

**WORCESTER TOWNSHIP
BOARD OF SUPERVISORS**

MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2011-229

"Grading and Excavations Ordinance"

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WORCESTER TO ADD A NEW CHAPTER 81 ENTITLED "GRADING AND EXCAVATIONS" SETTING FORTH THE FOLLOWING SECTIONS: TITLE; PURPOSE; DEFINITIONS; REMOVAL OF TOPSOIL; APPLICABILITY; PERMIT REQUIRED; EXCEPTIONS; PERMIT APPLICATION; PERMIT FEES; EXPIRATION OF PERMIT; EXTENSIONS; INSPECTIONS; EXCAVATIONS IN STEEP SLOPES; COMPACTION OF FILLS; DRAINAGE; MAINTENANCE; GENERAL REQUIREMENTS; FINAL GRADING INSPECTION; COMPLIANCE REQUIRED; NOTICE OF VIOLATION; ENFORCEMENT; AND VIOLATIONS AND PENALTIES.

The Board of Supervisors of Worcester Township does hereby **ENACT and ORDAIN:**

SECTION I. Amendment to the Code.

The Code of the Township of Worcester is hereby amended to add the following new Chapter 81 entitled "Grading and Excavations":

Chapter 81

GRADING AND EXCAVATIONS

§ 81-1. Title.

This chapter shall be known and may be cited as the "Worcester Grading and Excavations Ordinance".

§ 81-2. Purpose.

The purpose of this chapter is to provide minimum standards to safeguard persons, to protect property 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 within the Township.

§ 81-3. Definitions.

Wherever used in this chapter, the following words shall have the meanings indicated:

BUILDING PERMIT – A permit issued by the Building Inspector, pursuant to the provisions of Township Ordinances, for the construction, erection or alteration of a structure or building.

EXCAVATION – Any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, removed, displaced or bulldozed, and shall include the conditions resulting therefrom.

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, and shall include the conditions resulting therefrom.

FLOODPLAIN – That area defined in "ZONING", Chapter 150, Article XX, of the Township Code, as the "Floodplain Conservation District". The floodplain definition contained therein shall be considered the definition of floodplain for all purposes and uses of this Ordinance.

GRADE – The elevation of the existing ground surface at the location of any proposed excavation or fill.

GRADING - Any excavation or fill which changes (or is proposed to change) an existing grade.

GRADING PERMIT – Any permit required under Section 6 hereof.

PERSON – A natural person, but shall also include a partnership or corporation.

SITE – A lot, tract or parcel of land, or a series of lots, tracts or parcels of land, joined together, where grading work is continuous and performed at the same time.

§ 81-4. Removal of topsoil.

The continuation of adequate topsoil on the land within the Township is considered necessary for the general welfare of the Township in the future development thereof. Thus, the permanent removal of topsoil from the land within the Township shall be prohibited. This prohibition shall not be construed to prohibit an owner of land in removing topsoil for the purpose of construction of a building and the regrading of the land surrounding the building following construction; provided, however, that upon completion of construction, there remains a minimum depth of four inches of topsoil per lot.

§ 81-5. Applicability.

New grading, excavations and fill, or changes, additions, repairs or alterations made to existing excavations and fills shall conform to the provisions of this chapter, except that this chapter shall not apply to:

- A. Work in a public street or alley, or in a Township park, playground or recreation area or on other public property.

§ 81-6. Permit required; exceptions.

No person shall commence or perform any grading, excavation or fill without first having obtained a grading permit from the Township Engineer. A separate grading permit shall be required for each site or lot in subdivision. One permit may cover both an excavation and any fill made on the same site or on the same lot in a subdivision. A grading permit will not be required in the following situations, but in all other respects, the provisions of this chapter shall apply:

- A. An excavation which does not exceed one (1) foot in vertical depth at its deepest point, measured from the natural ground surface, nor cover an area of more than five hundred (500) square feet. This exception shall not affect the applicability of this chapter to, or the requirement of, a grading permit for any fill made with the material from such excavation.
- B. A fill that does not exceed five (5) cubic yards of material on any one site, or a fill which does not exceed one (1) foot in a vertical depth at its deepest point, measured from the natural ground surface, nor cover an area of more than five hundred (500) square feet, provided that the surfaces of

such fills do not have a slope at any point steeper than five (5) horizontal to one (1) vertical.

- C. Minor increases in impervious surfaces on existing developed properties where the increase in impervious surface does not exceed five hundred (500) square feet, provided the change will not alter drainage patterns, accelerate erosion, interfere with existing stormwater facilities or adversely impact adjoining properties. Any increase in impervious area must comply with Township zoning requirements for impervious coverage for the applicable zoning district.
- D. Plowing, tilling, irrigation and drainage for agricultural purposes; nursery operations, such as removal of cultivated sod, shrubs, and trees for transplantation; and the addition of topsoil, with a change in natural contours of one-half ($\frac{1}{2}$) foot or less, provided that the activity will not alter drainage patterns, accelerate erosion, interfere with existing stormwater facilities or adversely impact adjoining properties.

§ 81-7. Permit application.

- A. Every applicant for a grading permit shall file a written application therefor with the Township Engineer. Such application shall:
 - (1) Describe the land on which the proposed work is to be done by lot, block and street address. A location map shall be provided with the application.
 - (2) Be accompanied by plans and specifications prepared by a registered engineer or surveyor.
 - (a) Plans and specifications shall be in accordance with the building permit site plan criteria set forth in the Township Building Code and shall include the following information:
 - [1] Details and location of any proposed drainage structures and pipe, walls and cribbing.

- [2] The nature of fill material and such other information as the Township Engineer may require to carry out the purposes of this chapter.
 - [3] The location of erosion and sedimentation controls.
 - (b) All plans shall be dated and bear the name of:
 - [1] The person who prepared the same.
 - [2] The applicant.
 - [3] The owner of the land, address and phone number.
 - (c) Plans shall be submitted in triplicate to the Township.
 - (3) State the estimated dates for the starting and completion of the grading work.
 - (4) State the purpose for which the grading application is filed.
- B. The Township Engineer may waive the requirement for any, or all, plans and specifications listed above if he finds that the information on the application is sufficient to show that the work will conform to the provisions of this chapter. The Township Engineer may call for a conference with the applicant to discuss modification of the plans presented.

§ 81-8. Permit fees.

Before issuing a grading permit, a permit fee shall be paid in accordance with the permit fee schedule set forth in the Township's Fee Schedule.

§ 81-9. Expiration of permit; extensions.

Every grading permit shall expire by limitation and become null and void if the work authorized by such permit has not been commenced within six (6) months or is not completed within one (1) year from the date of issue, provided that the Township

Engineer may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented work being started or completed within the specified time limits, grant a reasonable extension of time, in writing, and provided further that the application for the extension of time is made before the date of expiration of the permit.

§ 81.10. Denial of permit; appeals.

- A. Where, in the opinion of the Township Engineer, the work as proposed by the applicant is likely to endanger any property or any street or alley, he shall deny the grading permit. In determining whether the proposed work is likely to endanger property or streets or alleys or create hazardous conditions, the Township Engineer shall give due consideration 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 or rock.
- B. The Board of Supervisors shall consider, promptly, appeals from the provisions of this chapter or from the determinations of the Township Engineer, and the Board shall make determinations of alternate methods, standards or materials when, in its opinion, strict compliance with the provisions of this chapter would result in a severe and unnecessary hardship. Any applicant or permit holder shall have the right to appeal to any court of competent jurisdiction from any decision or determination of the Board of Supervisors.

§ 81.11. Inspections.

- A. The Township Engineer shall make the inspections hereinafter required and shall either approve that portion of the work which has been completed or notify the permit holder wherein the same fails to comply with the provisions of this chapter. Where it is found, by inspection, that the soil or other conditions are not as stated or shown in the application, the Township Engineer may refuse to approve further work until approval is obtained for a revised grading plan conforming to existing conditions.
- B. Plans for grading work, as approved by the Township Engineer, shall be maintained at the site during the progress of the grading work and until the work has been approved.

- C. The permit holder shall notify the Township Engineer in order to obtain inspections in accordance with the following schedule at least forty-eight (48) hours before the inspection is to be made:
- (1) Initial inspection: when work on the excavation or fill is about to be commenced.
 - (2) Rough grading: when all rough grading has been completed.
 - (3) Drainage facilities: when drainage facilities are to be installed and before such facilities are backfilled.
 - (4) Special inspection: when excavations are complete for retaining and rib walls and when reinforcing steel is in place and before concrete is poured.
 - (5) Final inspection: when all work, including the installation of all drainage and other structures, has been completed.
- D. At any stage of the work the Township Engineer may determine, by inspection, that the nature of the formation is such that further work as authorized by an existing permit is likely to endanger property or streets or alleys or create hazardous conditions. The Township Engineer may require, as a condition to allowing the work to be done, that such reasonable safety precautions be taken as the Township Engineer considers advisable to avoid such likelihood of danger. Safety precautions may include, but shall not be limited to, specifying a flatter exposed slope, construction of additional drainage facilities, berms, terracing, compaction or cribbing.
- E. Inspection fees shall be as set forth in the Township Fee Schedules as amended by Ordinance.

§ 81-12. Excavations in steep slopes.

- A. No excavations shall be made with a cut face steeper in slope than three (3) horizontal to one (1) vertical.
- B. The Township Engineer may require an excavation to be made with a cut face flatter in slope than three (3)

horizontal to one (1) vertical if he finds the material in which the excavation is to be made unusually subject to erosion, or if any other conditions exist which make such flatter cut slope necessary for stability and safety. Additional measures to stabilize the slope may be required by the Township Engineer.

- C. Excavation shall not extend below the angle of repose or natural slope of the soil under the nearest point of any footing or foundation of any building or structure unless such footing or foundation is first properly underpinned or protected against settlement.
- D. Before commencing any excavation which will in any way affect an adjoining property or structures thereon, the person making or causing the excavation to be made shall notify, in writing, the owners of adjoining properties not less than thirty (30) days before such excavation is to be made that the excavation is to be made. Adjoining properties and structures shall be protected in accordance with the Township building codes.

§ 81-13. Compaction of fills.

All fills shall be compacted to provide stability of material and to prevent undesirable settlement. The fill shall be spread in a series of layers, each not exceeding twelve (12) inches in thickness, and be compacted by a sheepsfoot roller, or other approved method, after each layer is spread. The Township Engineer may require tests or other information if, in his opinion, the conditions or materials are such that additional information is necessary. Layers of less than twelve (12) inches may be required if the materials, site condition or methods do not allow adequate compaction of twelve (12) inches lift thickness.

§ 81-14. Drainage.

Adequate provisions shall be made to prevent any surface waters from damaging the cut face of an excavation or the sloping surface of a fill. Slopes of more than ten (10) feet in vertical height shall be separated by level berms or shelves of at least four (4) feet in width. Berms and ditches shall be constructed where necessary to prevent erosion. All drainage provisions shall be of such design to control surface waters with use of "Best Management Practices" (BMP's) whenever possible. These BMP's can include infiltration/ seepage pits, rain gardens, etc. In the event that BMP's

alone are insufficient, the BMPs shall be combined with additional structures designed to carry any excess water to the nearest practical storm drain or natural watercourse approved by the Township Engineer as a safe place to deposit and receive such waters. The Township Engineer may require such drainage structures or pipes to be constructed or installed which, in his opinion, are necessary to prevent erosion damage and to satisfactorily manage surface waters.

Property owners shall not alter the current drainage patterns on their property so as to cause any adverse impact on adjoining properties. The Township Engineer shall make this determination on behalf of the Township. Adverse impact shall include flooding, erosion, modification of drainage patterns that impact the use of the property, the diversion of water from an existing natural watercourse, the creation of ponding/standing water where it previously did not exist, and damage to property, either the structures or the land.

§ 81-15. Maintenance.

The owner of any property on which an excavation or fill has been made shall maintain, in good condition and repair, all retaining walls, cribbing, drainage structures, fences and other protective devices.

§ 81-16. General requirements.

- A. The top or bottom edge of slope shall be at least five (5) feet from property lines, rights-of-way, or streets in order to permit the normal rounding of the edge without encroaching on the abutting property. At property lines where walls or slopes are steeper than 1½:1 and six (6) feet or more in height, they shall be protected by a substantial fence three (3) feet or more in height. Before a grading permit is issued, a bond may be required to guarantee the protection of steep slopes.
- B. In order to prevent the denuding of the landscape, wherever practicable, trees and other natural features constituting important physical, aesthetic and economic assets to the community shall be preserved.
- C. Adequate erosion and sedimentation controls shall be installed by the property owner(s) during any earth disturbance activity associated with grading or excavation.

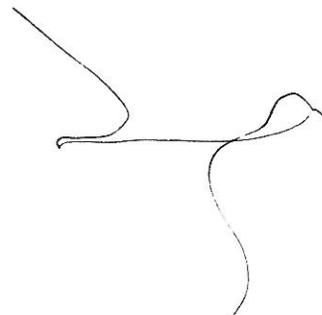
These controls shall be in place prior to the initiation of any activity on the property.

- D. The owner of a property shall be responsible to protect and clean up downslope properties of silt and debris washing from his property as a result of the grading of his property.
- E. Any grading and excavations within the floodplain shall comply fully with the requirements of Article XX, Chapter 150, of the Township Zoning Ordinance. Any additional permitting that might be required shall be obtained by the applicant.
- F. Additional state and federal requirements may apply.

§ 81-17. Final grading inspection.

- A. If, upon final inspection of an excavation or fill, it is found that the work authorized by the grading permit has been satisfactorily completed in accordance with the requirements of this chapter, and any other requirements imposed, the Township Engineer, or his designee, shall indicate approval by signing the permit at the appropriate location.
- B. The Township Engineer shall have the power to revoke any grading permit whenever he finds that the work covered by the permit has been materially extended or altered without a permit to do so, or that any retaining walls, cribbing, drainage structures, fence or other protective devices shown on the approved plans and specifications submitted with the application for the permit have not been maintained in good order and repair.
- C. Before such revocation, the Township Engineer shall first give written notice to the permit holder, and to the owner of the property involved, specifying the defective condition and stating that unless such defective condition is remedied satisfactorily, the grading permit may be revoked. If the defective conditions are remedied, the permit shall not be revoked. Permit holder has twenty (20) days from the date of the written notice to remedy any defects.

§ 81.18. Compliance required.

A handwritten signature in black ink, consisting of a series of loops and a long tail, positioned to the right of the section header.

No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to, or in violation of, any provision of this chapter.

§ 81.19. Notice of violation.

When written notice of a violation of any of the provisions of this chapter has been served by the Township Engineer or any person, such violation shall be discontinued immediately.

§ 81-20. Enforcement.

In case any work is performed by a person in violation of any of the provisions of this chapter, the proper officer of the Township, in addition to the other remedies, may institute, in the name of the Township, any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful work and to restrain or abate such violation.

§ 81-21. Violations and penalties.

Any person violating any of the provisions of this chapter shall be liable, on conviction thereof, for a penalty not exceeding \$1,000 for each and every offense, and whenever such person shall have been notified by the Township, by a Notice of Violation or in any other way, that he is committing such violation of this chapter, each day that he shall continue such violation after such notification shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

SECTION II. Repealer.

All other ordinances and resolutions or parts thereof as they are inconsistent with this Ordinance are hereby repealed.

SECTION III. Severability.

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby

declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION IV. Failure to Enforce Not a Waiver.

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION V. Effective Date.

This Ordinance shall take effect and be in force from and after its approval as required by the law.

ORDAINED AND ENACTED by the Board of Supervisors of Worcester Township, Montgomery County, Pennsylvania this 20th day of April, 2011.

WORCESTER TOWNSHIP

By: Arthur C. Bustard
Arthur C. Bustard, Chairman,
Board of Supervisors

By: Susan G. Caughlan
Susan G. Caughlan, Vice Chairman,
Board of Supervisors

By: Stephen C. Quigley
Stephen C. Quigley, Member,
Board of Supervisors

NOTICE

NOTICE is hereby given that the Board of Supervisors of Worcester Township, at its public meeting on April 20, 2011, at 7:30 p.m. at the Worcester Township Community Hall, 1031 Valley Forge Road, Fairview Village, Worcester, Pennsylvania, will hold a public hearing on and could vote to adopt an Ordinance entitled "Grading and Excavations Ordinance" amending the Code of the Township of Worcester to add a new Chapter 81 entitled "Grading and Excavations" setting forth the following sections: title; purpose; definitions; removal of topsoil; applicability; permit required; exceptions; permit application; permit fees; expiration of permit; extensions; inspections; excavations in steep slopes; compaction of fills; drainage; maintenance; general requirements; final grading inspection; compliance required; notice of violation; enforcement; and violations and penalties.

Copies of the full text of the proposed ordinance are available for examination during normal business hours at the offices of *The Times Herald*, 410 Markley Street, Norristown, Pennsylvania 19404, the Montgomery County Law Library, Court House, Norristown, Pennsylvania and the Worcester Township Building, 1721 Valley Forge Road, Worcester, Pennsylvania 19490 where a copy of the proposed ordinance may be obtained for a charge not greater than the cost thereof.

JAMES J. GARRITY, ESQUIRE
WISLER PEARLSTINE, LLP
Solicitors for Worcester Township