

EAST MARLBOROUGH TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2013-07

**AN ORDINANCE OF THE TOWNSHIP OF EAST MARLBOROUGH,
CHESTER COUNTY, PENNSYLVANIA, TITLED "EROSION AND
SEDIMENT CONTROL".**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of East Marlborough, Chester County, Pennsylvania as follows:

SECTION 1. The following Ordinance, to be codified as a new Chapter 53 of the East Marlborough Township Code, titled, "Erosion and Sediment Control" is hereby adopted and shall provide as follows:

EROSION AND SEDIMENT CONTROL

§ 53-1. Purpose.

The purpose of this chapter is to regulate the modification of natural terrain and alteration of drainage by providing for certain runoff, erosion and sediment control measures within East Marlborough Township (the "Township") to protect public health, safety and welfare. This chapter implements Title 25, Rules and Regulations, Part I, Commonwealth of Pennsylvania, Department of Environmental Resources, Subpart C, Protection of Natural Resources, Article II, Water Resources, Chapter 102, Erosion Control.

§ 53-2. Definitions.

The following definitions shall apply to this chapter:

BEDROCK - The solid, undisturbed rock in place either at the ground surface or beneath surficial soil deposits.

BORROW PIT - An open pit from which soil is excavated as a single incident for use at a single construction site.

CUT - The action of removing soil or rock material from a location by any means that will alter the existing grade elevation or create a change in stormwater runoff patterns.

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTURBED AREA - Land area disturbed by or where an Earth Disturbance Activity is occurring or has occurred.

EARTH DISTURBANCE (or EARTH DISTURBANCE ACTIVITY) - A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing; grading; excavations; embankments; road maintenance; land development; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

EARTHMOVING - Any act by which soil or bedrock is cut into, quarried, displaced or relocated.

EROSION - The process by which the surface of the land, including water/stream channels, is worn away by water, wind, or chemical action.

EXISTING GRADE - The vertical elevation of the ground surface prior to earthmoving, filling or stripping.

FILL - A deposit of soil or other materials placed by man.

FINISHED GRADE - The final vertical elevation of the ground after the disturbance of the topography of the land.

GRADE/GRADING – 1. (noun) A slope, usually of a road, channel, or natural ground, specified in percent and shown on plans as specified herein. 2. (verb) To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation.

GRADING PERMIT - The permit required to be issued prior to the disturbance of the topography and vegetation of the land in connection with the conduct of activities regulated by this chapter.

PERSON - Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation or agency or any combination thereof.

PROPOSED GRADE - The proposed elevation of the ground surface or land upon which any fill is proposed to be placed or site alteration is proposed to occur.

SEDIMENT - Soil or other materials transported by, suspended in or deposited by surface water as a product of erosion.

SITE - Total area of land in the Township where any proposed earth disturbance, Regulated Activity (as defined in the Township's Stormwater Management Ordinance), filling or stripping is, was or will be performed or is planned, conducted, or maintained .

SOIL - All earth material of whatever origin that overlies bedrock.

STRIPPING - The removal of vegetation and/or soil.

WATERCOURSE - Any natural or artificial swale, stream, channel, drain, pipe, culvert or other conveyance, whether above or below ground, in which waters flow continuously or intermittently.

§ 53-3. Activities regulated.

Whenever the topography and vegetation are to be disturbed, a plan for the control of erosion and sediment is required. The following regulations shall apply to any person engaging in activities which disturb the topography and vegetation of land:

- A. It shall be unlawful for any person to do any site work in conjunction with development, including but not limited to stripping, grading, earthmoving, filling and establishment of open-pit mines or borrow pits for any purpose without first securing a grading permit.
- B. It shall be unlawful for any person to pave, fill, strip, change the existing grade or otherwise disturb the topography or vegetation of any land within the Township without first securing a grading permit.
- C. It shall be unlawful for any person to disturb, modify, block, divert or affect the natural overland or subsurface flow of stormwater within the Township without first securing a grading permit.
- D. It shall be unlawful for any person to construct, erect or install any dam, ditch, culvert, drainpipe, bridge or any other structure of obstruction affecting the drainage of any premises in the Township without first securing a grading permit.
- E. Notwithstanding Subsections A through D, no grading permit shall be required for the following, provided the grading activity will not change the grade to an extent which it alters the direction, rate, or volume of stormwater runoff as determined by the Township:
 - (1) The use of land for gardening for home consumption.
 - (2) Any activity for which a permit must be obtained from an agency of the Commonwealth of Pennsylvania.

- (3) Normal agricultural operations.
 - (4) Any land-grading activity where the proposed cumulative increase in impervious coverage after the date of this chapter is less than 500 square feet.
 - (5) Any grading activity where the total area disturbed does not exceed 2,700 square feet.
- F. All necessary Department of Environmental Protection and/or county permits for earthmoving and grading activities shall be provided to the Township prior to the commencement of work.

§ 53-4. Application for grading permit.

- A. Any person proposing to engage in activity requiring a grading permit shall complete the necessary Township application. A separate application shall be required for each grading permit.
- B. The applicant is encouraged to consult with surrounding municipalities which may be affected by, or may affect the proposed land development. The applicant should also review the Township's Subdivision and Land Development Ordinance and Zoning Ordinance, which regulate land development within the Township.
- C. The Board of Supervisors shall have the right to waive the grading permit and/or data required for a grading permit where, in its sole discretion, the activity does not warrant a plan and/or grading permit.

§ 53-5. Data required for grading permit.

The application for a grading permit shall be accompanied by the following:

- A. Area plan(s) of the property at a suitable scale of no less than one inch equals 50 feet and contour intervals of no more than two feet, prepared by a registered engineer or surveyor, that shows and describes existing and proposed features of the area surrounding the location of the site work, including boundary lines, topography, existing vegetation, soil types, watercourses, man-made features, steep slopes, woodlands, the affected watersheds and other pertinent natural features.

- B. An improvements plan at the same scale as the plans required by Subsection A, above, showing and describing all proposed changes to the site, including cuts, fills, structures, paving and utilities. This plan may be combined with the plan required in Subsection A on simple projects.
- C. A written description of soil erosion and sediment control measures (with appropriate plans and specifications), in accordance with standards and specifications of the USDA Soil Conservation Service, Chester County Conservation District and Township ordinances, including, without limitation, retention basins or other stormwater management measures necessary to limit the rate of stormwater runoff to comply with the requirements of the Township's Stormwater Management Ordinance.
- D. A time schedule indicating the anticipated start and completion dates of the development sequence and the time of exposure of each area prior to the completion of such measures.
- E. As may be required by the Township Zoning Officer or Engineer, a description of adequate dust-control measures.
- F. All plans and specifications accompanying applications for grading permits shall include provisions for both temporary and permanent erosion and sediment control.
- G. Such other additional items as may be required by the Zoning Officer or Township Engineer.

§ 53-6. Approval of grading permit.

The Zoning Officer or the Township Engineer shall approve and issue all grading permits in writing.

§ 53-7. Regulations for grading permit holders and others.

- A. The permittee is responsible for any property damage or personal injury caused by his activity authorized by the grading permit.
- B. No person shall modify, fill, excavate, pave or regrade land in any manner as to endanger or damage public or private property or to cause physical damage or personal injury. All precautions will be taken to prevent any damage to adjoining streets, buildings and other structures which could be caused by settling, cracking, erosion or sediment.

- C. No person shall fail to adequately maintain in good operating order any drainage facility on his premises. All watercourses, drainage ditches, culverts, drain pipes and drainage structures shall be kept open and free flowing at all times.
- D. No person shall deposit or place any debris or other material in any watercourses, drainage ditch or structure in such a manner as to obstruct free flow.
- E. The owner of any property on which any work has been done pursuant to a permit granted under this chapter shall continuously maintain and repair all graded surfaces and anti-erosion devices such as retaining walls, drainage structures or means, plantings and ground cover, installed or completed. This obligation shall apply not only to the permit holder but also to his successors in title to the property.
- F. All finished graded surfaces shall be seeded, sodded, planted or otherwise protected from erosion immediately upon completion of the grading operation, and shall be watered, tended and maintained until growth is well established. The disturbed area and duration of exposure shall be kept to a practical minimum.
- G. Precautions shall be taken to prevent the unnecessary removal of trees.
- H. The design, installation and maintenance of erosion and sediment control measures shall be accomplished in accordance with standards and specifications established by the USDA Soil Conservation Service, the Pennsylvania Department of Environmental Protection and the Chester County Soil Conservation District except as otherwise stipulated in this chapter or other applicable Township ordinances.
- I. A quality control program is critical for fills. Therefore, wherever load-bearing fill material is to be used, each layer of compacted fill shall be tested to determine its dry density per ASTM D 1556. The density of each layer shall not be less than 95% of maximum dry density as determined by ASTM D 1557.
- J. Compaction test reports shall be kept on file at the site and shall be available for review at all times by the Zoning Officer or Township Engineer.

- K. Major modifications of the approved application and plans shall be submitted to the Township and reprocessed in the same manner as the original application and plans. Field modifications of a minor nature may be authorized by the Zoning Officer or Township Engineer, provided that written authorization is given to the person performing work pursuant to this chapter, with a copy forwarded to the Soil and Water Conservation District.

§ 53-8. Inspections.

- A. All inspections shall be conducted by the Zoning Officer or Township Engineer. The permittee shall notify the Zoning Officer or Township Engineer 48 hours before commencement of work.
- B. A final inspection shall be conducted by the Zoning Officer or Township Engineer to certify compliance with this chapter. Satisfactory compliance with this chapter shall be necessary before issuance of an occupancy permit, if applicable.

§ 53-9. Fees.

The Board of Supervisors shall, by resolution, adopt a schedule of fees and a collection procedure which shall be kept on file by the Township Secretary and shall be revised as necessary by the Board of Supervisors. The permittee shall also reimburse the Township the cost for the Township Engineer to review the plans and application where applicable and for any other fees and expenses that the Township incurs to review and process the grading permit application and to enforce the terms of this chapter, including legal fees.

§ 53-10. Revocation or suspension of grading permit.

Any permit issued under this chapter may be revoked or suspended by the Zoning Officer or Township Engineer for:

- A. Failure to carry out the control measures described in the application at the appropriate times as specified in the applicable time schedule or within such reasonable extension as may be granted by the Zoning Officer or Township Engineer.
- B. Violation of any other condition of the permit.
- C. Violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation relating to the work.
- D. Existence of any condition or performing any act constituting or creating a nuisance, hazard or endangering human life or the property of others.

§ 53-11. Expiration and renewal.

Each grading permit issued hereunder shall expire at the end of the period of time set out in the permit. The permittee shall complete all required work within the time limit specified in the grading permit. If the permittee shall be unable to complete the work within the specified time, he shall, within 30 days prior to expiration of the grading permit, present in writing to the Zoning Officer or Township Engineer a request for an extension of time, setting forth therein the reasons for the requested extension. If in the discretion of the Zoning Officer or Township Engineer such an extension is warranted, he may grant additional time for the completion of the work. Where the Zoning Officer or Township Engineer determines that the extension of time will require a substantial modification of the runoff and erosion control plan, any extension of a grading permit shall be subject to approval of a revised runoff and erosion control plan by the Chester County Conservation District and/or the Zoning Officer or Township Engineer.

§ 53-12. Violations and penalties.

Any person who violates or permits the violation of any provision of this chapter shall, upon conviction thereof in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be subject to the payment of a fine of not less than \$100 and not more than \$1,000, plus the costs of prosecution, including reasonable attorneys fees. In default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. Each section of this chapter violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense. All fines and penalties collected for the violation of this chapter shall be paid to the Township Treasurer. The Township may also pursue any other remedies available to it at law or in equity."

SECTION 2. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. Repealer. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 4. Effective Date. This Ordinance shall be effective five (5) days after enactment as by law provided.

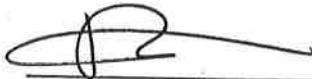
ENACTED AND ORDAINED this 2nd day of December, 2013.

ATTEST:

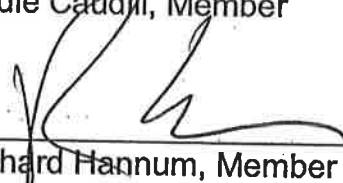

Jane Laslo, Manager

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