



# VILLAGE OF TWIN OAKS

1393 Big Bend Road, Suite F • Twin Oaks, MO 63021  
(636) 225-7873 • fax (636) 225-6547 • [www.vil.twin-oaks.mo.us](http://www.vil.twin-oaks.mo.us)

## Application for Grading Permit

(TO BE USED FOR REQUESTED GRADING, EXCAVATION OR FILL PERMIT OR ANY COMBINATION THEREOF)

**Requirements/Timing:** Approval of the Board of Trustees and issuance of a Grading Permit by the Village Administrator or designee must be obtained prior to any depositing of fill, grading or excavation on any Lot, parcel, tract or right-of-way. Application for Grading Permit may be made following approval of a site development plan (in "A," "B," and "D" Zoning Districts) or of a Final Development Plan or Limited Development Plan (in a "C," Zoning District), as applicable. Application for Grading Permit may also be made prior to the foregoing development plan approvals if and as required to prepare a Lot for development; *provided, however, that* approval of a Grading Permit does not obligate the Village to grant any required development plan approval and any such grading activity undertaken prior to plan approval is at Applicant's risk.

[NOTE: A separate Grading Permit is not required for: (i) grading for the foundation or basement of any building, structure or swimming pool for which a Building Permit has been properly issued; and (ii) grading in connection with a subdivision which has been duly approved by the Board of Trustees in accordance with the Village Subdivision Regulations.]

**Four (4) copies of this Application form shall be submitted accompanied by all information/data requirements, set forth below and including all application fees. (Please type or print in ink) In addition to the application fees, upon approval of the permit (or zoning approval) and prior to issuance, Applicant may be required to establish a deposit with the Village as set forth in Section 500.120 of the Village Building Code.**

**Information Concerning Applicant:** Applicant hereby submits the following information concerning the grading, filling or excavating activities proposed for the site:

**Location/Address of Site:** \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

**Name of Owner and/or Name and Title of Officer (if Applicant is a corporation or other legal entity):**

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Current Proposed Use of Site/premises and acreage or fraction thereof involved:** \_\_\_\_\_



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**SECTION 500.120: ADDITIONAL REQUIREMENTS FOR ISSUANCE OF CERTAIN PERMITS**

A. *Performance Security Required.* Each applicant:

1. For a demolition permit; or
2. For a building permit involving any site improvement to which a Development Plan or Limited Development Plan process applies under the Zoning Code of the Village of Twin Oaks, Missouri; and each person or entity:
  - a. Undertaking any grading or excavation which is subject to grading permit, building permit or subdivision approval requirements; or
  - b. Using public or private streets within the Village in connection with the improvement of real property, including the construction of buildings or structures, which has an estimated value of over twenty-five thousand dollars (\$25,000.00) shall, before undertaking any work under such permit or activity and in addition to any fees for such permits or other required deposits, establish a deposit or performance security with the Village:
    - (1) To assure timely and satisfactory undertaking and completion of such demolition, grading or improvement such that the public safety, convenience and welfare is secured,
    - (2) To secure against damage to such streets, and
    - (3) To assure the removal in a manner satisfactory to the Village of any earth, mud, ice, snow, rock, gravel, sand, cement, asphalt, trash, debris or other materials that block or otherwise limit the use and enjoyment of said streets or endanger those using said streets, in the manner and in the amounts provided in this Section; provided that, requirements of this Section shall not apply to a public utility right-of-way user which has at least twenty-five million dollars (\$25,000,000.00) in net assets and does not have history of permitting non-compliance within the Village.

B. *Deposit/Security Options.* Deposits or performance guarantees required by this Section shall be in one of the forms, as applicable, provided below:

1. Cash deposited with the Village Administrator to be held in an interest-bearing account dedicated for that purpose. All interest accruing on the account shall be retained by the Village to offset administrative and other costs of maintaining the cash deposits; or

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2. An irrevocable letter of credit drawn on a local financial institution for a period of at least one (1) year and in a form approved by the Village Attorney. The letter of credit may not be drawn on any financial institution with whom the applicant or a related entity has any ownership interest or with whom there is any joint financial connection that creates any actual or potential lack of independence between the institution and the applicant. The letter of credit and any associated deposit agreement shall provide that the issuing institution will pay on demand to the Village such amounts as the Village may require to fulfill the obligations set forth in Subsections (A) and (D) of this Section. The letter of credit shall state that any balance remaining at the expiration shall automatically be deposited in cash with the Village Administrator, unless a new letter of credit is issued and agreed to by the Village or the Village issues to the institution a written release of the obligations for which the letter of credit was deposited; or
3. In an "A" Single-Family Dwelling District and/or a "B" Single-Family Attached Dwelling District and where the estimated cost or value of the activity subject to the foregoing permit or approval requirements is fifty thousand dollars (\$50,000.00) or less, as determined by the Code Official, a performance bond or security with a good and sufficient surety in favor of the Village and in a form approved by the Village Attorney guaranteeing the obligations set forth in Subsections (A) and (D) of this Section.

C. *Amount Of Deposit/Security Required.* The amount of deposit or performance security required pursuant to this Section shall as follows:

1. For activity within an "A" Single-Family Dwelling District and/or a "B" Single-Family Attached Dwelling District, either:
  - a. In the case of a cash deposit or irrevocable letter of credit, the amount of twenty-five percent (25%); or
  - b. In the case of a performance bond or security, the amount of one hundred percent (100%) of the estimate of the cost, as determined by the Code Official, of the proposed demolition, the completion of the proposed grading or excavation and/or installation of the proposed improvement.
2. For activity within a "C" Commercial District and/or a "D" Park District, a cash deposit or irrevocable letter of credit in the amount of one hundred percent (100%) of the estimate of the cost, as determined by the Code Official, of the proposed demolition, the completion of the proposed grading or excavation and/or installation of the proposed improvement.

D. *Use Of Deposits/Security.* The Village may use deposits or may apply the performance security to defray or reimburse any cost to the Village to secure the public safety, convenience and welfare in the event of a failure:

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1. To timely and satisfactorily undertake and/or complete the demolition, grading or improvement which is the subject of the permit issued;
  2. To repair damage to public or private streets within five (5) business days of written notification of such condition by the Code Official or the Village Administrator; or
  3. To satisfactorily remove materials resulting from the construction activity that block or otherwise limit the use and enjoyment of streets within three (3) calendar days of written notification of such condition by the Code Official or the Village Administrator.
- E. *Releases.* Unless otherwise required by law, the Village shall release the deposit or performance security required under this Section:
1. Upon written request of the applicant to the Village Administrator; and
  2. Within thirty (30) days of inspection and written certification by the Code Official of the satisfactory completion of all work undertaken under the permits issued.
- F. *Appeals.* If an applicant believes that a release of deposit or performance security has been improperly denied, a written appeal shall be made to the Village Administrator who shall provide a written decision within a reasonable time. The applicant may appeal the Village Administrator's decision in writing to the Board of Trustees which shall hold a hearing thereon within a reasonable time after receipt of such appeal and shall determine in writing the merits of such appeal within thirty (30) days of the conclusion of the hearing unless a continuance is requested by the applicant. No such denial shall be deemed final until such appeals procedure has been exhausted.
- G. *Additional Remedies.* If any party fails to comply with any obligations of this Section, the Code Official or the Village Administrator may recommend that the Village Attorney take appropriate legal action and may also withhold any grading, building or occupancy permits to this applicant or related entities until such compliance is cured.
- H. *Replacement Letter Of Credit.* In the event a developer who has posted a cash escrow or letter of credit with the Village in accordance with Subsection (B) of this Section transfers title of the subdivision property prior to full release of the escrow or letter of credit, the municipality shall accept a replacement escrow or letter of credit from the successor developer in the form allowed in Subsection (2) of this Section and in the amount of the escrow or letter of credit held by the Village at the time of the property transfer, and upon receipt of the replacement escrow or letter of credit, the Village shall release the original escrow or letter of credit in full and release the prior developer from all further obligations with respect to the performance guarantee if the successor developer assumes all of the outstanding obligations of the previous developer.

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- I. *Provisions Subject To Certain Requirements Of State Law.* All provisions contained in this Section shall be read in consonance with the provisions contained in Section 89.410, RSMo., as amended from time to time and in the event of a conflict between the provisions of this Section and those contained in Section 89.410, RSMo., the later shall prevail and control. (Ord. No. 116 §7, 7-2-03; Ord. No. 142 §1, 4-7-04; Ord. No. 180 §1, 4-6-05; Ord. No. 374 §5, 10-3-12)