

EXCAVATION AND GRADING ORDINANCE

The Town Board of the Town of Medary, County of La Crosse, State of Wisconsin, acting under village powers, does hereby ordain as follows

1. Ordinance No. 4.031 is hereby repealed and Ordinance No. 4.031 is re-created as follows:

Section 1. STATEMENT OF PURPOSE

It is hereby determined that unnecessary soil erosion causes onsite and offsite environmental damage, that the public health, safety and welfare require regulation of land leveling, development and construction to avoid such unnecessary soil erosion, and that the regulations contained in this Ordinance are the minimum regulations which will avoid such unnecessary erosion and protect the public health, safety and welfare.

Section 2. DEFINITIONS

As used in this Ordinance;

(A) EROSION, means the process by which the ground surface is worn away by action of wind or water and materials therefrom are carried, or are likely to be carried, across any property lines in significant quantities.

(B) EXCAVATION AND/OR GRADING, means any act by which soil, rock, or mineral matter is cut into, dug, uncovered, removed, displaced, and includes the removal of vegetative cover and land leveling. No grading permit shall be required for agricultural or horticultural activities Landscaping activities of one acre or less, the construction of a driveway with less than a six percent grade which does not at any point vary from the surrounding grade by more than a two to one slope or not to exceed ten feet, the normal graveling or grading of a road or driveway, the construction or maintenance of a septic system or associated drain-field as regulated by State and County regulations, any project involving a disturbance of less than 100 cubic yards of earth, and quarry operations governed by another Town Ordinance.

(C) IMPROVEMENT means any silt trap, dam, retaining wall, catch basin, channel grade stabilization structure, diversion, mulching or planted vegetation.

(D) PLAN, means a schematic map showing the salient features of the land and developer's proposed methods to be devised to control soil erosion and water run off. The methods to be used for restoration and revegetation after completion of the project are also included in this definition.

Section 3. APPLICATION PROCEDURE

Any property owner and land developer shall be required to file a written application and obtain a permit or receive a written waiver from the Town Board before grading and/or excavating as above defined. This permit or Board waiver from permit shall be required before a zoning or building permit shall be issued for a residential one or two family dwelling or commercial building. All applications shall be submitted on the Town's Standard Application Form for this Ordinance, and be filed with the Town Clerk. The applicant may be required to meet with the Town Board to determine the extent of necessary information to be submitted on the Application Form.

The Application shall include

(A) The specifications showing and adequately describing all measures and improvements which can reasonably be undertaken to reduce, control or eliminate erosion during development, along with appropriate schedules based on the time and stage of construction which show that such measures and improvements will be undertaken at the earliest practicable time,

(B) In the event the Board is unable to make an adequate decision on the Application as filed, it may require such additional information as it deems necessary in fulfilling the purposes as defined in Section 1. of this Ordinance.

(C) No site plan required by the Town of Medary shall be approved unless it shows all improvements reasonably required to prevent erosion after completion of development.

(D) No plat shall be approved unless it shows all improvements reasonably required to prevent erosion after completion of development, as required by this Ordinance and the Medary Town Subdivision Ordinance No. 9.01 and its amendments.

Section 4. HEARING PROCEDURE BEFORE THE TOWN BOARD

(A) All proposed project applications for grading and/or excavating in excess of 10,000 cubic yards shall require review by the Town Board, Said review will be scheduled by the Town Board within 15 days of the filing of a satisfactorily completed application form with the Town Clerk.

(B) The Town Board of the Town of Medary may require compliance with the recommendations of officials or agencies appointed by the Town Board which may

- (1) require, where appropriate and reasonable under the circumstances, the construction of silt traps, the mulching and temporary or permanent planting of areas exposed by grading, the construction of diversions, channel linings, grade stabilization structures and bank protection structures;
- (2) place limits on the area of land which may be exposed and;
- (3) require all other acts and impose all other limits and restraints which are necessary and reasonable to control erosion.

Section 5. GRANTING OF PERMITS

(A) All permits herein are subject to the final approval of the Medary Town Board which, upon the facts presented, may approve or disapprove of the issuance of a permit.

(B) Permits granted shall be issued by the Town Clerk after the appropriate fees have been paid to the Town Treasurer and any required surety bond or irrevocable letter of credit has been executed and filed with the Town Clerk. The fee schedule for Grading and/or Excavation Permits issued under this Ordinance shall be

- (1) For all excavation or grading projects of 10,000 cubic yards or less the fee shall be Ten Dollars (\$10.00).
- (2) For projects in excess of 10,000 cubic yards the fee shall be Twenty Five Dollars (\$25.00).

- (3) Said permits shall be enforced and effective for the period set down by the Town Board. No permit may be issued for more than one excavation season. The permit shall set the limitations of time frame by which the holder of the permit must comply. Restoration of top soil and revegetation must be completed in the fall season so that the seeding may be effective before the winter season begins. The Board, at its discretion, reserves the right to waive revegetation requirements on certain projects.

Section 6. PERMIT STANDARDS AND PROVISIONS.

The standards and provisions for all permits granted herein are as follows

- (A) All fill material added to an approved site shall be clean, noncombustible and non-deleterious.
- (B) All decisions made by the Town Board under this Ordinance shall be made to effect the purpose of controlling erosion to the extent that this is reasonable under the circumstances.
- (C) The recipient of a permit agrees to indemnify and hold harmless the Town of Medary, its employees, agents or officers from any cost, suit, liability or award which might come or be brought or assessed because of the issuance or exercise of the permit, or because of any adverse effect upon any person or property attributed to a partially or entirely completed project of the Applicant.
- (D) The Town Board, prior to issuance of a permit, may require that a surety bond or irrevocable letter of credit be secured by the applicant, contractor or developer holding the the permit; such bond or irrevocable letter of credit amount and conditions thereto are to be MADE AND APPROVED by the Town Board to effectuate the purposes of this Ordinance.
- (E) If conditions arise during development or construction which require the taking of measures or precautions or the imposition of limits or restraints to control erosion, the Board, at its discretion, may require that such be taken. When during development or construction, it appears that measures or precautions previously required are unnecessary, the Board may choose to waive them in writing.
- (F) Any grading or excavation permit issued is limited to the stated project, description, time frame and cubic yardage granted in the permit.
- (G) As a condition of granting the permit, the Applicant agrees that the site may be inspected by the Town Board of the Town of Medary or its agents at all reasonable times with advance notice to the permittee.

Section 7. STOP WORK ORDER

The Town Board or its agents may order all construction or development work stopped on any site upon which they find a substantial violation of this Ordinance and shall post the premises with a stop work order which shall remain in effect until the violation has been corrected, or a further permit is granted.

Section 8. VIOLATIONS

It is a violation of this Ordinance:

- (A) To fail to meet any time limits imposed by regulation under this Ordinance except failure caused by act of God, or
- (B) *Do* fail to do any act required by this Ordinance or any regulation imposed hereunder, or
- (C) To do any act prohibited by this ordinance or any regulation imposed hereunder, or
- (D) To continue any construction or development work on a site except to correct a violation while a stop work order is in effect, or
- (E) To suffer or permit any violation to continue in existence except continuance caused by an act of God.

Section 9. PENALTIES

Any person, firm, or corporation violating this Ordinance or any part thereof shall upon conviction thereof forfeit not less than \$100.00 nor more than \$5,000.00 and the cost of prosecution, and in default of such fine and costs shall be imprisoned in the County Jail until payment of such forfeiture and the costs for a period not to exceed thirty (30) days for each violation. Each day of violation shall constitute a separate offense.

Section 10. SEVERABILITY

The sections, subsections, sentences, clauses, phrases or portions of this Ordinance are hereby declared to be severable, and if any is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction such holding shall not affect the validity of the remaining portion of this Ordinance.

Section 11. EFFECTIVE DATE

This Ordinance shall take effect and be in force upon its passage and publication.

Passed June 11, 1984

the town of medary

Published

Attest:

Cecil Miller, Supervisor II

Keil, Town Clerk