

DAUGHERTY TOWNSHIP

GRADING ORDINANCE

ORDINANCE #87

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ORDINANCE #87

AN ORDINANCE OF THE TOWNSHIP OF DAUGHERTY, COUNTY OF BEAVER, PENNSYLVANIA REGULATING THE DESIGN, CONSTRUCTION, MAINTENANCE OR ALTERATION OF GRADING EXCAVATIONS AND FILLS AND CONTAINING CERTAIN PROVISIONS FOR PERMITTING SUCH ACTIVITY.

1.0 BASIC PROVISIONS:

1.1 Reaction Clause:

IT IS HEREBY ORDAINED AND ENACTED BY The Board of Supervisors of the Township of Daugherty, County of Beaver, Commonwealth of Pennsylvania that from and after the passage of this Ordinance the following regulations shall be in full force and effect. The provisions of this Ordinance shall be held to be the MINIMUM requirement for the protection of the health, safety and welfare of the people at large, and to be designed to encourage the establishment and maintenance of reasonable community standards of physical environment.

1.2 Title:

This Ordinance may be cited as the Daugherty Township Grading Ordinance.

1.3 Purpose:

The purpose of this Ordinance is to provide MINIMUM standards to safeguard persons and property, to protect and to promote the public welfare, by preventing erosion, hazardous rock and soil slippage, sedimentation and other soil and water management problems, and by regulating and controlling the design, construction, quality of materials, use, location and maintenance of grading, excavation and fill.

1.4 Compliance:

No person shall construct, enlarge, alter or repair any grading excavation or fill except in full compliance with all the provisions of this Ordinance and after the lawful issuance of all permits required by this Ordinance.

1.5 Liability:

Neither the issuance of a permit under the provisions of this Ordinance, nor compliance with its provisions, nor conformance with conditions required by any such permit shall relieve any person from liability for damage resulting from grading, nor attach any liability upon the Township for damages to persons or property.

1.6 **Validity:**

The provisions of this Ordinance are severable and if any of its provisions or any part of any provision shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been enacted had such unconstitutional provisions or parts thereof not been included.

1.7 **Definitions:**

Wherever used in this Ordinance, the following words shall have the meaning indicated.

- a. **BEDROCK:** The natural rock layer, hard or soft, in place at ground surface or beneath unconsolidated surface deposits.
- b. **BOARD OF SUPERVISORS:** The governing body of the Township of Daugherty.
- c. **ENGINEER:** In this context, the term professional shall mean that an individual is qualified within the laws of the Commonwealth of Pennsylvania.
- d. **ENGINEERING GEOLOGIST:** A person who holds a degree in geology from an accredited college or university and who is a registered professional engineer.
- e. **EROSION:** The detachment and movement of soil and rock fragments by water, wind, ice, or gravity, including such processes as gravitational creep.
- f. **EXCAVATION:** Any act by which earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, and shall include the conditions resulting therefrom.
- g. **FILL:** An act by which earth, sand, gravel, rock or any other material is moved to a new location including the material itself and the condition resulting from such act.
- h. **GRADING:** An excavation or fill or any combination thereof including the condition resulting from any excavation or fill.
- i. **GRADING PERMIT:** The permit required by these regulations.
- j. **HAZARD:** A danger or potential danger to life, limb or health use or stability of property, waterways, public ways, structures, utilities, and storm sewers, including stream pollution.
- k. **PERSON:** A person, partnership, corporation, trust or association.
- l. **SITE:** A lot, tract, parcel of land, or series of lots, tracts or parcels of land which are adjoining where grading work is continuous and performed at the same time.
- m. **SEDIMENT:** Soil 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 earth's surface either above or below water level.

- n. SOIL ENGINEER: A professional engineer specializing in soil analysis (See Engineering Geologist).
- o. SOIL SURVEY: The unpublished and operational soil survey for Beaver County, Pennsylvania and the accompanying text soil survey maps and interpretations for development areas in Beaver County, Pennsylvania as prepared by the USDA Soil Conservation Services et al.
- p. WASTE: All parts or combination of ashes, garbage, refuse, combustible demolition materials and industrial wastes such as food processing wastes, wood, plastics, metal scrap, etc.
- q. TOWNSHIP: The Township of Daugherty.
- r. TOWNSHIP ADMINISTRATOR: The person or persons designated by the governing body to administer this Ordinance.
- s. WATERCOURSE: A drainage route or channel for the flow of water.

2.0 PERMITS

2.1 Required Permits:

A grading permit must be obtained for new grading, excavations, fills and changes, additions or alterations made to existing excavation or fills and shall conform to the provisions of these regulations. A separate grading permit shall be required for each site unless the site is included in a plan previously approved by the Township Board of Supervisors.

- a. Only one (1) permit is required per site.
- b. A grading permit is required regardless of whether a building is to be constructed on the site or not.

2.2 Exceptions:

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

- a. Grading limited to reasonable, regular, normal maintenance and landscaping improvements by individual homeowners, where standards provided herein are not violated.
- b. Stockpiling of rock, sand, topsoil, and aggregate in an area properly zoned for such use, when standards provided herein are not violated.
- c. For the construction of a single family or two family structure per recorded lot or parcel where standards provided herein are not violated.
- d. For work in streets or right-of-way dedicated to public use where standards provided herein are not violated.
- e. For Daugherty Township projects undertaken by the Board of Supervisors where standards provided herein are not violated.

- f. For accepted agricultural land management practices, such as plowing, nursery operations, removal and/or transplanting of cultivated sod, shrubs, and trees.
- g. For individual or community septic systems provided that an approved permit has been issued by the Township and standards provided herein are not violated.

2.3 **Application For Permit:**

No grading permit shall be issued unless an application has been submitted and approved in accordance with the following provisions.

- a. A complete application as provided by the Township for a grading permit shall be filed with the Township and shall be accompanied by a fee established by resolution of the Board of Supervisors to cover the cost of review and administration.
- b. Three (3) copies of a grading plan for the site with pertinent specifications shall be submitted to the Township. One (1) complete set of approved plans shall be kept at the site while work is in progress.
- c. Where any natural watercourse which is under the jurisdiction of the Pennsylvania Department of Environmental Resources, Division of Dams and Encroachments, may be affected by proposed excavations or fills along the banks of the watercourse or any culvert or bridge or by a change in direction, or by adjacent construction, the applicant must present as a part of this application, the permit and the letter of comment from the Department of Environmental Resources, Division of Dams and Encroachments.
- d. A complete application shall be deemed approved if a permit is not issued or denied within thirty (30) days from the date the application is submitted unless an extension is mutually agreed upon. The date of submission shall be indicated by the signature of an appropriate Township staff member on the application.

2.4 **Submission Of Plans:**

The application shall include not less than three (3) copies of a grading plan to show how resulting erosion and sediment shall be controlled. The proposed grading plan shall be in accordance with standard engineering practices to clearly indicate the following.

- a. A valid survey of the site on which the proposed work is to be done, including north arrow, location of prominent trees, wooded areas and watercourses.
- b. The location and description of existing and known man made features of importance to the proposed development, including among others distance to road intersections, structures, roads, utilities, excavations, fills and watercourses.
- c. A topographic map showing existing and proposed contours after completion of grading, at two (2) foot intervals where the average slope is ten (10) percent or less and at five (5) foot intervals where the average slope exceeds ten (10) per-

cent. The map will show drainage and soil conditions. Soil conditions shall be from collected field data.

- d. A development schedule indicating the anticipated starting and completion dates of the development and the sequence of development.
- e. Upon the approval of the Township Board of Supervisors through the appeal process referenced in Section 2.9 of this Ordinance, or upon the recommendation of the Township Engineer, the requirements for preparation of plans by an engineer may be waived where it is evident that the proposed work is simple, clearly shown on the drawings submitted, and poses no potential nuisance or hazard to adjacent property. Situations such as excavation for replacement of service lines, placement of an in-ground swimming pool, or grading for an accessory structure foundation are examples of earth disturbance activities requiring no formal appeal to the Board of Supervisors.

2.5 Drainage Study:

When it is evident that the grading will affect the drainage on adjoining property(s) or natural watercourses traversing the site, the Township Supervisors may require a detailed drainage study prepared by a registered professional engineer.

- a. Where applicable the drainage study shall show on a map of the site, the location, pertinent elevations and dimensions of all present and proposed watercourses, drainage structures; proposed areas of excavations and fills, woodlands, structures, parking areas, and driveways; source; storage and disposition of water channeled through or across the site; all proposed grading and drainage.
- b. The drainage study shall describe the work to be performed and placement of cut and fill material.
- c. The drainage study shall include calculations based on the Rational Method to determine runoff.
- d. Drainage facilities to carry surface water shall be provided and designed to prevent erosion or overflow.
- e. Adequate storm water retention facilities shall be provided to ensure that storm water run-off after grading shall not be greater than the run-off which would occur from the site in its natural state during a storm with a twenty-five (25) year probability.
- f. The provisions of this section shall apply only in cases where grading is to occur without site development. Whenever site development is proposed, the requirements of Ordinances #89 and #90 as amended of the Code of Daugherty Township shall apply. The requirements of Ordinances #89 and #90 as amended may be applied in lieu of this Section.

2.6 Performance Guarantee:

Before issuance of a grading permit, the applicant shall post a Pennsylvania approved corporate surety or other approved security in the amount of fifty (50%) percent of the established cost agreed upon by the Township Engineer of the grading work and erosion control facilities proposed for the permit to guarantee completion of said work and facilities in a manner which meets the requirements of this Ordinance.

- a. In lieu of posting a bond on individual single family lots a grading permit may be issued with the understanding that all grading shall be completed prior to issuance of an occupancy permit.
- b. The full amount of the security shall not be released until all conditions of the permit are met.

2.7 Approval:

When the requirements of this Ordinance for obtaining a grading permit have been met, the Township shall approve the proposed plan for the issuance of a grading permit. When in the opinion of the Township work proposed by the applicant is likely to endanger any property, person, public roadway, or cause any other hazardous conditions, the Township shall show cause and disapprove the application for issuance of the grading permit.

2.8 Expiration Of Permit:

A grading permit shall become null and void if the work authorized has not been commenced within six (6) months or if not completed within one (1) year from the date of the commencement of work. Upon request an extension of six (6) months may be granted by the Board of Supervisors.

2.9 Appeals:

Appeals may be taken to the Board of Supervisors within sixty (60) days of any denial by the Township Administrator. The Board of Supervisors may grant relief from the strict provisions of this Ordinance where in its opinion alternate methods proposed by the Developer will meet the objectives and intent of this Ordinance as referenced in Section 2.4 of this Ordinance. any applicant or permit holder shall have the right to appeal decisions of the Board of supervisors to any court of competent jurisdiction.

2.10 Inspections:

Prior to issuance of a grading permit, the applicant shall remit to the township an inspection fee for the performance of inspections of the work contemplated by the

approved Grading Plan, in an amount specified by the Township in accordance with a schedule of fees established and adopted by the Board of Supervisors.

- a. **FEE SCHEDULE:** The Board of Township Supervisors shall determine a schedule of fees, charges, and expenses, as well as a collection procedure for permits, inspections, and other matter pertaining to this Grading Ordinance. Said schedule of fees shall be posted in the Offices of the Township Secretary. The Board of Supervisors may alter the fee schedule from time to time by resolution adopted at any public meeting of the Board.

3.0 STANDARDS AND REQUIREMENTS

3.1 Standards For Grading:

The following standards shall be minimum standards for the issuance of a grading permit.

- a. In addition to the above, all fill and cut operations shall follow "The Soil & Sedimentation Control Manual", Act 102 as issued by the Commonwealth of PA Department of Environmental Resources and adopted by Beaver County.
- b. No excavation shall be made with a cut face steeper in slope than two (2) horizontal to one (1) vertical.
- c. Adequate provisions shall be incorporated to prevent erosion due to storm drainage. All drainage facilities shall be properly engineered and may be paved or planted swales and gutters and piped storm sewers. All storm drainage facilities will be reviewed and approved by the Township.
- d. Existing storm drainage shall not be diverted so as to alter the location of water-courses on any adjacent property.
- e. Immediately upon completion of final grading, all disturbed areas not designated for building, paving, or decorative landscaping shall be mulched and planted or protected. Planting shall be appropriate to protect slopes from erosion. In general, planting may be rye grass, crown vetch, or a fescue mix.
- f. Trees and growth shall be retained wherever possible.
- g. Adequate provisions may be required for dust control measures as are deemed necessary and acceptable by the Township Administrator.
- h. Plans and Specifications for every grading permit shall provide both temporary and permanent erosion and sediment control.

3.2 Hazardous Conditions:

Where the Board of Supervisors has determined that any existing excavation, embankment or fill is a hazard, the Township shall give written notice to the property owner that a hazard exists and shall order that such hazard shall be remedied by the owner within a reasonable time specified in the notice.

- a. If, after such notification, the property owner has not made the necessary repairs within the time adopted, then the Board of Supervisors may cause such remedies as are needed to be performed by Township Employees or by contract, and the cost thereof shall be borne by the property owner by a lien filed as provided by law.
- b. Whenever the Board of Supervisors determines that any proposed excavation or fill is a hazard, it may require that the property owner have any proposed remedies certified by an engineer or an engineering geologist.
- c. The owner of a property shall be responsible to protect and clean up lower properties of silt and debris washing from his property as a result of the grading of his property.

3.3 Inspections:

The applicant shall give notice to the Township of the schedule of the grading operation. Notice shall be received by the Township at least two (2) working days before the start of grading operations and upon its completion.

- a. Grading work at any time will be subject to spot inspections at the discretion of the Township Administrator or Engineer to determine that the work is being performed in compliance with the approved permit and these regulations.
- b. A final inspection shall be conducted by the Township to certify compliance with this Ordinance within thirty (30) days after receipt of written request. Satisfactory compliance with this Ordinance shall be necessary before complete release of the posted surety. If said final inspection is not completed by the Township within the specified thirty (30) days, satisfactory compliance with this Ordinance shall be deemed approved and the Township will release the posted surety.

3.4 Maintenance:

All drainage courses on private property, ditches, culverts, pipes and structures on private property shall be adequately maintained by the owner and shall be kept open and free flowing at all times.

3.5 Existing Conditions:

Where existing conditions on privately owned property include the discharge of overland stormwater run-off in an open drainage swale or diversion trench or in a naturally occurring stream channel, the owner of said property shall maintain such natural or man-made stormwater transmission without obstruction. In the event that rerouting or enclosure of overland stormwater is sought, all D.E.R. permits and approval by the Daugherty Township Engineer shall precede any earth disturbance or grading activity as herein prescribed.

3.6 Developed Lots:

In the case of properties upon which a single family residence, duplex, townhouse or converted apartment (single family structure to three [3] or four [4] apartment units) has been constructed, roof drains and similar stormwater discharge pipes shall be channeled to natural watercourses and not openly discharged through pipes across the property boundary line. Appropriate diversion trenches or drainage sumps designed for gradual dispersal shall be provided by each property owner in order to facilitate overland runoff across more than two (2) abutting properties which are at higher elevations than the watercourse to which the stormwater is being diverted or flows to naturally.

3.7 Construction Permits:

For grading activities which are exempt under this ordinance, a minimum erosion and sedimentation control plan shall be submitted with the application for a building or zoning permit. Said plan shall identify the location of bales of hay, soil erosion control fabric fencing or other appropriate erosion control along that perimeter of the subject parcel at the lowest elevation to the structure being built in order to prevent sediment discharge onto abutting properties during construction.

3.8 Stop Work Order:

Whenever the Township Administrator determines that grading on a site is proceeding in violation of any provision of this Ordinance, all work at the site shall immediately stop upon issuance of a Stop Work Order. The Stop Work Order shall be presented in writing to the property owner, the owner's agent, or the person performing the work at the site. The Stop Work Order shall include a description of the conditions under which work may be resumed.

3.9 Notice Of Violation And Enforcement

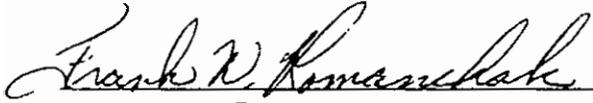
- a. If it is found that any provision of this Ordinance is violated, the property owner shall be notified in writing of the violation(s) and the necessary action to correct the violation within a specified period of time. If the necessary corrective action is not completed within the specified period of time, the property owner will be notified of the Township's intent to institute legal proceedings.
- b. Any person, partnership or corporation who or which shall violate the provisions of this Ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than five hundred (\$500) dollars for each day the violation continues. In default of payment of the fine, such person, the members of such partnership or the officers of such corporation shall be liable for all penalties assessed by the Magistrate having jurisdiction. Each day that a

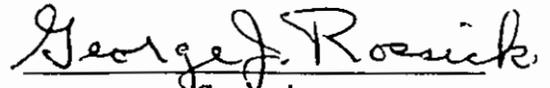
violation is continued shall constitute a separate offense. All fines collected for the violation of this Ordinance shall be paid to the Township of Daugherty.

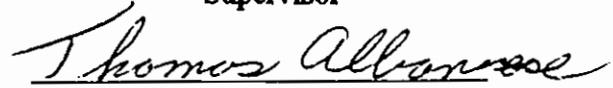
4.0 ENACTMENT AND EFFECTIVE DATE:

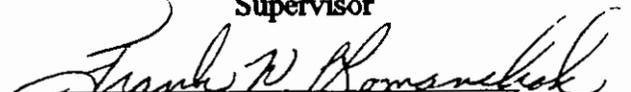
This Ordinance shall become effective upon adoption by the Daugherty Township Board of Supervisors.

ENACTED AND ORDAINED this 10 day of June, 1992.


Secretary


Supervisor


Supervisor


Supervisor