

**CHAPTER 9**

**CHAPTER TITLE**

**Part 1**

**Soil Erosion, Sedimentation and Grading Controls**

- §101. Purpose**
- §102. Scope**
- §103. Definitions**
- §104. General Requirements**
- §105. Plan Required; Contents**
- §106. Activities Requiring Grading Permit**
- §107. Exempt Activities**
- §108. Application for Permit**
- §109. Data Required on Plan**
- §110. Drainage Study**
- §111. Approval of Plan and Issuance of Permit**
- §112. Standards for Grading Activities**
- §113. Inspection Procedures**
- §114. Plan Review and Inspection Costs**
- §115. Grading Permit Fee**
- §116. Violations and Penalties**
- §117. Remedy of Violations; Restoration of Premises**



## Part 1

### Soil Erosion, Sedimentation and Grading Controls

§101. Purpose. The purpose of this Part is to regulate the modification of the natural terrain and the alteration of drainage to provide for certain erosion and sediment control measures within the Borough of Pottstown to assure and safeguard the health, safety, ecology and general welfare in Pottstown Borough. (Ord. 1935, 4/8/2002, §1)

§102. Scope. From and after the effective date of this Part, any subdivision and/or land development approved under the Subdivision and Land Development [Chapter 22] or Zoning [Chapter 27] Ordinance, any new construction or installation of a new structure and change in use or activity qualified under §§105 and 106 herein shall be in conformity with this Part, subject to compliance with and in conjunction with any review and/or approval by the Montgomery County Conservation District. All regulations within this Part shall be in compliance with Title 25, Rules and Regulations, Part I, Commonwealth of Pennsylvania, Department of Environmental Protection, subpart C, Protection of Natural Resources, Article II, Water Resources, Chapter 102, Erosion Control. (Ord. 1935, 4/8/2002, §2)

§103. Definitions. As used in this Part, and Chapter 26 which establishes standards for stormwater water management, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ALLUVIAL SOILS – An azonal great group of soils, developed from transported and relatively recently deposited material (aluvium), characterized by a weak modification (or none) of the original material by soil-forming processes.

CUT AND/OR FILL – The process of earth moving by excavating part of an area and/or using excavated material for embankment or fill areas.

EROSION -

- (1) The wearing away of land surface by running water, wind, ice or chemical or other geological agents.
- (2) The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

GRADE -

- (1) The slope of a road, channel or natural ground.

## CHAPTER TITLE

- (2) The finished surface of a canal bed, roadbed, top of embankment or bottom of excavation; any surface prepared for the support of construction like paving or laying a conduit.
- (3) To finish the surface of a canal bed, roadbed, top of embankment or bottom of excavation.

**RUNOFF (HYDROLOGY)** – that portion of the precipitation within 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 earth's surface, either above or below sea level.

**SLOPE** – the degree of deviation of a surface 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 Montgomery County Soil Survey of the A Horizon.

**TOPSOIL** – the topmost layer of ground cover containing humus in some concentration capable of supporting plant growth, as more fully defined and set forth in the most recently adopted and approved Montgomery County Soil Survey under the designation of the A Horizon, but not including subsoil as heretofore defined.

**WATERCOURSE** – a natural drainage route or channel for the flow of water.

(Ord. 1935, 4/8/2002, §3)

**§104. General Requirements.** Whenever any subdivision or land development, any new construction or installation of a new structure or other activity which results in application to the Montgomery County Soil Conservation District and submission of a soil and erosion control plan is proposed, a copy of said plan and final approval and/or permits as may be granted shall be submitted to the Borough before any activity, construction, grading or relandscaping of the affected tract is undertaken. The Borough shall have full and complete authority to inspect the activities undertaken at said site, including the full 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. (Ord. 1935, 4/8/2002, §4)

§105. Plan Required; Contents. Whenever any subdivision and/or land development approved under the Subdivision and Land Development [Chapter 22] or Zoning [Chapter 27] Ordinance, any new construction or installation of a new structure or any change in use causes the landscape to be permanently disturbed as to either contours, soil or slope characteristics, or vegetation or any ground cover is to be permanently removed, except as hereinafter excluded under §§106 and 107 below and except as otherwise subject to review and approval by the Montgomery County Soil Conservation District, as provided under §104 of this Part, a plan is required showing how resulting erosion and sediment shall be controlled. This plan shall include the following:

- A. The amount of site alteration proposed.
- B. Existing and proposed grades.
- C. The development schedule.
- D. Erosion and sediment control practices, both temporary and permanent, and the operation and maintenance arrangements.

(Ord. 1935, 4/8/2002, §5)

§106. Activities Requiring Grading Permit. Except for those activities exempted by §107 below, the following activities require a grading permit, which shall be a prerequisite to an issuance of a building permit when applicable.

- A. Modifying, disturbing, blocking, diverting or otherwise adversely affecting the natural overland or subsurface flow of stormwater.
- B. Constructing, erecting or installing any drainage dam, ditch, culvert, drain-pipe or bridge or any other structure or obstruction affecting the drainage of any premises.
- C. Paving, filling, stripping, excavating, grading or regrading any land, including private and/or nondedicated streets and/or alleys.
- D. Disturbing the landscape, vegetation or any ground cover by any proposal involving an area in excess of one hundred twenty-five (125) square feet.

(Ord. 1935, 4/8/2002, §6)

§107. Exempt Activities. The following activities require no grading permit:

- A. Improvements, such as resurfacing of any existing paved (either bituminous or concrete) driveway, minor regrading or activities on a property which do

## CHAPTER TITLE

not adversely affect the natural overland or subsurface flow of stormwater or the drainage of any premises or adversely disturb the landscape.

- B. Farming, gardening, lawn installation or lawn restoration.
- C. Work within the ultimate right-of-way of a public street or alleyway to be offered for dedication or previously ordained by the Borough, County or Commonwealth, or any park, playground, recreation area or open space dedicated to and accepted by the Borough, County or Commonwealth.

(Ord. 1935, 4/8/2002, §7)

### §108. Application for Permit.

1. Any person, firm or corporation proposing to engage in an activity requiring a grading permit hereunder shall apply by submitting a grading application and the submission of a grading plan to the Pottstown Borough Code Enforcement Office. No activity shall commence until a grading permit is issued by the Borough.
2. The applicant should review, before submitting a preliminary plan for review, consult the Zoning Ordinance [Chapter 27], the Subdivision and Land Development Ordinance [Chapter 22], and the Stormwater Management Ordinance [Chapter 26], which regulate the development of the land in Pottstown Borough.
3. A separate plan shall be required for each grading permit.
4. The plan for a grading permit shall be accompanied by a fee established in Pottstown's schedule of fees. The grading permit shall be issued by the Pottstown Borough Code Enforcement Office or its designee.

(Ord. 1935, 4/8/2002, §8)

### §109. Data Required on Plan.

1. The plan for a grading permit shall include:
  - A. A map or maps describing the topography of the area, the proposed alteration to the area and the erosion and sedimentation control measures and facilities.
  - B. A narrative report describing the project and giving the purpose and the engineering assumptions and calculations for control measures and facilities.
2. The maps and narrative shall include, but not be limited to, a general description of the project, noting stormwater handling, accelerated erosion control, sedimentation control, anticipated beginning and ending dates for the project and the

training and experience of the person preparing the plan, along with the method of calculation of runoff, the factors considered in such calculations and provisions for safe disposal. The map should describe and locate topographic features, including boundary lines of the project area, acreage, contours at appropriate intervals to adequately describe the topography, the 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. The map shall also specify soil types as would be noted in a soil survey by name, depth and textural or areal extent, along with proposed changes to the land surface and vegetative cover, which will note contours of finished areas, types of temporary and permanent control measures and facilities and their location and dimensions. The narrative shall include the description of the maintenance program for the control facilities and appropriate design considerations and calculations for both temporary and permanent control measures and facilities.

(Ord. 1935, 4/8/2002, §9)

§110. Drainage Study. When required by Chapter 26, Part 2, the applicant shall submit a detailed drainage study in accordance with the standards of Chapter 26, Part 2, which establishes standards for stormwater management. (Ord. 1935, 4/8/2002, §10)

§111. Approval of Plan and Issuance of Permit. Upon the approval of the plan, the Borough shall issue the necessary grading permit. (Ord. 1935, 4/8/2002, §11)

§112. Standards for Grading Activities. Except for those activities exempted by §107 of this Part, the following standards shall apply to all activities permitted or allowed under §104 and §106 of this Part:

- A. Notwithstanding any provision of this Part 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 re-grade land in any manner so close to a property line as to endanger or damage any adjoining street or alley or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sediment, flooding or any other physical damage or personal injury which might result.
- C. Notwithstanding any other term or provision of this Part, no person, firm or corporation shall cause or allow to be removed greater than fifty percent (50%) of the existing topsoil from any site, and in no event shall the topsoil existing on any site be reduced to less than a depth of six (6) inches as

measured from the underlying subsoil, except as may be modified by the Borough by issuance of a conditional permit, which permit shall be issued to modify the terms of this Part only based upon sound engineering practices and subject to appeal by any party in interest, including the applicant, the Borough or any other interested or affected party filing an appeal to be heard by Borough Council in the same manner as an application or petition to rezone. Further, it is the intention of this Part to achieve conservation of both topsoil and subsoil in such a manner that disturbance of the subsoil will achieve a balance on each and every disturbed site, resulting in the removal of no subsoil; however, no more than eight hundred (800) cubic yards of subsoil per disturbed acre may be removed from any site or be relocated onsite to an area not part of the proposed development and in single and common deed with the disturbed area, except as this subsection may be modified by the Borough by issuance of a conditional permit, which permit shall be issued to modify the terms of this Part only based upon sound engineering practices and subject to appeal by any party in interest, including the applicant, the Borough or any other interest or affected party filing an appeal to be by Borough Council in the same manner as an application or petition to rezone. Any such topsoil, removed from any site shall be relocated to another site within the Borough of Pottstown as approved and determined by the Pottstown Code Enforcement Office.

- D. With respect to grading and drainage, in order to provide more suitable sites for building and other uses, improved surface drainage and control erosion, the following requirements shall be met:
  - (1) All lots, tracts or parcels shall be graded to provide proper drainage away from buildings and to dispose of it without ponding, and all land within the disturbed area shall be graded to drain and dispose of surface water without ponding except where approved by the Borough.
  - (2) All drainage facilities shall be of such design as to adequately control the surface runoff and to carry it to the nearest suitable outlet, such as curbed street, storm drain, natural watercourse or properly designed swale. Where drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted as required and shall be of such slope, shape and size as may be required by the Borough.
  - (3) Concentration of surface water runoff shall be permitted only in properly designed and maintained swales, watercourses or retention basins.
  
- E. With respect to excavation and fills, the following requirements shall apply:
  - (1) Cut and fill slopes shall not be steeper than two to one (2:1) unless stabilized by a retaining wall or cribbing, except as approved by the Borough because of special conditions.

- (2) Adequate provisions shall be made to prevent surface water from damaging the cut face of excavation on the sloping surface of fills.
  - (3) Cuts and fills shall not endanger adjoining property.
  - (4) Fill shall be placed and compacted so to minimize sliding or erosion of the soil.
  - (5) Fills shall not encroach on natural watercourses or constructed channels.
  - (6) No increased surface runoff will be permitted to leave the property being developed or disturbed, by way of natural watercourses or storm drainage pipes, without first being suitably detained in such a way as to maintain runoff rate as it existed on the site previous to development or disturbance.
  - (7) Fill placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during periods of flooding.
  - (8) Grading will not be done in a way as to divert water onto the property of another landowner without the express written consent of that landowner and the Borough.
  - (9) Grading equipment will not be allowed to cross any stream without the proper permits from PA DEP. Provisions will be made for the installation of a permanent stream crossing.
- F. No person, firm or corporation shall deposit or place any debris or any other material whatsoever or cause such to be thrown or placed in any drainage way or drainage structure in such a manner as to obstruct free flow.
- G. No person, firm or corporation shall fail to adequately maintain, in good operating order, any drainage facility on his premises. All drainage ditches, culverts, drainpipes and drainage structures shall be kept open and free flowing at all times.
- H. The owner of any property on which any work has been done pursuant to a grading permit granted under this Part shall continuously maintain and repair all graded surfaces and antierosion devices, retaining walls, drainage structures or means and other protective devices, planting and ground cover installed or completed. The Borough of Pottstown or PennDOT is responsible for maintenance and repair within the right-of-way of municipal and/or State roads.

## CHAPTER TITLE

- I. All graded surfaces shall be permanently seeded, sodded and/or planted or otherwise protected from erosion within twenty (20) days, weather permitting, and shall be tended and/or maintained until growth is well established. The disturbed area and duration of exposure shall be kept to a minimum, using temporary erosion and sediment control measures immediately as outlined in the Erosion and Sediment Control Manual, Montgomery County, Pennsylvania.
- J. All trees in an area of extreme grade change shall be protected with suitable tree wells, unless the necessity for removal is established. Precautions shall be taken to prevent the unnecessary removal of trees.
- K. When required, adequate provisions shall be made for dust control measures as are deemed acceptable by the Borough.
- L. All plans and specifications submitted for a grading permit shall include provisions for both interim (temporary) and ultimate permanent erosion and sediment control. The design, installation and maintenance of erosion and sediment control measures shall be accomplished in accordance with standards and specifications established by the County Conservation District, as adopted from standards and specifications of the United States Soil Conservation Service and as outlined in the then-applicable and current manual of administrative regulations or guidelines, as may be adopted and enacted by the County Conservation District.
  - (1) Technical standards for the design and installation of erosion and sediment control measures are on file with the County Conservation District.
  - (2) Standards and specifications adopted for the purposes of this Part and by the County Conservation District include, but are not limited to, the following basic conservation measures:
    - (a) Temporary cover on critical areas.
    - (b) Permanent grass and legume cover for critical areas on prepared seedbed.
    - (c) Permanent grass and legume cover for critical areas on unprepared seedbed.
    - (d) Sodding.
    - (e) Mulching.
    - (f) Temporary stormwater diversion.
    - (g) Permanent stormwater diversion.

- (h) Grassed waterway or outlet.
  - (i) Grade stabilization structure.
  - (j) Sediment basin/trap.
  - (k) Inlet or catch basin.
  - (l) Drainage pipes.
- M. A quality control program is critical for fills; in certain instances, therefore, when deemed necessary by the Borough, the person, firm or corporation placing the fill shall be responsible for testing to determine its dry density as per ASTM D1556. It is recommended that the density of any load-bearing layer supporting or to be incorporated in a road surface, detention basin or erosion swale shall be not less than ninety percent (90%) of the maximum density.
- (1) The inspection procedure shall follow the general procedure as stated in §113 of this Part.
  - (2) Compaction test reports shall be kept on file at the site and shall be subject to review at all times.
  - (3) The degrees of compaction required shall be determined by the Borough following the guidelines in this Section.

(Ord. 1935, 4/8/2002, §12)

§113. Inspection Procedures. Except for those activities exempted by §107 of this Part, the following standards shall apply:

- A. All inspections shall be the responsibility of the Borough Code Enforcement Officer or its designated representative.
- B. Inspections will be carried out in a random basis.
- C. A final inspection shall be conducted by the Borough to certify compliance with this Part. Satisfactory compliance with this Part shall be necessary before the issuance of any use and occupancy permit, if applicable.

(Ord. 1935, 4/8/2002, §13)

§114. Plan Review and Inspection Costs. Applicants shall bear all costs of plan review and inspections required or permitted hereunder and shall deposit with the Borough

## CHAPTER TITLE

such sums as Borough Council shall determine to guarantee payment of the costs of such inspections. The costs of inspections shall be in accordance with the established fee schedule of the Borough. (Ord. 1935, 4/8/2002, §14)

§115. Grading Permit Fee. The fees for grading permits and review and inspections shall be fixed by resolution of the Borough Council from time to time. (Ord. 1935, 4/8/2002, §15)

§116. Violations and Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) plus costs of prosecution and, in default of payment thereof, to undergo imprisonment for a term not exceeding thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 1935, 4/8/2002, §16)

§117. Remedy of Violations; Restoration of Premises. In addition to the penalties set forth in §116 above, any movement of landscape, vegetation or any ground cover performed in violation of this Part shall be restored to its previous condition, including replacement of excavated earth, removal of illegally placed fill, and restoration of grades and planting. (Ord. 1935, 4/8/2002, §17)