

Chapter 9

Grading and Excavating

Part 1

Earth Disturbance Ordinance

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Part 1**Earth Disturbance Ordinance****§9-101. Short Title.**

The name of this Part shall be the "Ivyland Borough Earth Disturbance Ordinance."

(Ord. 2000-5, 5/3/2000, §1)

§9-102. Regulated Activities.

1. A plan for the control of erosion, sediment and grading is required whenever the topography and vegetation on a parcel of real property are to be disturbed.

2. Notwithstanding anything to the contrary set forth in this Section, no permit shall be required pursuant to this Part in the following circumstances.

A. Normal agricultural operations.

B. Where the aggregate area to be stripped at one time does not exceed 5 percent of the gross lot area or 5,000 square feet, whichever is smaller; the grade change does not exceed 6 inches in any one area, and all bare earth is property seeded, sodded or otherwise effectively protected from erosion.

(Ord. 2000-5, 5/3/2000, §2)

§9-103. Unlawful Acts.

It shall be unlawful for any person, firm or corporation to do any of the following without first securing a permit as required pursuant to this Part:

A. To pave, fill, strip or change the existing grade of any land within the Township.

B. To disturb, modify, block, divert or affect the natural overland or subsurface flow of stormwater within the Borough.

C. To construct, erect or install any dam, ditch, culvert, drainpipe, bridge or any other obstruction affecting the drainage of any parcel of real property in the Borough.

(Ord. 2000-5, 5/3/2000, §3)

§9-104. Effect on Other Permits.

Whenever any proposed activity requires a building and/or driveway permit, no such building or driveway permit shall be issued unless the applicant certifies that the permit required hereunder has been issued or that no permit is required. The plans and application required herein may be combined, when applicable, with plans and application materials submitted for building and/or driveway permits.

(Ord. 2000-5, 5/3/2000, §4)

§9-105. Application for a Permit.

1. Any person, firm or corporation proposing to engage in activity requiring a

permit hereunder shall apply for a permit by written application which shall include the applicant's agreement to comply with the regulations in §9-107 hereof upon issuance of the permit.

2. The applicant shall consult the Ivyland Borough Zoning Ordinance [Chapter 27], Subdivision and Land Development Ordinance [Chapter 22], which regulates the development of land within the Borough, prior to making application for a permit under this Part.

3. A separate application shall be required for each grading operation.

4. All application forms shall be submitted to the Borough Secretary who shall, within 10 days of the adoption of this Part, establish operating procedures including the required number of copies of the application, the content of the application, and all of the above shall be in conformity with the provisions of this Part. The fees for such permits shall be determined by the Borough Council of Ivyland Borough from time to time.

5. Any application for an erosion, sedimentation and grading permit shall be accompanied by a plan of the property showing the following:

A. An area plan, or plans, describing existing and proposed features of the area surrounding the site of the work, including topography, existing vegetation, water courses, man-made features, the affected watersheds and other pertinent natural features. This may be in the form of a recent USGS map with the property and required features located thereon.

B. A topographical survey of the site, at a suitable scale of no less than 1 inch–50 feet and contour interval of no more than 2 feet, prepared by a registered surveyor or registered engineer, including also a boundary line survey, the location and description of vegetative cover, including trees over 10 inches in diameter 2 feet above the ground, soil types (available from Bucks County Soil Conservation Service) and any other pertinent existing natural or man-made features. The plan shall be a minimum of 8½ inches x 11 inches.

C. An improvements plan of the same size and scale as paragraph .B hereof showing and describing all changes to the site including cuts, fills, structures, paving, waste disposal systems, wells, descriptions of all trees to be removed and utilities (this may be combined with the topographical survey on simple projects).

D. A written description of soil erosion and sedimentation control measures (with appropriate plans and specifications), in accordance with 25 Pa.Code §102.4 which shall be in conformity with the standards and specifications of the USDA Soil Conservation Service, Bucks County Conservation District Ordinances, including, without limitation, retention basins or other erosion and stormwater control measures necessary to limit the rate of stormwater runoff to comply with the requirements of the Ivyland Borough Subdivision and Land Development Regulations [Chapter 22]. [*Ord. 2011-3*]

E. A time schedule stating the anticipated starting and completion dates of the development sequence, the expected date of completion of construction of each of the measures referred to in paragraph .D herein, and the time of exposure of each area prior to the completion of such measures.

F. A grading plan of the same scale as paragraph .B herein showing and

describing all changes to the site including cuts, fills, structures, paving, utilities, right-of-ways, and easements. Also to be shown on the plan is the exact location of on-site waste disposal systems, wells, and reserve waste disposal system areas.

G. The proposed final topographical survey of the site showing in detail the final grading upon completion of all construction activity.

(*Ord. 2000-5, 5/3/2000, §5; as amended by Ord. 2011-3, 11/9/2011*)

§9-106. Additional Requirements for Permits.

The following information shall be supplied whenever a permit is requested and it shall be prepared by registered professional civil engineer agronomist or other professional qualified in hydrology (however, the Borough Engineer upon written application may waive in writing the necessity for filing a portion of or all of the following information) which said information shall be an addition to any other requirements imposed upon the applicant by this Part. The information is as follows:

A. A plan shall indicate present and proposed sources, storage and disposition of water being channeled through or across the site, together with elevations, gradients and maximum flow rates. The application shall describe the work to be performed, the materials to be used and the manner, or method, of performance, including provisions for protecting and maintaining existing drainage facilities, whether or public or private property.

B. Calculations to determine runoff shall be based on the Soil-Cover Complex Method and shall be based upon the assumption that the predevelopment land use condition is meadow land in good condition unless the actual predeveloped condition has a stormwater runoff rate less than meadow land. The condition having the least runoff shall be the basis of all stormwater runoff calculations for all portions of the subject lot or tract of land, storm sewer piping, inlet systems to retention basins, spillways, culverts, swales and all related facilities shall be designed to carry stormwater runoff to the 25-year frequency storm. All basins shall be designed on a 100-year frequency storm basis.

(*Ord. 2000-5, 5/3/2000, §6*)

§9-107. Specifications and Requirements.

The following provisions apply for all activity governed by the provisions of this Part:

A. All drainage facilities shall be designed to retard the rate of stormwater runoff to the same rate or a lesser rate as that existing prior to construction. Such a determination shall be made by the method of calculations heretofore set forth.

B. Lots shall be graded to secure proper drainage away from buildings and streets except streets where curbs exist, and to prevent the collection of stormwater and pools. Stockpiling of topsoil shall be protected from erosion.

C. All drainage provisions shall be of such design as to efficiently carry surface waters to the nearest street (if curbs exist), storm drain, or natural watercourse. If the aforementioned facilities do not exist, then in that event, stormwater shall be evenly dispersed over the lot so as to best promote infiltration of stormwater into the ground within the boundaries of the subject lot.

D. The applicant shall construct and/or install such drainage structures and/or pipes which are necessary to prevent erosion damage and to satisfactorily manage surface waters in accordance with 25 Pa.Code, Chapter 102, "Erosion Control." Any drainage system not operating as planned shall be corrected at the expense of the applicant. [Ord. 2011-3]

E. The applicant shall not modify, fill, excavate or regrade the land in any manner so close to a property line as to endanger or damage any adjoining public street, sidewalk, alley, or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sediment, stormwater pooling or other physical damage or personal injury which might result.

F. No person, firm or corporation shall deposit or place any debris or other material whatsoever, or cause such to be thrown or placed, in any drainage ditch or drainage structure in such a manner as to obstruct free flow.

G. All graded surfaces shall be seeded, sodded and/or planted or otherwise protected from erosion within 60 days of breaking ground, and shall be watered, tended and maintained until growth is well established at the time of completion and final inspection.

H. Natural and/or existing slopes exceeding 5 horizontal to 1 vertical shall be benched or continually stepped into competent materials where vertical cuts exceed 10 feet prior to placing all classes of fill.

I. Fills toeing out or natural slopes steeper than 4 horizontal to 1 vertical shall not be made, unless approved by the Borough Engineer after receipt of a report deemed acceptable by the Borough Engineer, by a soil engineer certifying that he has investigated the property, made the soil tests and that in his opinion such steeper slopes will safely support the proposed fill. Costs for such investigation and report shall be borne by the applicant.

J. A quality control program is critical for fills, therefore, whenever load bearing fill material is to be used, each layer of compacted fill shall be tested to determine its dry density per ASTM D1556. The density of each layer shall not be less than 95 percent of the maximum dry density as determined per ASTM D1557. These tests shall be required for all fills and stormwater or sediment basins with the Borough.

K. All permanent grading shall be designed to:

(1) Provide positive surface drainage away from on-site sewage disposal systems.

(2) Provide positive surface drainage away from buildings and structures.

(3) Limit stormwater runoff from the subject lot to other lands so that no more occurs than that which occurred prior to any construction of any nature on the subject lot.

(4) No stormwater runoff or drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public land.

(5) Stormwater roof drains and any basement drains shall not discharge water directly onto a sidewalk, a lane, or a street, or within the street, or within the street right-of-way, and shall be constructed to retain the discharge

only on the lot which is the subject of the application or to a stormwater system.

(*Ord. 2000-5, 5/3/2000, §7; as amended by Ord. 2011-3, 11/9/2011*)

§9-108. Approval of Permits.

The Borough Engineer shall approve and issue all earth disturbance permits on the form provided by the Borough Secretary for that purpose. No building permit shall be issued by the Building Inspector and no driveway permit shall be issued by the Borough until such time as an earth disturbance permit has been obtained by the applicant, whenever required. Furthermore, no certificate of occupancy permit shall be issued by the Building Inspector until such time as the Borough Engineer certifies that all grading has been completed in accordance with the final grading plan.

(*Ord. 2000-5, 5/3/2000, §8*)

§9-109. Regulations for Permit Holders and Others.

1. The permittee is responsible for any property damage or personal injury caused by its activities authorized by the permit.

2. No person, firm or corporation shall modify, fill, excavate, pave, grade or re-grade 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, sidewalks, buildings and other structures which could be caused by settling, cracking, erosion or sediment.

3. No person, firm or corporation shall fail to adequately maintain in good operating order, any drainage facility on its premises. All watercourses, drainage ditches, culverts, drainpipes and drainage structures shall be kept open and free flowing at all times.

4. The owner, from time to time, of any property on which any work has been done pursuant to a permit issued under this Part shall continuously maintain and repair all graded surface and anti-erosion devices such as retaining walls, drainage, structures or means, plants and ground cover, installed or completed.

5. When required by the permit, adequate provision shall be made for dust control measures as determined by the Borough Engineer.

6. All plans and specifications accompanying any permit application shall include provisions for both temporary and permanent grading.

7. The installation and maintenance of erosion and sedimentation control measures shall be accomplished in accordance with standards and specifications established by the USDA Soil conservation Service and the Bucks County Soil Conservation District.

(*Ord. 2000-5, 5/3/2000, §9*)

§9-110. Inspections.

1. All inspections shall be the responsibility of the Borough Engineer.
2. Inspections shall be carried out on a random basis, except as stated hereafter.
3. A final inspection shall be conducted by the Borough Engineer to certify

compliance with this Part. The permittee and owner of the subject real property shall notify the Borough Engineer and submit an as-built grading plan (showing all changes in the final grading) within 14 days of the completion of all activities to which a permit was issued thereunder. The Borough Engineer shall then conduct an inspection to insure that satisfactory compliance with this Part has been accomplished. If the subject property, as finally graded, does not satisfactorily conform to the final grading plan filed with the permit applications hereunder, then the Borough Engineer shall note changes required to the as-built grading plan. The permittee and owner of the subject real property shall correct all noted deficiencies and resubmit a revised as-built grading plan for reinspection. When the Borough Engineer is satisfied that the finally graded parcel of real property complies with the provisions of this Part, he shall then notify the Borough Building Inspector that the subject lot is in compliance with this Part. No occupancy permit (temporary or permanent) under the Ivyland Borough Building Code shall be issued by the Building Inspector until such time as the Borough Engineer certifies to him that all grading and earth stabilization has been completed in accordance with the final grading plan and the permit.

(Ord. 2000-5, 5/3/2000, §10)

§9-111. Revocation or Suspension.

Any permit issued under this Part may be revoked or suspended by the Borough Engineer after notice 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 extensions as may be granted by the Borough Engineer.
- B. Violation of any other condition of the permits.
- C. Violation of any provision of this Part or any other applicable law, ordinance, rule or regulation relating to the work.
- D. Existence of any condition or the doing of any act constituting or creating a nuisance, hazard or endangering human life or the property of others.

(Ord. 2000-5, 5/3/2000, §11)

§9-112. Remedies.

In the event of any violation of this Part, and in addition to any civil penalties to be assessed pursuant to other provisions of this Part, the Borough, in addition to any other remedies provided by law, may institute any appropriate proceedings to prevent such unlawful activities; including an effort to restrain, correct or abate such violations; to prevent the use of the applicable real property; or prevent any illegal act, conduct, business or use in or about such premises. In addition, upon the failure of any permit holder to complete the control measures specified in the application, the Borough may, after removing such permit, proceed to complete such measures itself, and recover the cost thereof from the permittee and/or owner.

(Ord. 2000-5, 5/3/2000, §12)

§9-113. Penalties.

In the event of any violation of the provision of this Part:

A. The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist.

B. The lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist.

C. The owner, general agent, contractor, lessee or tenant or any part of a building or premises in which part such violation has been committed or shall exist.

D. The general agent, architect, contractor or any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation or who maintains any building or premises in which any such violation, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. [*Ord. 2011-3*]

(*Ord. 2000-5, 5/3/2000, §13; as amended by Ord. 2011-3, 11/9/2011*)

