

**Earthen Berms  
Draft Ordinance Amendment**

§135-8 Definitions.

EARTHEN BERM

~~A vegetated, elongated earthen mound used as a landscape barrier.~~

A mound of earth graded, shaped and improved with landscaping in such a fashion as to provide a visual and/or audible screen and transition between uses or activities of differing intensity. Rock or concrete rubble may be included in a berm if completely covered with topsoil.

§ 135-15 Fences.

B. Applicability. The permit requirements of this section apply to all fences, which shall include any physical barrier enclosing or partially enclosing any property or portion thereof constructed of wood, stone, plastic, brick, metal, ~~earth~~ or other similar materials or any combination thereof. This section does not apply to underground pet containment systems.

E. General

(3) Height

(C) Height shall be measured at all points from the ground surface directly vertical to the top of the fence. **If a fence is place atop an earthen berm, the height of the fence shall be measured from the original grade of the berm as determined by §135-15.1(A)(5).**

**PROPOSED CODE LANGUAGE BELOW**

§135-15.1 Earthen berms.

A. General

- (1) Permit Required. A permit, to be issued by the Building Inspector, shall be required for all berms or changes in topography regardless of zoning district, uses, or application.
- (2) Review and Approval.
  - (a) Completeness. Within ten (10) business days of the receipt of a permit application, the Building Inspector shall inform the applicant of its completeness or the need for additional information.
  - (b) Evaluation. All permits for an earthen berm shall be reviewed by the Building Inspector, Public Works Director, and Town Engineer. Written findings shall be provided to indicate compliance or non-compliance of the application with the requirements outlined herein.
  - (c) Decision. Within thirty (30) business days of the receipt of a complete permit application, unless action by the Zoning & Planning Commission and/or Town Board is required, the Building Inspector shall inform the applicant in writing whether the permit is approved or disapproved.
- (3) Plans and attachments.

- (a) Name, address and telephone number of the applicant, and location of building, structure, or lot where the berm is to be constructed.
  - (b) Name of person, firm, corporation, or business that is constructing or altering the berm.
  - (c) Written consent of the owner or lessee of the land upon which the berm is proposed to be located.
  - (d) Site plan depicting berm location, property lines, setbacks, proposed and existing grade contours, any related drainage facilities, and any existing easements on the subject property.
  - (e) Proposed type of fill material and cover material.
  - (f) Landscaping plan including grasses or groundcover, shrubbery, and tree types specifying the spacing and size of all plantings.
  - (g) Proposed schedule for all phases of work.
  - (h) Additional information that may be unique to the property, as required by the Building Inspector or Town Engineer.
- (4) Design
- (a) Berms shall be designed and landscaped to minimize erosion with a rounded crown at the highest point of the berm, extending the length of the berm.
  - (b) Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover. Berms adjacent to public right-of-ways shall be a slope no greater than 3:1, unless approved by the Town Engineer.
  - (c) Trees should not be planted at the very top of a berm. Rather, they should be planted on the slope side of a berm.
  - (d) Berms should be designed carefully to blend in with the surrounding environment. The gradient on berms should fluctuate in order to repeat characteristics found in nature.
- (5) Height
- (a) Maximum allowed. The height of a berm shall not exceed six (6) feet unless otherwise specified in this Section.
  - (b) How measured. The vertical height shall be measured from an average of the existing ground grade along both sides of the berm to the top or crown of the proposed berm.
  - (c) Fencing atop a berm. Fencing shall not be placed on a berm unless approved by the Zoning & Planning Commission. Where a berm is constructed and/or grading is done solely to increase the effective height of a fence, the fence's height shall be measured from the ground elevation prior to the change in topography.
- (6) Location.
- (a) Berms shall not be located within any existing or future public road right-of-way, utility easements or drainage easements.
  - (b) A berm may straddle a lot line if a landscape easement is recorded and attached as a deed restriction to the properties, including an owner's agreement and easement to be provided to the Town prior to issuance of any permit.
  - (c) The Building Inspector or Town Engineer may require a specific setback to ensure proper drainage in accordance with paren. (7) below.
- (7) Grading and Drainage
- (a) Berms shall not be permitted to adversely alter stormwater drainage patterns to neighboring property owners. The Building Inspector and/or Town Engineer may require engineering

reports, including information required under Chapter 36 of the Ledgeview Code of Ordinances, in order to assess run-off and stormwater impacts.

(8) Inspection.

- (a) Berms shall be inspected by the Building Inspector and/or Town Engineer. If berm development or berm activities are being carried out without a permit, Town personnel shall enter the land pursuant to the provisions of §§66.122 and 66.123, Wis. Stats.
- (b) It is the responsibility of the property owner to exhibit that the berm has been constructed in accordance with the approved permit, which may necessitate documentation from a Registered Land Surveyor or Professional Engineer.

(9) Fees. A fees, established by the Town Board, may be required for permits and review by Town personnel and/or the Zoning & Planning Commission.

B. Screening for single- and two-family residential properties

- (1) Applicability. This Section shall apply to properties with a single- or two-family use or zoning.
- (2) Height. A height up to eight (8) feet may be approved by the Zoning & Planning Commission and Town Board.

C. Screening for non-residential, multi-family residential, and institutional/conservancy properties.

- (1) Applicability. This Section shall apply to properties with a commercial, industrial, multi-family residential, and institutional/conservancy use or zoning, except where they abut a property zoned or used for single- or two-family residential.
- (2) Height. A maximum height of eight (8) feet is permitted by right. A height up to ten (10) feet may be permitted if approved by the Zoning & Planning Commission and Town Board.

D. Screening between residential and non-residential land uses

- (1) Applicability. That portion of any business, industrial, institutional, conservancy or multiple-family district (other than duplex construction) that is abutting property zoned or used for single-family residential development.
- (2) Height. Earthen berms used as screening in transitional yards shall have a minimum height of four (4) feet. Such berm shall not exceed ten (10) feet in height unless approved by the Zoning & Planning Commission and Town Board.

E. Screening along Interstate 43 or railroad right-of-way

- (1) Applicability. This section shall apply to any property, regardless of zoning district, which directly abuts the right-of-way for Interstate-43 or a railroad.
- (2) Location. A berm constructed to buffer noise, light and related impacts associated with the interstate or railroad must be located adjacent and parallel to the right-of-way.
- (3) Height. Earthen berms used as screening in transitional yards shall have a maximum height of twelve (12) feet unless otherwise approved by the Zoning & Planning Commission and Town Board.