contractors, Thiensville, Wisconsin for Baseball Field Management Services at Rennicke and Schmit Fields During the 2021 Season in the Amount of $15,500

Attachment: 2021 Work Plan (5.11.21) (6238 : 2021 Work Plan (5.11.21))

Highland Road Interchange and Subsequent Authorization for Execution of an Amendment to the Intergovernmental Agreement with Ozaukee County for the Same	• Award of a Contract for Ash Tree Removal Servi Wallace Tree and Landscape Inc. of Glendale, Wisconsin in the Amount of $13,750 • Award of a Three-Year Contract for Median Maintenance to Northern Exposure Landscaping, Inc., of Mequon, Wisconsin at an Annual Cost of $25,000

Attachment: 2021 Work Plan (5.11.21) (6238 : 2021 Work Plan (5.11.21))