

TOWN OF DUNN

ORDINANCE NO. 11-10

**AN ORDINANCE REGULATING EARTH-MOVING ACTIVITIES AND  
ESTABLISHING PERMIT REQUIREMENTS FOR EARTH-MOVING ACTIVITIES  
IN THE TOWN OF DUNN, DANE COUNTY, WISCONSIN**

Section 1: Introduction

- (1) FINDINGS AND DECLARATION OF POLICY. The Town Board of the Town of Dunn finds that unregulated earth-moving activities needlessly waste topsoil, contribute to soil erosion and adversely affect watersheds. This activity, if unregulated, may be offensive to adjacent residents. Dane County's agricultural land is rapidly disappearing and this is a result, part, of unregulated earth-moving activities. Such activities are not beneficial to the Town of Dunn.
- (2) INTENT AND PURPOSE. The purpose of this ordinance is to:
  - (a) Conserve the unique natural features of a site.
  - (b) Prevent the loss or destruction of significant vegetation, topography, archeological and historical resources, and watersheds.
  - (c) Conserve top soil.
  - (d) Prevent the loss of agricultural land.
  - (e) Preserve the environment.
  - (f) Promote the public health, safety, prosperity and

- general welfare.
- (3) SEVERABILITY. If any section, provision or portion of this ordinance is found unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.
  - (4) ABROGATION AND GREATER RESTRICTIONS. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions, the provisions of this ordinance will govern.
  - (5) INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretations shall control.

Section 2: Permit Required for Earth-Moving Activities

No person shall excavate, remove or process soil, earth, loam, sand, gravel or rock, or alter existing topography which results in the movement of more than 10,000 cubic yards of material on 1 lot of parcel of land, or on any group of contiguous parcels, in any 1 year within the Town of Dunn without first obtaining a permit from the Town Board. Nor shall any landowner knowingly allow another person to engage in earth-moving activities on the owner's land if those activities are prohibited by this ordinance.

Section 3: Exemption for Farming Activities

This ordinance shall not apply to activities on agricultural land for the purpose of conducting farming and farming-related activities.

Section 4: Application for an Earth-Moving Activity Permit

Any person wishing to obtain an earth-moving activity permit shall meet the following requirements:

- (1) Complete an application provided by the Town Clerk on a form approved by the Town Board.
- (2) Submit to the Town Clerk the completed application form and the following:
  - (a) A scale site plan showing the parcel(s) on which the earth-moving activity is planned, the area(s) of the earth-moving activity on the parcel(s) and existing contours at intervals not to exceed 5 feet.
  - (b) Estimated amount of material (in cubic yards) to be moved.

- (c) A statement of the purpose of the earth-moving activity.
- (d) Approximate dates when the earth-moving activity will begin and end.
- (e) Ultimate use of the material to be removed.
- (f) Location of surface water, wetlands, significant vegetation and topography, and archeological and historical resources on the parcel(s).
- (g) Other information as the Town Board may require.
- (h) A permit fee of \$10 for the first 10,000 cubic yards of material to be moved and \$10 for each additional full 10,00 cubic yards of material to be moved.

Section 5: Conditions for Issuance of a Permit

The Town Board shall approve a permit only if it finds that the following standards have been met:

- (1) The earth-moving activity will not result in the material loss or destruction of significant vegetation, topography, archeological or historical resources, unless the earth-moving activity can be controlled so as to avoid such loss or destruction, or the loss or destruction can be mitigated and has significant offsetting benefits.
- (2) The earth-moving activity will not result in significant soil erosion, significant damage to surface or groundwater, a significant change in drainage patterns, and will have no material adverse effect on watershed protection and soil or water conservation.
- (3) The earth-moving activity is compatible with adjacent properties, does not create excessive noise or dust, and is not contrary or harmful to the public health, safety, and general welfare of the Town of Dunn and its citizens.

Section 6: Conditions May Be Imposed on the Permit

The Town Board may impose reasonable conditions on the issuance of a permit. The Board may require the applicant to prepare any necessary plans required to implement the condition(s). The conditions may include, but are not limited to:

- (1) The manner of conducting the earth-moving activity, including the means of controlling and preventing erosion, siltation and dust.
- (2) The amount of material to be removed.
- (3) Requirements for restoration of the site upon completion of earth-moving activities.
- (4) Hours of operation.
- (5) The length of time for which the permit is valid.
- (6) A bond or other surety to insure compliance with permit conditions.

Section 7: Existing Activities

Any earth-moving activity in active and lawful operation at the time of this ordinance becomes effective may continue on the parcel or parcels on which it is occurring but may not be expanded to other parcels unless and until the requirements of this ordinance are met.

Section 8:            Violation and Penalties and Enforcement

Any person who violates or fails to comply with any provision of this ordinance shall, upon conviction, forfeit not less than \$10 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day or incident of violation shall be a separate offense. Town law enforcement officers are authorized to issue citations or complaints for violation of any provision of this ordinance. The Town Board may order that land altered in violation of this ordinance be restored as nearly as possible to its pre-violation condition at the violator's expense. Compliance may be obtained by injunctive or other appropriate judicial relief.