

VILLAGE OF DENMARK COUNTY, WISCONSIN

**AN ORDINANCE ADOPTING THE VILLAGE OF DENMARK
FILL & GRADING ORDINANCE.**

STATE OF WISCONSIN

Village of Denmark, Brown County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Village of Denmark Fill & Grading Ordinance Adoption Ordinance. The purpose of this ordinance is for the Village of Denmark, Brown County, Wisconsin, to lawfully adopt the Fill & Grading Ordinance.

SECTION II – AUTHORITY

The Village Board of the Village of Denmark, Brown County, Wisconsin, has authority under its village powers to adopt the Fill & Grading Ordinance pursuant to the authorization contained in Wis. Stat. §§ 61.354, 62.23, 87.30, and 145.02, as amended.

SECTION III – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the Village on a roll call vote with a quorum present and voting and proper notice having been given, provides for the adoption by the Village of Denmark a Fill & Grading Ordinance.

SECTION V – PUBLIC HEARING

The Village of Denmark held the required public hearing for the Fill & Grading Ordinance on August 15th, 2023.

SECTION VII – ADOPTION OF TOWN COMPREHENSIVE PLAN

The Village Board, by the enactment of this ordinance, formally adopts the Village of Denmark Fill & Grading Ordinance.

SECTION VIII – SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION IX – EFFECTIVE DATE

This ordinance is effective on publication or posting.

Adopted this 21st day of August, 2023.

Susan Selner
Susan Selner, President

8/21/2023
Date

Attest:

Sherri Konkol
Sherri Konkol, Clerk

8-21-2023
Date

Village of Denmark
Brown County, Wisconsin
Chapter 145: Fill and Grading Regulations
August 2023

ARTICLE I: INTRODUCTION

145-1 Authority.

These regulations are adopted pursuant to the authorization contained in Wis. Stat. §§ 61.354, 62.23, 87.30, and 145.02, as amended. This Chapter is enacted pursuant to the authority granted by the State of Wisconsin Statutes. Specific statutory references are provided within the body of this Chapter solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed so as to limit the application or interpretation of this Chapter.

145-2 Intent and Purpose.

It is the intent and purpose of this chapter to:

- A. Promote land uses and development patterns that are consistent with the Village's comprehensive plan and of adopted neighborhood, corridor, special area plans, and other such Village-approved plans, as applicable.
- B. Further the orderly use of land and the conservation of natural resources.
- C. Conserve the value of land and buildings in the Village.
- D. Provide for the enhancement and protection of the surface and groundwaters of the Village.
- E. Provide for adequate light, air, sanitation, and drainage.
- F. Protect life, health, property, and public facilities from the detrimental effects of flooding.
- G. Facilitate the powers and duties of the administrative bodies as provided hereinafter.
- H. Define the powers and duties of the administrative bodies as provided hereinafter.
- I. Provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

145-3 Title.

This Chapter shall be known, cited, and referred to as the "Village of Denmark Fill and Grading Ordinance, Brown County, Wisconsin" except as referred to herein, where it shall be known as "this Chapter."

145-4 Jurisdiction.

Jurisdiction of this Chapter shall include all lands and waters within the corporate limits of the Village of Denmark and such lands that may be added to the Village of Denmark in the future.

145-5 Compliance.

The use or development of any land or water, a change or alteration in the use of land or water, and the use, change of use, alteration, construction, reconstruction, remodeling, or expansion of any structure within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter, and other applicable local, state, and federal regulations.

145-6 Abrogation.

It is not intended that this Chapter abrogate or interfere with any constitutionally protected vested right. It is also not intended that this Chapter abrogate, repeal, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law.

145-7 Nonliability.

The degree of protection intended to be provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. This Chapter does not imply that compliance will result in freedom from damages nor shall this Chapter create a liability on the part of or a cause of acting against the Village or any officer or employee or duly designated representative for any damage that may result from reliance on this ordinance.

145-8 Severability.

Should any Section or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of this Chapter as a whole or any part thereof, other than the part so declared to be invalid.

145-9 Effective Date.

This Chapter shall become effective upon passage and posting according to law.

145-10 Permit Required.

A. Transporting, dumping, or placement of solid fill.

- (1) No person, firm, or institution, public or private, shall transport to, dump, or place upon lands, public or private, solid fill within the Village without first obtaining a permit therefor.
- (2) In granting or denying a permit, the Director of Public Works, or such authority as shall from time to time be charged by the Village Board with the regulation of solid fill, shall consider the purpose for the transportation, dumping, or placement of such fill. It shall be deemed a legitimate purpose to transport, dump, or place such minimal amount of fill as reasonably necessary to accommodate the use and development of property as allowed by the applicable use regulations of the zoning district in which the property is situated.
- (3) A fill permit may be denied or modified if such use can be accommodated without fill, or by a lesser amount of fill than that which is requested in the application for a permit, or if it is determined that the amount of fill presents an unnecessary or unreasonable risk of harm, particularly as to drainage and stormwater runoff to other properties in the area.

- B. **Drainage.** Filling operations shall not block a natural drainage course if building or development can occur consistent with the use regulations of the zoning district in which the subject property is located without filling the area of the lot which constitutes such natural drainage course. In the event building or development can only occur by the filling of a natural drainage course, such filling operation shall only be allowed if an alternate drainage course, suitable in the discretion of the Director of Public Works or the Director's designee, is provided.
- C. **Natural drainage course defined.** For purposes of this section, a natural drainage course shall be deemed to mean any creek, ravine, gully, channel, hollow, swale, or depression, through or over which surface water continuously or periodically flows in its natural course.
- D. **Notification.** In addition to any notice requirements under any applicable state or federal law, or as otherwise provided in the Village Code, the Village Clerk, or the Clerk's designee, shall provide notice by first class mailing to the owners or occupants of all properties within 500 feet of the subject property at least 21 days prior to any hearing, procedure, or consideration by the Director of Public Works, or the Director's designee, of such application.

145-11 Filling and Grading at Property Line.

In order to protect adjacent property owners from possible damage due to changes in existing grades, there shall be a grassy buffer no less than five feet in width surrounding the fill area including the front, rear, and side yards. No change in the existing topography within 25 feet of the property line shall result in the slope to a ratio greater than five horizontal to one (5:1) vertical. In no case shall any slope exceed the normal angle of slippage of the soil involved and no fill shall be placed in the grassy buffer area. The total elevation change shall not exceed the total elevation of the maximum slope ratio. The exception to this shall be where retaining walls are built with the written consent of the abutting property owner and with the approval of the Zoning Administrator.

145-12 Application for Permit.

Application for a filling permit to transfer, dump or place solid fill within the Village shall be made by the owner of the lands to be filled or the owner's designated agent in writing to the Village Clerk upon an application made available by the Village. The applicant shall set forth in the application the following information:

- A. **Location of filling operation.** Applicant shall provide tax parcel number and property address.
- B. **Proposed routes for hauling fill.**
- C. **Number, type and size of trucks to be used.**
- D. **Proposed trucking schedule, number of days, times of day, etc.**
- E. **Other equipment involved in fill operation.**
- F. **Descriptions and source of fill material.**
- G. **Fill Plan.** A fill plan shall include, but may not be limited to:

- (1) Description of area where operation is to take place.
- (2) Intent and purpose of the plan.
- (3) Estimated length of time to finish plan.
- (4) Engineering studies if available or if requested by the Village.
- (5) Plan for plantings and/or soil stabilization.
- (6) Plan for grading.
- (7) Grade of the terrain surrounding the area proposed to be filled.
- (8) Cross-section drawings showing the topography of the land before commencing the filling operation and upon completion of the filling operation.
- (9) Plan showing the number, type (genus and species), and size of all trees over six inches in diameter at breast height (DBH) that are to be removed and all trees three inches or larger DBH that will remain within the areas reasonably affected by the fill operation.
- (10) Plan for maintenance and appearance during time of inactivity.
- (11) Plan for shore and stream protection.
- (12) Other such requirements, tests, and surveys that may be imposed and information that may be requested by the Village concerning the fill area and access routes thereto. Any and all changes or amendments to the above plans shall be submitted to the Village for review and approval before such changes or amendments are executed.

H. Daily cleaning and maintenance schedule for access and hauling route, including description of the personnel and equipment onsite or contracted for this purpose. Applicant shall provide a description of measures to be taken to control dust, mud, ice, snow, stormwater, etc.

145-13 Application Fee.

Filling permit fees shall be paid for the initial application, for any renewal, and for any additional review, as established by the Village Board from time to time and as shown in the Village of Denmark Fee Schedule. The applicant shall also pay all out-of-pocket expenses incurred by the Village for its review and issuance of the permit or renewal permit.

145-14 Fill material.

Fill material shall be clean, inert material free from organic matter, brush, garbage, and material subject to organic decomposition. Fill containing items such as hollow containers, appliances, and equipment subject to subsequent collapse or settlement is prohibited. Material such as earth fill and broken concrete of a size to be approved by the Director of Public Works may be classified as acceptable fill subject to other permit requirements.

145-15 Weight of trucks.

The Director of Public Works shall review the proposed truck routes and the weight of said trucks, both unloaded and loaded, and because of weight may restrict or prohibit said trucks from using certain Village streets and highways as a condition of a filling permit.

145-16 Issuance of Permit.

The Director of Public Works may issue a filling permit to each applicant when the Director is satisfied that:

- A. The fill material meets the requirements of this Chapter.
- B. The filling operation will not create unreasonable noise, traffic, or other problems detrimental to a residential community in the area of said filling.
- C. A reasonable number of appropriate trees, as determined by the Director of Public Works and in compliance with the Landscaping section of Chapter 315: Zoning Regulations of the Village Code, will be planted to replace trees that are to be removed as a result of the filling activities, provided that the Director of Public Works shall not require that the total DBH of the replacement trees exceeds the total DBH of the trees that are removed, and the Director of Public Works shall also not require the planting of more three-inch DBH or larger trees than three times the number of three- inch DBH or larger trees that are removed.
- D. The permit shall not authorize any filling between the hours of 6:00 p.m. and 7:00 a.m. on weekdays or Saturdays nor at any time on Sunday or on a statutory holiday. The permit may restrict the hours of filling or the number of trucks involved based on the location of the filling operation and the traffic conditions in the area of the filling.
- E. The filling permit shall be for a period of not to exceed three consecutive months but may be renewed not more than two times in a calendar year.
- F. Filling permit is nontransferable.

145-17 Cash deposit.

The filling permit shall not be effective until the posting of a cash deposit of \$500 with the Village. Said cash deposit shall be held by the Village to ensure adequate clean up of streets and surrounding areas from spillage, debris, dust, all other material from the trucks carrying the fill, and inspection of filling operations by Village personnel. In the event the permittee or their contractor fails to clean up the streets at sufficient time intervals, the Village may clean up said streets and use such part of the cash deposit for the expense of clean up. The Village shall maintain a record of inspections conducted by Village personnel and use such part of the cash deposit for the expense of inspections. In the event that all or any portion of the initial cash deposit of \$500 is used for such cleanup or inspection, the permittee or their contractor shall post additional sums of money so that the deposit will continue to be maintained in the amount of \$500 for the entire time period of the filling permit.

145-18 Bond.

The filling permit shall not be effective until the posting of a surety bond executed by a surety company licensed to do business in Wisconsin in the sum of not less than \$5,000 or in such higher amount as is necessary in the opinion of the Director of Public Works for the purpose of securing the Village against any and all damages to Village property and/ or unreimbursed expenses the Village may incur from such filling operations.

145-19 Other permits.

The filling permit shall not be effective until all applicable county, state or federal licenses or permits are obtained and copies are provided to the Village. This section shall in no way limit the

requirements of those other jurisdictions to restrict or require their approval or permit, if necessary.

145-20 Exceptions.

The following activities are excluded from the requirements of this chapter:

- A. Top dressing. This chapter shall not apply to customary top dressing or fertilizing of lawns and gardens.
- B. Patios and driveways. This chapter shall not apply to construction of block or concrete patios, or driveways permitted under the Village Code, or the filling of such areas with soil after they have been removed from the property.
- C. Berms. This chapter shall not apply to the construction of a berm of 2.5 feet or less in height, provided the berm shall not change the capacity or rate of flow of water so as to adversely effect the drainage of surface water in the vicinity of the berm.
- D. Existing barrier repair. This chapter shall not apply to the repair of an existing pond or stream barrier.
- E. Minor grading. This chapter shall not apply to filling activities of 25 cubic yards of fill or less, provided that the direction of the flow of water is not altered or the grading work changes the flow from a back pitch into a residential structure to a pitch away from the residential structure, provided that such change does not direct flow toward another residential structure. The intent of this exception is to allow for minor grading and construction of planting beds, flower gardens, rain gardens, and similar activities.
- F. Razing activities. This chapter shall not apply to fill that is placed following razing activities that are regulated under the Village Code.
- G. Trench filling. This chapter shall not apply to fill that is placed into a trench that is excavated for utility or drainage purposes, provide the trench is filled to the level of the preexisting grade.
- H. Swimming pool removal. This chapter shall not apply to fill that is placed to fill the void left following the removal of a swimming pool, provided that the excavation is filled to the level of the surrounding grade and provided further that the fill material complies with this Chapter.

145-21 Signage.

Any signs shall be in accordance with the Sign Regulations section of Chapter 315: Zoning Regulations of the Village Code.

145-22 Appeal.

Any person, firm or institution who is denied a filling permit or whose filing operation is restricted due to noise, traffic or other conditions may appeal to the Village Board by filing a written notice of appeal with the Village Clerk within 30 days of the decision or action complained of.

145-23 Violations and penalties.

Any person, firm, or institution who is engaged in filling without a permit or who fails to follow the plans submitted in the application or fails to comply with the terms and conditions of a permit issued to the person, firm, or institution shall be subject to immediate suspension of the filling permit and filling activities by the Village Board and to a penalty as provided in § 1-4 of the Village Code.