

## **Chapter 9**

### **Grading and Excavating**

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**Part 1****Grading****§9-101. Title.**

This Part shall be known and may be cited as the “Grading Ordinance.”  
(*Ord. 656, 4/9/2015*)

**§9-102. Purpose.**

The purposes of this Part are to regulate the modification of natural terrain, and the alteration of drainage and to provide for certain erosion and sediment control measures to safeguard persons, to protect property, to maintain the present level of ecology and to promote the public welfare by regulating and controlling the design, construction, quality of materials, use, location and maintenance of grading, excavation and fill.

(*Ord. 656, 4/9/2015*)

**§9-103. Definitions.<sup>1</sup>**

As used in this Part, the following terms shall have the meanings indicated unless the context clearly indicates a different meaning:

*Applicant*—any person or entity who applies for or to whom a permit is issued pursuant to this Part and/or who is subject to inspection under this Part.

*Bedrock*—natural rock layer, hard or soft, in place at ground surface or beneath unconsolidated surficial deposits.

*Building*—any structure having a roof supported by columns or walls for the housing or enclosure of persons or animals. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate “building.”

*Building permit*—a valid permit issued by the Township pursuant to the Construction Code [Chapter 5, Part 1] for the construction, erection or alteration of a structure or building.

*Clearing*—the clearing, grubbing, scalping, removal of trees or stumps and removing and disposing of all vegetation and debris within the site, including the conditions resulting therefrom.

*Construction*—the erection, alteration, repair, renovation, demolition or removal of any building or structure, and the clearing, stripping, excavating, filling, grading and regulation of sites in connection therewith.

*Debris*—loose refuse, rock, mud or earth material not suitable for use as presently situated or constituted, as determined by the Code Official. See also “waste.”

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<sup>1</sup>Editor’s Note: See also the general definitions contained in Chapter 1, Part 1, of this Code.

*Department of Environmental Protection (DEP)*—the Department of Environmental Protection of the Commonwealth of Pennsylvania or any agency successor thereto.

*Department of Transportation (PennDOT)*—the Department of Transportation of the Commonwealth of Pennsylvania or any agency successor thereto.

*Developer*—any person commencing proceedings under this Part to effect the development of land for himself or for another.

*Erosion*—the detachment and movement of soil or rock fragments or the wearing away of the surface by water, wind, ice or gravity, including such processes as gravitational creep.

*Excavation*—any act by which earth, sand, gravel, rock, coal or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or relocated, including the conditions resulting therefrom.

*Existing or natural grade*—the elevation of the existing ground surface above sea level prior to any excavating or filling.

*Fill*—any act by which earth, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported or moved to a new location, including the conditions resulting therefrom, or the material used in such activity.

*Finished grade*—the elevation of the ground surface above sea level after grading has been completed and the elevation coincides with the elevation called for in a grading plan.

*Floodplain*—same definition as in the Floodplain Ordinance [Chapter 8].

*Grading*—an excavation or fill or any combination thereof (either initially or repeatedly), including the conditions resulting from any excavation or fill.

*Grading permit*—a permit issued by the Township to authorize work to be performed in compliance with, and as required by, this Part.

*Grading plan*—the plan of proposed grading which contains all of the information required by this Part for approval of a grading permit.

*Hazard*—a danger or potential danger to life, limb or health or an adverse effect or potential adverse effect to the safety, use or stability of property, waterways, public ways, structures, utilities and storm sewers, including stream pollution.

*Professional engineer*—a person licensed or otherwise authorized by the Commonwealth of Pennsylvania to practice engineering, whose specialty is in the field of civil engineering, unless another specialty is set forth herein (e.g., such as that required for excavation and fill for slopes steeper than 2/1 slope).

*Professional landscape architect*—a person licensed or otherwise authorized by the Commonwealth of Pennsylvania as a landscape architect.

*Professional surveyor*—a person licensed or otherwise authorized by the Commonwealth of Pennsylvania as a surveyor.

*Regraded area*—any area on a property where the topographic lines have changed pursuant to a grading plan.

*Retaining wall*—a structure composed of concrete, steel or other approved building material constructed for the purpose of supporting a cut or filled embankment which would otherwise not comply with the requirements of the

standards set forth in this Part, and which is more than 4 feet in height, as measured on the exposed vertical surface of the wall.

*Rough grade*—that state of grading which approximates the finished grade in a plan of grading.

*Sedimentation*—the process by which soil or other surface material is accumulated or deposited by water, wind or gravity.

*Site*—a lot, tract or parcel of land or a series of lots, tracts or parcels of land joined together, where work is continuous and performed at the same time.

*Slope*—that ratio formed by the horizontal over the vertical difference of position and where the vertical difference is usually expressed as one (e.g., 2/1, 3/1, etc.).

*Soil*—all earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment. The term “clean soil or earth” shall mean that earthen material consisting only of uncontaminated soils, stones or rocks, or a mixture or combination of such materials, of appropriate dimensions, that are raw materials, excavated or extracted from a borrow pit or some earthen bank.

*Stripping*—any activity which removes or significantly disturbs the vegetative surface cover.

*Waste*—all parts of or any combination of material that is an unintended by-product of a manufacturing process and/or that is intended to be or has been discarded. Examples of waste for the purposes of this Part include, but are not limited to: ashes, garbage, refuse, radioactive material, demolition materials and industrial wastes such as food-processing wastes, wood, plastic, metal scrap, or any similar materials.

*Watercourse*—any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, drainage way, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

*Work*—any activity authorized under a grading permit, including, but not limited to, clearing, construction, grading and stripping.

(Ord. 656, 4/9/2015)

#### **§9-104. Grading Permit Required.**

1. Except as exempted by §9-105, no person shall do any clearing, stripping, grading, construction or other activity involving the disturbance of natural terrain or vegetative ground cover unless he has applied for and obtained a valid grading permit from the Code Official. Specifically, the following activities require a grading permit:

A. Modifying, disturbing, blocking, diverting or otherwise adversely affecting the natural overland or subsurface flow of stormwater.

B. Construction, erection or installation of any drainage dam, ditch, culvert, drain pipe, bridge or any other structure or obstruction affecting the drainage of any premises.

C. Filling, clearing, stripping, excavating and grading of any land including stockpiling (temporary or permanent) of excavated or fill material.

2. Prior to beginning work associated with a grading permit, an applicant shall provide proof that the applicant or applicant's representative has applied for and/or obtained all necessary permits and approvals, including, but not limited to, permits granted by DEP.

3. Where proposed work relates to a major or minor land development plan approved under the Subdivision and Land Development Ordinance [Chapter 22], the Code Official may grant a grading permit prior to the developer's compliance with all applicable conditions of such approval.

4. One grading permit may cover all of the grading on one site. If a major development, such as a planned residential development or a planned industrial park, is proposed for one continuous parcel or under a single phase of construction, then one grading permit may be applied for and approved.

5. Where a major development is proposed and the work is to be completed on more than one parcel or under more than one phase of construction, the Code Official may require the applicant to submit more than one grading permit application.

6. Where major modifications or alterations are proposed for work covered by an existing grading permit, the Code Official may require that an application for a new grading permit be submitted.

(Ord. 656, 4/9/2015)

#### **§9-105. Exceptions.**

A grading permit will not be required for any of the following situations:

A. An excavation which does not exceed 5 feet in vertical depth at its deepest point measured from the existing grade, if the grading does not cover an area of more than 20 percent of the site and does not exceed 5,000 square feet and does not exceed 250 cubic yards. This exception shall not affect the applicability of this Part to the requirement of a grading permit for any fill made with the material from such excavation, unless such fill is within the exception of §9-105.B. herein.

B. A fill which does not exceed 5 feet in vertical depth at its deepest point measured to the existing grade, if the grading does not cover an area of more than 20 percent of the site and does not exceed 5,000 square feet and does not exceed 250 cubic yards, provided that the surface of such fill does not have a slope at any point steeper than five horizontal to one vertical.

C. An excavation for a basement, footing of a building, swimming pool or underground structure authorized by a building permit, and an excavation of a driveway between a building site and the street where the plot plans attached to the building permit indicate existing and proposed contours.

D. A single-family dwelling site where the slope between property lines measured in any direction or the maximum excavation or fill, exclusive of the situations referred to in §9-105.C. hereof, do not exceed the slopes or quantities set forth in the following table:

Single-Family House Site Area to be Graded (Square Feet)	Maximum Slope without Permit (feet vertical per 100 feet horizontal)	Maximum Excavation or Fill without Permit (Cubic Yards)
Less than 12,000	12	100
From 12,000 to 30,000	15	200
Over 30,000	20	250

E. Authorized Township capital improvement and public works projects, provided, however, that erosion and sedimentation control measures as approved by the Township have been and are being employed.

F. Accepted agricultural land management practices, such as plowing, nursery operations, removal and/or transplanting of cultivated sod, shrubs and trees and tree cutting at or above existing ground and logging operations leaving the stump, ground cover and root mat intact.

(Ord. 656, 4/9/2015)

**§9-106. Hazardous Conditions.**

1. Whenever the Code Official determines that any existing excavation, retaining wall, embankment or fill has become a hazard, the owner of the property upon which the excavation, retaining wall, embankment or fill is located, or other person or agent in control of said property, shall, upon receipt of notice in writing from the Code Official and within the reasonable period specified therein, repair, reconstruct or remove such excavation, retaining wall, embankment or fill so as to eliminate the hazard.

2. If, after such notification, the property owner or other person has not made the necessary repairs within the time requested, then the Township may make the required repairs and the cost thereof shall be borne by the property owner by a lien or judgment obtained as provided by law.

(Ord. 656, 4/9/2015)

**§9-107. Permit Application.**

1. To obtain a grading permit, an applicant shall first file a written application upon forms furnished by the Township, including three copies of the application and required plans, specifications and timing schedule with the Township. The application must be signed by the owner of the property or an authorized agent. If the owner is a corporation, firm, business, partnership, association, limited liability company, or any other legal entity, it must be signed by the authorized agent thereof.

2. A separate application shall be required for each site.

3. No permit shall be transferable without the written consent of the Code Official. No grading permit shall be issued for work related to construction or development not permitted by the Zoning Ordinance [Chapter 27] or Subdivision and Land Development Ordinance [Chapter 22].

4. The plans, specifications, timing schedule and accompanying application shall be submitted to the Township prior to commencement of any such activity and shall include the following data:

A. Describe the land on which the proposed work is to be done by lot, block, tract or street address or similar description, which will readily identify and locate

the proposed work.

B. Provide a plan of the site, prepared by a professional engineer, surveyor or landscape architect drawn to a scale of not less than 100 feet to 1 inch showing:

(1) The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.

(2) Existing topography on the site and land adjacent to the site within 100 feet of the site boundary lines, including the location of any buildings, structures, utilities, sewers, water and storm drains, wooded areas and other significant natural features.

(3) Proposed improvements on the site including proposed contours of the land after completion of the proposed grading.

(4) All drainage provisions, erosion and sediment control measures, vegetative practices or other protective devices to be constructed in connection with or as part of the proposed work.

(5) Provisions for erosion control during construction (temporary) and during the life of the facility (permanent). Such provisions shall include a timing schedule and sequence of operations indicating the anticipated start and completion dates of the particular development sequence.

(6) A soil classification map identifying soils and listing limiting factors of applicable soils.

(7) The name of the proposed development, and names and addresses of the owner, developer and persons who prepared the plan.

(8) The plans and specifications shall be supported by such supplemental reports, data and additional information as the Code Official may reasonably require including, but not limited to, the following:

(a) Storm drainage computations and studies.

(b) Field investigation reports indicating the nature, condition and characteristics of existing drainage and flooding conditions.

(c) Results from actual soils investigations, reports or test borings, if applicable.

E. The Code Official may waive the requirements for plans, specifications, timing schedule or cost estimate if he finds that the information on the application is sufficient to show that the work will conform to the requirements of this Part.

(Ord. 656, 4/9/2015)

### **§9-108. Fees.**

Before issuing a grading permit, the Township shall collect a permit fee from the applicant in accordance with the following provisions:

A. *Application Fees and Deposits.* The Board of Supervisors shall establish from time to time by resolution fees and deposits to be paid by the applicant/developer at the time of filing the relevant application under this Part.

B. *Review Fees and Expenses.* The applicant/developer shall reimburse the Township for all fees and expenses incurred by the Township related to an application and/or grading permit under this Part including, but not limited to, the



reasonable and necessary charges of the Township professional consultants, the Township Engineer and the Township Solicitor for review and report on an application and/or grading permit under this Part and the inspection of improvements and/or work related thereto.

C. Upon filing an application, the applicant must agree, in writing, to pay costs actually incurred by the Township, regardless of whether the work related thereto is ever initiated or completed.

*(Ord. 656, 4/9/2015)*

**§9-109. Performance Financial Security for Work Within Township Right-of-Way.**

1. Prior to issuance of a grading permit, the applicant shall provide the Township with financial security guaranteeing the completion, timely installation and proper construction of any work within and/or impacting a Township road right-of-way as required by the applicable Township ordinances and the Township-approved plans, specifications and timing schedule for the grading permit. The amount of such financial security shall be equal to 110 percent of the cost of completing the work within and/or impacting the Township road right-of-way. Such financial security shall be from a source and in a form acceptable to the Township Solicitor and shall comply with the requirements of the Financial Security Ordinance [Chapter 1, Part 7].

2. After the completion of the work secured by the financial security, and as a prerequisite for the Township's release of such financial security, the applicant shall request a final inspection by the Township to certify compliance with the applicable Township ordinances and the Township-approved plans and specifications for the grading permit. Within a reasonable time period after receiving a certification that the work secured by the financial security has been completed in compliance with the applicable Township ordinances and the Township-approved plans and specifications for the grading permit, the Township shall release the financial security and return it to the applicant.

*(Ord. 656, 4/9/2015)*

**§9-110. Issuance of Permits.**

1. The Code Official may attach conditions to a grading permit as reasonably necessary to prevent danger to property, including any sewer, storm drain or watercourse, or to prevent work from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance. No grading permit shall be issued until grading plans, erosion and sediment control plans, specifications, a timing schedule and a cost estimate are approved by the Township Engineer and the applicant certifies that all work shall be performed pursuant to the approved plans, specifications and schedules.

2. If the application conforms substantially to the requirements of this Part, the Code Official shall approve the same and issue a grading permit to the applicant without unreasonable delay.

3. After actual work begins, the Code Official or Township Engineer may require additional or revised controls from time to time in the event that the Code Official and/or Township Engineer determines that the originally approved controls are

inadequate.

4. Permits issued pursuant to this Part do not relieve the owner of responsibility for securing any and all necessary permits and approvals as required by any other applicable code, ordinance or regulatory agency.

*(Ord. 656, 4/9/2015)*

#### **§9-111. Denial of Permit Application.**

1. If an application for a grading permit does not conform to the requirements of this Part, the Code Official shall deny the application in writing, setting forth the basis for the denial. The Code Official shall forward the written denial to the applicant without unreasonable delay.

2. Where, in the opinion of the Code Official and/or Township Engineer, the work as proposed by the applicant is likely to endanger any person, property or any street or way, or create hazardous conditions, or damage the ecology of the area, the application for grading permit shall be denied. In determining whether the proposed work is likely to have such an effect, the Code Official and/or Township Engineer shall consider factors including, but not limited to, possible saturation by rains, earth movements, runoff of surface waters and subsurface conditions such as the stratification and faulting of rock and the nature and type of the soil, rock or other minerals.

*(Ord. 656, 4/9/2015)*

#### **§9-112. Responsibility of Applicant.**

During grading or other work, the applicant shall be responsible for:

A. Performing all work in accordance with the grading permit, approved plans, specifications and timing schedule and in compliance with all requirements of this Part.

B. Preventing damage to public utilities within the area where work is performed and along any routes of travel of construction equipment, and repairing any such damage if necessary.

C. The prevention and/or repair of damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.

D. The prompt removal and legal disposal of all soil, debris, waste or other material spilled, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfares during transit to and from the construction site. The Code Official and/or Township Engineer may require the construction of a haul road or other approved vehicle cleaning method to prevent the spread of debris.

E. The prevention of all sediment from entering into any public sanitary or storm sewer system or watercourse.

*(Ord. 656, 4/9/2015)*

#### **§9-113. Revocation or Suspension of Permit.**

Following written notice issued to the applicant and reasonable opportunity to cure, the Code Official may revoke or suspend any permit issued under this Part for:

- A. Violation of any condition of the grading permit.
- B. Violation of any provision of this Part or any other applicable law, ordinance, rule or regulation relating to work authorized under a grading permit.
- C. Existence of any condition or the doing of any act constituting or creating a nuisance or hazard or endangering human life or the property of others.

*(Ord. 656, 4/9/2015)*

#### **§9-114. Expiration of Permit.**

Unless otherwise provided by Pennsylvania law, every grading permit shall automatically expire if the authorized work is not commenced within 6 months or is not completed within 1 year from the date of such permit issuance. If the applicant provides satisfactory evidence in writing that unusual difficulties have prevented the work from being started or completed within the specified time limits, the Code Official may grant a reasonable extension of time. An applicant must file an application for the extension of time before the date of expiration of the grading permit.

*(Ord. 656, 4/9/2015)*

#### **§9-115. Approval of Plan Modifications.**

All modifications to the approved plans, specifications, timing schedule and cost estimate for a grading permit shall be submitted to the Township for review and approval by the Code Official. There shall be no differentiation between major and minor modifications with respect to this Section. Modifications of the approved plans shall be reviewed and approved in the same manner as the original plan.

*(Ord. 656, 4/9/2015)*

#### **§9-116. Inspections.**

1. The Code Official and/or Township Engineer shall make the inspections required under this Part. Following inspection, the Code Official and/or Township Engineer shall approve any portion of the work that has been completed and notify the applicant of any portion of the work that fails to comply with the provisions of this Part. Where the Code Official and/or Township Engineer determines that the soil or other conditions are not as stated or shown on the application, the Code Official shall stop work on the site immediately until the Township approves a revised grading plan in accordance with §9-115 above.

2. All approved grading plans shall be maintained at the site until all permitted work has been approved by the Code Official and/or Township Engineer.

3. The applicant shall request from the Code Official and/or Township Engineer all inspections provided in the following schedule at least 72 hours before the inspection is to be made:

- A. Initial inspection: when work on the excavation or fill is about to be commenced.
- B. Rough grading: when all rough grading has been completed.

C. Drainage facilities: when drainage facilities are to be installed and before such facilities are backfilled.

D. Special inspection: if at any time conditions are found which are not stated on the permit holder's application.

E. Special structures: when excavations are complete for retaining and other structural supporting walls (e.g., such as crib walls) and when reinforcing steel is in place and before concrete is poured.

F. Final inspection: when all work, including the installation of all drainage and other structures has been completed.

(Ord. 656, 4/9/2015)

### **§9-117. Standards for Grading.**

1. Grading shall be limited to the minimum area necessary to provide for buildings, roads, parking areas, utilities, other facilities and other work related to the grading.

2. The applicant shall be responsible for protecting adjacent and downstream properties from any damage which occurs as a result of grading activities on the grading site. Such protection shall include cleaning up and restoring to their original condition any adjacent and downstream properties adversely affected by silt, debris, flooding, or other damage resulting from the grading activity.

3. The top and bottom edges of cut or fill slopes shall be kept back from property or right-of-way lines 3 feet plus  $\frac{1}{5}$  of the height of the cut or fill, which total distance is not required to exceed 10 feet.

4. Topsoil stripped from the grading site in preparation for grading activities shall be stockpiled and replaced on the site over all regraded areas at a minimum depth of 6 inches.

5. Fill areas shall be prepared by removing organic material (such as vegetation, rubbish and any other material determined by the Code Official and/or Township Engineer to prevent proper compaction and stability).

6. Grading shall be accomplished so that post-development stormwater runoff flows cause no harm to adjacent properties.

(Ord. 656, 4/9/2015)

### **§9-118. Standards for Excavation.**

1. No excavation shall be made with a cut face steeper in slope than two horizontal to one vertical, except under the following conditions:

A. Where the height of a proposed slope will not exceed 12 feet, then a maximum slope steepness of one horizontal to one vertical may be allowed where soil conditions permit and doing so will help to preserve existing vegetation or other significant natural features. The cut or fill shall be located so that a line having a slope of two horizontal to one vertical and passing through any portion of the slope face will be entirely inside the property lines of the proposed development.

B. Where a retaining wall is constructed to support the face of the slope, the plans for such wall shall be designed and sealed by a professional engineer and

reviewed and approved by the Township Engineer.

C. A geotechnical analysis, prepared by a professional engineer with geotechnical training and experience, that demonstrate the steep slopes, excavations and embankments are stable with a minimum slope stability factor of 1.5 for slopes potentially impacting a structure, right-of-way and/or public area, and a minimum slope stability factor of 1.3 for all other slopes, unless otherwise approved by the Township Engineer. The slope stability factor requirement of 1.5 means that the resisting forces are at least 50 percent greater than the driving forces acting on the slope, and the slope stability factor requirement of 1.3 means that the resisting forces are at least 30 percent greater than the driving forces acting on the slopes. The resisting forces are primarily related to soil strength, but may include other components. The driving forces are primarily related to gravity and water pressure, but also may include other components. Both slope and base (foundation) failures are to be considered.

2. Excavation adjacent to any building foundation walls, footings, or structures shall not extend beyond the angle of repose or natural slope of the soil under the nearest point of the same unless the foundation walls, footings, or structures have been sufficiently underpinned or otherwise protected against settlement.

3. The Code Official and/or Township Engineer may require an excavation to be made with a cut face less or flatter in slope than two horizontal to one vertical if it finds the material in which the excavation is to be made is unusually subject to erosion or if other conditions exist which, under applicable engineering practice, make such flatter cut slope necessary for stability and safety.

4. Excavations adjacent to any footing, foundation or structure shall not extend below the angle of repose or natural slope of the soil under the nearest point of the same unless such footing, foundation or structure is first properly underpinned or protected against settlement.

5. A soil erosion and sedimentation control plan shall be prepared in accordance with the provisions of 25 Pa.Code, Chapter 102, Erosion and Sediment Control, as amended, prior to commencement of any grading or other regulated earth disturbance activity, unless the Allegheny County Conservation District determines that a soil erosion and sedimentation control plan is not required.

6. No grading shall be permitted within 20 feet of a floodplain or wetland area unless a permit is obtained from the appropriate DEP office. The applicant shall be responsible for payment for all costs associated with obtaining said permit and shall produce said permit for inspection upon request of the Township.

*(Ord. 656, 4/9/2015)*

#### **§9-119. Standards for Fills.**

1. No fill shall be made which creates any exposed surface steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:

A. The material in which the fill is made is sufficiently stable to sustain a slope of steeper than two horizontal to one vertical and the applicant submits a written statement signed and sealed by a professional engineer experienced in geological sciences and erosion control. The Township Engineer must review and accept the statement prior to the commencement of any work under the grading

permit. The statement shall provide calculations demonstrating that the slope is stable with a minimum slope stability factor of 1.5 and will not result in increased risk of injury to persons, damage to adjacent property, or damage to receiving streams. The slope stability factor requirement of 1.5 means that the resisting forces are at least 50 percent greater than the driving forces acting on the slopes.

B. The Code Official and/or Township Engineer may require that the fill be constructed with an exposed slope less than or flatter than two horizontal to one vertical if the Code Official and/or Township Engineer finds that under the particular conditions such flatter slope is necessary for stability and safety.

2. Whenever fill is to include materials other than clean soil or earth, the grading permit shall be subject to the following additional limitations and requirements:

A. The fill shall be completed within a reasonable length of time, said time limit to be determined by the Code Official and to be specified on the grading permit.

B. Clean soil or earth shall be placed over the top of and cover exposed surfaces of the fill to a depth sufficient to conceal all materials, other than clean soil or earth, within the fill. Topsoil must meet Pennsylvania Department of Transportation Publication 408 Specifications.

C. Debris or waste shall not be considered as fill material.

D. No rock or material in excess of 12 inches in any dimension, or nominal lift thickness, whichever is less, shall be buried or placed in fills.

E. No organic or frozen materials shall be placed in fills.

F. No fill of any kind shall be placed over trees, stumps or other material which would create a nuisance or be susceptible to attracting rodents, termites or other pests.

*(Ord. 656, 4/9/2015)*

### **§9-120. Retaining Walls.**

1. A grading permit shall apply to a retaining wall proposed to satisfy the requirements of this Part. Such retaining wall must comply with the regulations provided in this Part including, but not limited to, inspections.

2. Retaining walls must be constructed in accordance with sound engineering practice and plans submitted to the Township for review. All plans submitted shall bear the seal of a professional engineer.

3. The backfilling of retaining walls and the insertion of below grade drainage facilities associated with the retaining walls shall strictly comply with the provisions of this Part and appropriate Township specifications.

*(Ord. 656, 4/9/2015)*

### **§9-121. Protection of Watercourses and Wetlands.**

1. *Purpose.* The regulations contained in this Section are intended to promote the public health, safety and welfare by ensuring that watercourses and wetlands will be preserved in their natural condition so that they may continue to convey and store water, provide habitat for flora and fauna, and serve as recreational and aesthetic

resources.

2. *Setback or Open Space Easement Required.* No grading, cutting, filling, removal of vegetation, or other disturbance of land shall be permitted within the required setback.

A. The minimum setback for watercourses shall be 50 feet, measured from the top of the channel bank.

B. The setback for wetlands shall be as follows:

(1) *Determination of Setback Area.* Wetlands 1 acre and over shall have a 50-foot setback average depth.

(2) Distribution of the required setback area shall be either:

(a) At the uniform setback depth from the delineated edge of the wetland; or

(b) At a variable setback depth, based on a wetland management plan prepared by a certified professional wetlands biologist. In no case, however, shall the setback be less than: 1) 10 feet from the delineated edge of a wetland less than 1 acre in extent; or 2) 20 feet from the delineated edge of a wetland 1 acre or more in extent.

C. Minor grading and construction within the area of the required setback or easement, required for development in other areas of the site, may be allowed in accordance with all regulations of DEP and the Floodplain Ordinance [Chapter 8], where applicable.

3. *Alteration of Drainage.* When a proposed grading plan encompasses or adjoins a watercourse or wetland, the design of the proposed grading shall not alter site drainage in ways that will reduce the ability of the watercourse or wetland to support the vegetation and animal life that characterized the area before grading. Existing wetlands may be used to control stormwater runoff flows from a grading site, provided a certified wetlands biologist participates in the design of the proposed stormwater detention facility, or certifies that the proposed facility will not adversely affect the wetlands.

(Ord. 656, 4/9/2015)

#### **§9-122. Maintenance.**

The developer or the owner of any property on which work has been done pursuant to a grading permit, or any other person or agent in control of such property, shall maintain in good condition and promptly repair or restore all damaged grade surfaces, walls, drains, dams and structures, plantings, vegetation, erosion and sedimentation control measures and other protective devices. Such repair, restoration and maintenance shall be in accordance with the approved plans, specifications and grading permit as required by this Part.

(Ord. 656, 4/9/2015)

#### **§9-123. Liability.**

Neither the issuance of a grading permit, nor compliance with this Part or any conditions imposed by the Code Official, shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law, nor impose any

liability upon the Township for damages to any person or property.

*(Ord. 656, 4/9/2015)*

#### **§9-124. Violations and Penalties.**

1. Any person, firm, or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist and for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violations of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation is hereby delegated to the Township Manager, the Police Department, the Code Official, the authorized designee of the Township Manager, and to any other officer or agent that the Township Manager or Board of Supervisors shall deem appropriate.

2. In addition, the Township, through its Solicitor, may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Part. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

*(Ord. 656, 4/9/2015)*

#### **§9-125. Appeals.**

1. Any applicant or person aggrieved by a decision of the Code Official and/or the Township or a notice or order issued under this Part shall have the right of appeal to the Township Board of Appeals established by the Construction Code [Chapter 5, Part 1], provided that a written application for an appeal is filed within 10 days after receipt of said decision, notice or order, along with payment of an appeal hearing fee in an amount set from time to time by resolution of the Board of Supervisors. An application for appeal shall be based on a claim that the true intent of this Part or the rules legally adopted hereunder has been incorrectly interpreted, or the provisions of this Part do not fully apply. All appeals before the Township Board of Appeals under this Part shall proceed under the regulations and procedures established in the Construction Code [Chapter 5, Part 1].

2. All appeals from decisions of the Township Board of Appeals rendered pursuant to this Section shall be taken to the Court of Common Pleas of Allegheny County and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S.A. §5572 (relating to time of entry of order).

*(Ord. 656, 4/9/2015)*