



TO: Planning & Zoning Commission

RE: Modifications/Amendments to the Zoning Ordinance, Chapter 295, Sections 295-8, Definitions; and 295-15, Earthen Berms

FROM: Todd Gerbers, Director of Planning & Code Compliance

DATE: September 11, 2024

ISSUE: Discussion and action on modifications/ amendments to the Zoning Ordinance, Chapter 295, Sections 295-8, Definitions; and 295-15, Earthen Berms

RECOMMENDATION: Staff recommends approval of this zoning code modification including any amendments from the P&Z Commission

GENERAL INFORMATION

Village Staff is proposing modifications to the Village’s ordinance relating to the regulations of earthen berms. Recent construction of such berms throughout the Village has brought forward the need to address multiple concerns with the current ordinance and regulations.

The Village’s current ordinance addresses the setback from property lines and that the property owner shall ensure proper drainage when constructing such a berm. Although the drainage requirement is a very good idea (and it is maintained in the proposed revised ordinance), the 6’ setback requirement restricts two property owners from agreeing to construct a shared berm that crosses over a shared property line. There are a few berms that currently exist within the Village, and they seem to be functioning quite well. Staff sees no reason to prohibit such a construction if both property owners can agree. Other notable revisions include prohibiting berms in public right-of-way, in drainage ways, from blocking vehicular and pedestrian sight lines, and ensuring proper drainage between properties. Additionally, the word “landscaped” would be added to the definition of earthen berm in section 295-8 of the zoning code.

RECOMMENDATION/CONDITIONS

Staff recommends approval of the zoning modifications to earthen berms listed in sections 295-8, Definitions; and 295-15, Earthen Berms as submitted including any amendments from the P&Z Commission.

Current Village Berm Ordinance – 295-15

295-15

F. Earthen berms shall be constructed not less than six feet from property lines. The property owner must ensure proper drainage. Any fence, wall or hedge placed on a berm shall comply with all requirements of this section. The height of berms, fences and hedges shall be measured from the natural grading and contours of the land, not from the grade elevation of the berm.

295-8

EARTHEN BERM

A vegetated/**landscaped**, elongated earthen mound used as a sound, sight and/or landscape barrier.

Proposed Village Berm Ordinance

F. General regulations. Earthen berms may be constructed in any zoning district subject to the following restrictions:

1. Berms shall not be located within any existing or future public road rights-of-way.
2. Berms shall not be constructed to obstruct the view of any vehicular or pedestrian traffic from ingress or egress to any public or private roadway, private driveway, walkway, or trail system (walk or bike).
3. Berms shall not be located within any drainage easement.
4. Berms located within any utility easement are discouraged and the Village of Hobart is not responsible for any such removal or reconstruction in the event that any work is required in such utility easement.
5. Berms shall not be placed in any drainage ways, floodplains, wetlands, or conservancy areas.
6. Berms located in the required front or corner side yard shall not exceed three feet in height from natural adjacent grade.
7. Berms located in a side or rear yard shall not exceed eight feet in height from natural adjacent grade.
8. The side slope of any berm shall be so constructed as to allow for the safe maintenance of such berm.
9. All berm construction shall not impede or negatively impact surface water drainage or any applicable drainage plans and be so designed as to not sheet drain surface water directly on to adjoining properties.

10. Berms placed across shared property lines may be so constructed provided both property owners submit to Village Administration a detailed plan of the proposed berm (location, height, width, drainage plan, etc.) along with signatures from both property owners agreeing to the jointly construction, location, and maintenance of the proposed berm.
11. Any deviation from the regulations in this section may be brought to the Village Site Review Committee by the affected property owner. The Site Review Committee may approve such deviations upon taking into account the physical and spatial environment, traffic and pedestrian patterns, and overall integration into the neighborhood and surrounding neighborhood / development.
12. This section does not apply to the following:
 - a. Temporary topsoil piles on construction sites.
 - b. Mound septic systems.

ORDINANCE 2024-08

AN ORDINANCE TO REPEAL AND RECREATE A SECTION OF THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, BROWN COUNTY, WISCONSIN, SPECIFICALLY A PORTION OF SECTION 8 (DEFINITIONS) OF ARTICLE III (TERMINOLOGY) AND SECTION 15 (FENCES, WALLS, HEDGES AND BERMS) OF ARTICLE IV (GENERAL PROVISIONS) OF CHAPTER 295 (ZONING)

Purpose: The purpose of this Ordinance is to change the definition of “earthen berm” and establish new regulations for the construction of berms in the Village.

The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

Section 1: A portion of Section 8 (Definitions) of Article III (Terminology) of Chapter 295 (Zoning), of the Code of the Village of Hobart, is hereby repealed and recreated to read as follows:

§ 295-8. Definitions.

EARTHEN BERM

A vegetated/landscaped, elongated earthen mound used as a sound, sight and/or landscape barrier.

Section 1: Section 15 (Fences, Walls, Hedges and Berms) of Article IV (General Provisions) of Chapter 295 (Zoning), of the Code of the Village of Hobart, is hereby repealed and recreated to read as follows:

§ 295-15. Fences, walls, hedges and berms.

A. A fence, wall, hedge or berm may be erected, placed, maintained or grown subject to the following location and height restrictions:

(1) No fence, wall, hedge or berm which is located in a required front or corner side yard shall exceed a height of three feet except as otherwise provided in this chapter.

(2) No fence, wall, hedge or berm which is located in a side or rear yard shall exceed a height of eight feet.

Note: Fences located in the PDD Centennial Centre at Hobart Zoning District may have additional standards specific to that district.

B. In the Agricultural and Exclusive Agricultural Districts, no fence, wall, or hedge shall be erected, constructed, maintained, or grown to a height exceeding four feet above the ground within 15 feet of any street right-of-way or street right-of-way projected.

C. In the Community Business, Limited Industrial, and Industrial Park Districts, no fence, wall, or hedge shall be erected, constructed, maintained, or grown to a height exceeding three feet above the ground within 15 feet of any street right-of-way or street right-of-way projected.

D. Fencing not in the required setback area may not exceed eight feet in any zone.

E. Construction and maintenance.

(1) The height of fences, walls and hedges shall be measured from the natural grading and contours of the land.

(2) Fences shall be constructed with the finished side facing the neighboring property. Where support posts are installed on one side of the fence, the posts shall be on the side facing the owner of the fence.

(3) Every fence shall be constructed in a straight and true, substantial workmanlike manner. Fences shall be erected and constructed in a uniform fashion with uniformity in material use, application and construction. Fences shall be constructed of material reasonably suited for the purpose for which the fence is proposed to be used.

(4) Fences shall be constructed so the bottom side of the fence follows the contour of the land with any space between the bottom of the fence and grade maintaining a uniform height above grade for the length of the fence.

(5) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance, public or private. Any such fence which is, or has become, dangerous to the public safety, health or welfare, is a public nuisance and shall be repaired, replaced or removed.

(6) No fence, wall, hedge or berm shall be erected, placed, maintained or grown which creates an obstruction to the natural or designed surface storm drainage patterns in the surrounding area.

(7) In those instances where a fence exists as an enclosure which restricts access from the front to the rear yard, a gate, identifiable as a collapsible section, or other such means of recognizable ingress, shall be unobstructed and a minimum of three feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure.

F. Earthen berms may be constructed in any zoning district subject to the following restrictions:

(1) Berms shall not be located within any existing or future public road rights-of-way.

(2) Berms shall not be constructed to obstruct the view of any vehicular or pedestrian traffic from ingress or egress to any public or private roadway, private driveway, walkway, or trail system (walk or bike).

(3) Berms shall not be located within any drainage easement.

(4) Berms located within any utility easement are discouraged and the Village of Hobart is not responsible for any such removal or reconstruction in the event that any work is required in such utility easement.

(5) Berms shall not be placed in any drainage ways, floodplains, wetlands, or conservancy areas.

(6) Berms located in the required front or corner side yard shall not exceed three feet in height from natural adjacent grade.

(7) Berms located in a side or rear yard shall not exceed eight feet in height from natural adjacent grade.

(8) The side slope of any berm shall be so constructed as to allow for the safe maintenance of such berm.

(9) All berm construction shall not impede or negatively impact surface water drainage or any applicable drainage plans and be so designed as to not sheet drain surface water directly on to adjoining properties.

(10) Berms placed across shared property lines may be so constructed provided both property owners submit to Village Administration a detailed plan of the proposed berm (location, height, width, drainage plan, etc.) along with signatures from both property owners agreeing to the jointly construction, location, and maintenance of the proposed berm.

(11) Any deviation from the regulations in this section may be brought to the Village Site Review Committee by the affected property owner. The Site Review Committee may approve such deviations upon taking into account the physical and spatial environment, traffic and pedestrian patterns, and overall integration into the neighborhood and surrounding neighborhood / development.

(12) This section does not apply to the following:
a. Temporary topsoil piles on construction sites.
b. Mound septic systems.

G. Prohibited materials and their exclusions. Barbed wire, razor wire, chain link fencing with barbed/sharp ends, aboveground electric fencing, snow fencing, chicken wire, hardware cloth and fencing of similar materials are prohibited, except as provided by the following:

(1) Barbed wire, chicken wire, hardware cloth and fencing of similar materials where erected on farming lands used to enclose or create boundaries for areas used for cultivation, crops or livestock.

(2) Barbed wire in Industrial District fencing where the barbed wire is placed at least seven feet above the ground.

(3) Low-voltage electric fencing erected on farming lands where said fencing is used to create barriers/boundaries for the containment of livestock.

(4) Snow fencing, chicken wire, hardware cloth and fencing of similar materials are allowed as a temporary use without a building permit from October 15 through April 15 or to barricade construction sites any time during the year.

Section 3: Any Ordinance or parts thereof, inconsistent herewith are hereby repealed.

Section 4. This Ordinance shall be effective from and after its passage by the Village Board and publication as required by law.

Passed and approved this 15th day of October, 2024.

Richard Heidel, Village President

Attest:

Aaron Kramer, Village Administrator

CERTIFICATION

The undersigned, being the duly appointed Clerk of the Board of the Village of Hobart, certifies that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on October 15th 2024.

(Seal)

Lisa Vanden Heuvel, Village Clerk