

## ORDINANCE 2010-3

### **AN ORDINANCE FOR THE TOWNSHIP OF LOWHILL, LEHIGH COUNTY, PENNSYLVANIA TO PROVIDE STANDARDS FOR SITE GRADING AND STORMWATER MANAGEMENT ALONG WITH PROVISIONS FOR ENFORCEMENT, PENALTIES, APPEALS, WAIVER, AND EFFECTIVE DATE**

WHEREAS, the Township of Lowhill seeks to provide an ordinance for the permitting of site grading in the Township, protecting soils and preserving natural contours, and allowing for uniform standards for all site grading conducted from the date of this ordinance forward.

WHEREAS, under the Second Class Township Code (53 P.S. 66601 et. seq) the Township is permitted to provide an ordinance for the setting and enforcement of standards for site grading in the Township.

#### **Section 1 - Short Title.**

This Ordinance shall be known and may be cited as the “Lowhill Township Grading Ordinance”.

#### **Section 2. Definitions**

**Applicant** – Landowner or developer who is applying for a grading permit.

**Board of Supervisors (“Board” or “Township Supervisors”)** – The Board of Supervisors of Lowhill Township, Lehigh County, Pennsylvania.

**Cut and/or Fill** — Process of earth moving by excavating part of an area and/or using excavated material from embankment or fill areas.

**Developer** – Any landowner or authorized agent of such landowner or tenant with permission of the landowner who formally proposes or makes, or causes to be made, a subdivision, land development or any other development.

**Erosion** — The wearing away of land surface or the detachment and movement of silt or rock fragments by running water, wind, ice, chemical or other geological agents

**Grade** — The slope of a road, channel or natural ground, or the act of finishing the surface of a channel or swale bed, roadbed, embankment or bottom of excavation.

**Impervious Area** – Ground surface covering that does not permit the passage of stormwater to the soils lying immediately underneath. This includes asphalt, except that which is designed

specifically to be pervious, concrete, and all buildings. Stone/gravel used for vehicular passage, i.e driveways, will be considered impervious for the purpose of this ordinance.

**Minor Grading Plan** – Plan and plan requirements necessary for any earth disturbance exceeding 5,000 square feet.

**Major Grading Plan** – Plan and plan requirements necessary for any earth disturbance defined as a Minor Grading Plan that alters existing drainage facilities and/or introduces new impervious area exceeding 6,000 square feet.

**Reviewer** – Person or entity assigned by the Board of Supervisors to review permit applications for technical compliance with the provisions of this Ordinance and any other applicable Township ordinance.

**Runoff (Hydraulics)** — That portion of the precipitation in a drainage area or watershed that is discharged from the area in stream channels; types include surface runoff, groundwater runoff or seepage.

**Sediment** — Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earths surface.

**Slope** — Surface deviation from the horizontal usually expressed in percent or degrees.

**Soil Drainage** — A condition of the soil, referring to the frequency and duration of periods when the soil is free of saturation.

**Subsoil** — Material immediately underlying topsoil consisting of, but not limited to, either singly or in combination, clay, sand, gravel or crushed rock, but not including bedrock or other impervious surface, as more fully defined and set forth in the most recently adopted and approved Lehigh County Soil Survey exclusive of the “A” Horizon.

**Topsoil** — The topmost layer of ground cover containing humus in some concentration capable of supporting plant growth.

**Township Administrator** – The person and/or entity assigned by the Board of Supervisors having the responsibility of administering and enforcing the terms and provisions of this Ordinance.

**Watercourse** — A natural drainage route or channel for the flow of water.

### **Section 3 - Scope.**

From and after the effective date of this Ordinance, any new construction or installation of a new structure, any change in existing contours or ground cover, shall be in conformity with this Ordinance, subject to compliance with and in conjunction with the Lehigh County Conservation District erosion control regulations. In the event of a conflict between this Ordinance and the

Lehigh County Conservation District regulations, the more restrictive condition will apply. In the event of a conflict between this Ordinance and the floodplain regulations, the floodplain regulations shall take precedent.

#### **Section 4. – Permit Requirements**

Whenever any new construction or installation of a new structure or other activity that results in a change to existing contours in excess of 5,000 square feet total, a Grading Permit issued by the Township is required, and an application and plan review by the Lehigh County Conservation District is needed. The Township Engineer shall be provided with a copy of said application and plan, final approval and/or permit, and allowing for a full and complete review of the proposal as submitted. The Township Engineer shall have full authority to inspect the activities undertaken at said site, including the right of ingress and egress to the property, and shall have the authority to terminate, stop or suspend activities or conduct not in compliance with such approvals and/or permits as may be issued.

#### **Section 5 - Activities exempt from grading permit.**

The following activities require no grading permit:

- A. Farming, gardening, lawn installation or lawn restoration, but not including sod farming.
- B. Work within the ultimate right-of-way of a public street or alleyway to be offered for dedication or previously ordained by the Township, county or commonwealth, or any park, playground, recreation area or open space dedicated to and accepted by the Township, county or commonwealth.

#### **Section 6 - Application for permit.**

- A. Any person, firm, or corporation required to obtain a grading permit under the terms of this Ordinance shall make application for the same on a form approved by the Board of Supervisors, and by the submission of a plan. A fee, adopted by the Board of Supervisors from time to time, shall accompany said application.
- B. A separate plan shall be required for each grading permit.
- C. Three copies of the proposed plan, including specifications and development schedules, shall be submitted to the Reviewer for a grading permit. The Reviewer shall forward one copy of the plan to the Board of Supervisors, and one copy to the Township Engineer.

#### **Section 7. - Plan Submission**

- A. A Minor Grading plan is required showing how resulting erosion and sediment shall be controlled whenever the ground disturbance exceeds 5,000 square feet total for:
  - (1) Any new construction or installation of a new structure.
  - (2) Any change that causes the ground surface to be permanently altered by changing/revising contours, soil or slope characteristics or vegetation.
  - (3) Any ground cover that is to be permanently removed.

B. A Major Grading plan is required showing how stormwater management will be addressed if a Minor Grading Plan results in changes to existing drainage facilities and/or installation of new impervious area exceeding 6,000 square feet, as determined by the Reviewer. The Major Grading plan shall include the following:

- (1) The amount of site alteration proposed.
- (2) Development schedule.
- (3) Erosion and sediment control practices (both temporary and permanent) and the operation and maintenance arrangements.
- (4) The means and methods of controlling the new drainage patterns (i.e. swales, basins, etc.)
- (5) Assumptions and calculations to determine stormwater control facilities, new and/or replacement of existing.

#### **Section 8 - Data required on plan**

A. A Minor Grading plan shall include:

1) A map or maps, at a scale no larger than 1 inch equals 100 feet, showing the existing topography of the area and the proposed alteration to the area, and the erosion and sedimentation control measures and facilities.

2) A narrative report describing the project and giving the purpose and the engineering assumptions and calculations for control measures and facilities.

B. The maps and narrative shall include, but not be limited to, a general description of the project noting stormwater handling, sedimentation control, accelerated erosion control anticipated for the project, beginning and ending dates for the project.

C. The map shall describe and locate topographic features including property boundary lines of the project area, acreage, contours at appropriate intervals, either 2-foot or 5-foot contours, to adequately describe the topography, location of the project relative to highways or other identifiable landmarks and streams, lakes, ponds or other bodies of water within/or in the vicinity of the project, and any other physical features, including scale and north arrow.

D. The map shall specify proposed changes to land surface and vegetative cover which will note contours of finished areas, types of temporary and permanent erosion control measures and facilities, their location and dimensions.

E. The narrative shall include a description of the maintenance program for the control facilities and appropriate design considerations and calculations for both temporary and permanent control measures and facilities.

#### **Section 9 - Special requirements.**

In addition to the requirements of Section 8, when existing drainage facilities will be altered or new impervious surfaces exceeding 6,000 square feet will be installed, the applicant shall submit a Major Grading plan, to include a drainage study prepared by a registered professional engineer licensed in the commonwealth. This study shall include:

- A. A plan of the property showing the location and elevations/contours of all existing and proposed ditches, streams, pipes and other drainage structures and proposed cuts and/or fills. The plan shall clearly indicate all woodlands, buildings, parking areas and driveways. Further, the plan shall indicate the present and proposed sources, storage and disposition of water being channeled through or across the premises, with gradients and maximum flow rates. The plan shall describe the work to be performed, the materials to be used and the manner or method of performance. The applicant shall also supply the supporting data for the plan as developed by the engineer.
- B. Calculations to determine runoff shall be submitted and shall be based on the Rational Method for drainage areas of five acres or less. Drainage areas greater than 5 acres shall use the Soil-Cover Complex Method.
- C. All stormwater conveyance facilities, including swales and culverts/pipes, shall be designed to carry the 100-year frequency storm runoff, and protected against erosion according to the requirements found in the PADEP "Erosion and Sediment Pollution Control Program Manual", latest version.
- D. The coefficient of runoff used for all areas upstream of any drainage structure shall be computed on the basis of existing land use and the projected land use for the site in question.
- E. Stormwater Management design may be done using one of the two following methods;
  - 1) The rate of runoff shall be no greater during and after a two-, ten-, twenty-five, and one hundred -year frequency storm when the grading and impervious cover is completed than that which existed before the development began, and appropriate measurements of calculations shall be provided to verify such provisions.
  - 2) The runoff volume of the impervious area during the 100-year storm is collected and stored on the property. The storage facility may be above ground, such as a detention pond, or below ground, such as an infiltration bed. If underlying soil drainage is known or shown to be poor, or lower than acceptable for standard sewage facilities, then adequate measures for dewatering must be installed.
- F. The applicant shall agree to the granting and recording of easements covering the installation and maintenance of drainage facilities.

#### **Section 10 - Standards for grading activities.**

Except for those activities exempted by Section 6, the following standards shall apply to all activities permitted or allowed this Ordinance:

- A. Notwithstanding any provision of this Ordinance, or any condition of the grading permit, the permittee is responsible for the prevention of damage to other property or personal injury, which may be affected by the activity requiring a grading permit.
- B. No person, firm or corporation shall modify, fill, excavate, pave, grade or regrade land in any manner closer than ten (10) feet to any property boundary, except as specifically permitted by the Township.
- C. No topsoil shall be removed from any site, and in no event shall the topsoil existing on any site be reduced to a depth of less than six inches. Further, it is the intention of this Ordinance to achieve conservation of both topsoil and subsoil as to achieve a balance on each and every disturbed site resulting in the removal of no subsoil.
- D. All drainage ditches/swales shall be at a minimum grade of 2%. All drainage culverts/pipe facilities shall be at a minimum grade of 0.5%.

- E. All drainage facilities shall be maintained in good operating order on the premises. All drainage ditches, culverts, drain pipes and drainage structures shall be kept open and free flowing at all times.
- F. All graded surfaces shall be at a minimum slope of 2%, and shall be permanently seeded, sodded and/or planted or otherwise protected from erosion immediately, and shall be tended and/or maintained until growth is well established.
- G. Graded surfaces adjacent to any structure shall be at a minimum slope of 5% for the first 10 feet away from the foundation.
- H. Any created slopes exceeding three horizontal to one vertical shall be benched or continuously stepped into competent materials prior to placing all classes of fill.
- I. All trees in an area of grade change shall be protected with tree wells or by other means, unless the necessity for removal is established. Precautions shall be taken to prevent the unnecessary removal of trees.

A. **Section 11 - Inspection** All inspections shall be conducted by the Township Engineer or, in his absence, a qualified person acceptable to Lowhill Township. The contractor or owner shall give a minimum 48-hour notice to the Township Engineer prior to any ground disturbance.

B. Within forty-eight (48) hours after completion of the work for which a permit was issued, the party to whom the permit was issued shall notify the Township Administrator of the completion of the work so that he or she can notify the Reviewer to inspect the same. If the work was not performed in accordance with the plans and specifications approved by the Reviewer, the holder of the permit shall be directed by the Township Administrator in writing to take immediate steps at the permit holder's own expense toward placing the work in such condition as to conform to the approved plans and specifications.

C. Permittees shall bear all costs of inspections required or permitted hereunder, and shall deposit with the Township such sums as the Board of Supervisors shall determine to guarantee payment of the costs of such inspections. The costs of inspections shall be in accordance with the established schedule of fees and collection procedure for matters pertaining to this Ordinance.

### **Section 12 – Indemnification of Township.**

Any person, firm, corporation, or other entity applying for any permit under this ordinance agrees by making said application to indemnify and save the Township harmless from and against all liabilities of whatever nature arising during the design of the work, performance of the work or as a result of the work for which a permit is granted, whether or not the liability arises as a result of the negligence of the person, firm, corporation or other entity to whom the permit was issued. The application for a permit shall contain appropriate language acknowledging that the applicant agrees to indemnify and save the Township harmless as required by this section.

### **Section 13 - Penalties and remedies for violations.**

- A. It shall be a violation of this ordinance to commit or to permit any other person to commit any of the following acts:
1. To commence activities for which this ordinance requires a permit before obtaining a permit or in violation of the terms or conditions of any permit issued under this ordinance;
  2. To misuse or fail to maintain any graded area installed upon a property;
  3. To place intentionally false information on or intentionally omit information from an application for a permit under this ordinance; or
  4. To fail to comply with any other provisions of this ordinance.
- B. For each violation of the provisions of this ordinance, the owner, agent, lessee, or contractor or any other person who commits, takes part in, or assists in any such violation shall be liable upon conviction thereof in a summary proceeding to pay a fine of not less than two hundred (\$200.00) dollars not more than one thousand (\$1,000.00) dollars for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this ordinance, and each section of this ordinance which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding thirty (30) days.
- C. In addition or in lieu of the penalties provided in Section 13.B, the Township may proceed against the violator in a court of equity to obtain injunctive or other relief to abate the violation.
- D. In addition or in lieu of the penalties provided in Section 13.B, the Township Administrator may revoke any permit issued under this ordinance when the permit holder has violated the provisions of this ordinance.
- E. In addition or in lieu of the penalties provided in Section 13.B, any movement of the landscape, vegetation or any ground cover performed in violation of this Ordinance shall be restored to its previous condition, including replacement of excavated earth, removal of illegally placed fill and restoration of grades and planting.

#### **Section 14 – Appeals.**

This ordinance is adopted pursuant to the Township's police power and is hereby declared not to be related to zoning and land planning and any person aggrieved by the application, enforcement or other adjudication made pursuant to the terms of this ordinance may appeal within thirty (30) days of said adjudication for a hearing before the Board of Supervisors of Lowhill Township in accordance with the applicable portions of the Pennsylvania Local Agency Law (2 Pa.C.S. Section 551 et seq.).

#### **Section 15 – Waivers.**

The provisions of this ordinance are intended as a minimum standard for the protection of public health, safety and welfare. Any person desiring a waiver of the requirements of this ordinance shall make application for such waiver in writing, identifying the section of the ordinance from which a waiver is requested, the reasons for the waiver, and the alternative proposed. If the literal compliance with any mandatory provision of this ordinance is shown by the applicant, to the satisfaction of the Board of Supervisors, to be unreasonable or to cause undue hardship as it applies to a particular property, or if the applicant shows that an alternative proposal will allow for equal or better results, the Board of Supervisors may grant a waiver from such mandatory provisions so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property. However, the granting of a waiver shall not have the effect of making null and void the intent and purpose of this ordinance. In granting waivers, the Board of Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this ordinance.

**Section 16 – Repealer and severability.**

- A. All ordinances and resolutions and parts of ordinance and resolutions inconsistent with the provisions of this ordinance are hereby repealed insofar as they affect any work done after the effective date of this ordinance, but said ordinances or resolutions or parts thereof shall not be repealed insofar as they apply to permits issued or acts of violations occurring before the effective date of this ordinance.
- B. Notwithstanding anything set forth above in this ordinance, whenever the provisions of this ordinance shall be inconsistent with the provisions of the Zoning Ordinance of Lowhill Township or other applicable Township ordinances as are from time to time in effect and the provisions of the said ordinances are more restrictive or contain more stringent requirements than are set forth in this ordinance, then the provisions of the Zoning Ordinance of Lowhill Township or other applicable Township ordinances shall prevail and be applicable.
- C. The provisions of this ordinance are severable and if any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such findings shall not affect or impair any of the remaining provisions, sections, sentences or clauses of this ordinance. It is hereby declared to be the intent of the Board of Supervisors that this ordinance would have been adopted as such unconstitutional, illegal or invalid sentence, clause or section not have been included herein.

**Section 17 – Effective date.**

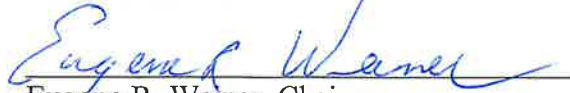
This ordinance and all of its terms and provisions shall become effective five (5) days after its adoption.



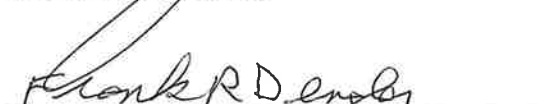
Duly enacted and ordained this 7th day of October, 2010, by the Board of Supervisors of the Township of Lowhill, Lehigh County, Pennsylvania in lawful session and duly assembled.

  
Lucille C. Hahn, Secretary

TOWNSHIP OF LOWHILL


  
Eugene R. Weiner, Chairman

  
Richard B. Hughes, Vice Chairman

  
Frank R. Dengler, Supervisor

I, Lucille C. Hahn, Secretary of the Board of Supervisors of the Township of Lowhill, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted at a meeting of the Supervisors aforesaid convened and held on this the 7<sup>th</sup> day of October, 2010.

Witness my hand and seal of this Township this 7<sup>th</sup> day of October, 2010.

  
Lucille C. Hahn, Secretary