

City of Waukesha, Wisconsin

Ordinance No. ____-19

**An Ordinance Creating Section 16.075 of the Waukesha Municipal Code,
Regarding Site Stabilization, Final Grading, and Driveway Installation
at One- and Two-Family Residential Developments**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Section 16.075 of the Waukesha Municipal Code is created to read in its entirety as follows:

16.075 Site Stabilization, Grading, and Driveway; Seasonal Delay; Permit.

- (1) **Applicability.** This section applies only to new construction of one- and two-family residential buildings.
- (2) **General Rule.** Completion of final site grading, installation of driveway, and stabilization of disturbed land as defined in Wis. Admin. Code SPS 321.125(1)(c) shall take place by the date the certificate of occupancy is issued, except as provided in subsection (3). Failure to comply shall not preclude the issuance of the certificate of occupancy, but will result in penalties as described in subsection (8).
- (3) **Exception for Seasonal Delay.** If, in the exercise of good faith by the builder, a certificate of occupancy cannot be issued before October 15 of the year in which construction begins, then the completion of grading, installation of driveway, and stabilization of disturbed land as defined in Wis. Admin. Code SPS 321.125(1)(c) shall take place by the subsequent May 31. Failure to comply by the subsequent May 31 will result in penalties as described in subsection (8).
- (4) **Erosion Control.** Erosion control measures complying with Wis. Admin. Code SPS 321.125 must remain in place at all times prior to stabilization of disturbed land as defined in Wis. Admin. Code SPS 321.125(1)(c), including during the delay period described in subsection (3). If during the delay period erosion control measures have become ineffective for any reason they must be replaced; the delay period does not excuse failed erosion control measures. Failure to maintain erosion control measures will result in penalties as described in subsection (8).
- (5) **Permit Required.** When an application for a building permit for the construction of a one- or two-family dwelling is submitted to the City, an application for an Erosion Control, Grading, and Driveway Permit shall concurrently be submitted, and the Erosion Control,

Grading, and Driveway Permit shall be issued upon the submission of a complete application with all attachments required by the application, and the required fee. The fee shall be as stated in the fee schedule maintained by the Community Development Department and amended from time to time.

- (6) **Transitional Provision.** One- and two-family residential buildings that are otherwise fully eligible for issuance of a certificate of occupancy as of the effective date of this section but have not completed final grading, installed a driveway, or stabilized disturbed land shall have certificates of occupancy issued promptly, and if completion of those items cannot in good faith be done before October 15, 2019, then upon application for and issuance of an Erosion Control, Grading, and Driveway Permit under subsection (5) they shall have until May 31, 2020 in which to complete those items.
- (7) **Responsibility for Compliance, Transfer of Permit.** The application for a permit under this section shall be signed by both the general contractor performing the construction and the owner of the land on which the construction is taking place, and both parties signing the application shall be jointly and severally liable for compliance with the requirements of this section unless the construction contract specifically states that only one of the parties is responsible for completion of those items and that party expressly acknowledges sole responsibility in writing and filed with the City. Permits are transferable by the filing with the City of a written assignment and acceptance by the transferee of responsibility for compliance with the requirements of this section. Upon such transfer, the transferor shall no longer be responsible for compliance with the requirements of this section.
- (8) **Penalty.** Violation of this section shall subject the responsible parties to a forfeiture of \$100, plus court costs and fees, per each day of continuing violation.

Section 2. All ordinances, or portions of ordinances, inconsistent with this ordinance are hereby repealed.

Section 3. This Ordinance shall be effective the day after its publication.

Passed the 1st day of October, 2019.

Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk