

TOWNSHIP OF HOPEWELL

GRADING AND EXCAVATING ORDINANCE

NO. 2022-04

AN ORDINANCE OF THE TOWNSHIP OF HOPEWELL, A PENNSYLVANIA FIRST CLASS TOWNSHIP, BEAVER COUNTY, PENNSYLVANIA, REGULATING GRADING, EXCAVATIONS AND FILLS; REQUIRING PERMITS AND ESTABLISHING STANDARDS RELATED THERETO; REQUIRING FINANCIAL SECURITY; PROVIDING FOR INSPECTIONS, CERTIFICATES OF COMPLETION AND MAINTENANCE REQUIREMENTS; CONFERRING CERTAIN POWERS ON THE TOWNSHIP ADMINISTRATOR AND IMPOSING FINES AND PENALTIES FOR VIOLATIONS

**§ Article 1 Title, Purpose, Validity**

Section 1 Title.

This Ordinance shall be known and may be cited as the "Hopewell Township Grading and Excavating Ordinance." An ordinance of the of the Township of Hopewell, regulating grading, excavations and fills; requiring permits and establishing standards related thereto; requiring financial security; providing for inspections, certificates of completion and maintenance requirements; conferring certain powers on the Township Administrator and imposing fines and penalties for violations.

Section 2 Purpose.

The purposes of this Ordinance are to regulate the modification of natural terrain and the alteration of drainage and to provide for certain erosion and sediment control measures to safeguard persons, to protect property, to maintain the present level of ecology 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.

Section 3 Validity.

If any section, subsection, sentence, clause or phrase of the Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance.

**§ Article 2 Definitions**

Unless otherwise expressly stated, the following terms shall be construed throughout this Ordinance to have the meanings indicated in this Article:

ADMINISTRATOR – The qualified individual designated from time to time by the Board of Commissioners to act for the Township of Hopewell under this Ordinance.

APPLICANT — Any person or entity who applies for or to whom a permit is issued pursuant to this Ordinance and/or who is subject to inspection under this Ordinance.

BEDROCK — Natural rock layer, hard or soft, in place at ground surface or beneath unconsolidated surficial deposits.

**BOARD OF COMMISSIONERS** — The Board of Commissioners of Hopewell Township, Beaver County, PA.

**BUILDING** — Any structure having a roof supported by columns or walls for the housing or enclosure of persons or animals. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

**BUILDING PERMIT** — A valid permit issued by the Township pursuant to the Pennsylvania Uniform Construction Code, Act NO 45 of 1999, for the construction, erection or alteration of a structure or building.

**CERTIFICATE OF COMPLETION** — A certificate issued by the Township certifying that the work under a duly-issued grading permit has been completed in compliance with the applicable Township ordinances and the Township-approved plans and specifications for such grading permit.

**CLEARING** — The clearing, grubbing, scalping, removal of trees or stumps and removing and disposing of all vegetation and debris within the site, including the conditions resulting therefrom.

**CONSTRUCTION** — The erection, alteration, repair, renovation, demolition or removal of any building or structure, and the clearing, stripping, excavating, filling, grading and regulation of sites in connection therewith.

**DEBRIS** — Loose refuse or earth material not suitable for use as presently situated or constituted, as determined by the Township Manager. See also "waste."

**DEVELOPER** — Any person commencing proceedings to affect the development of land for himself or for another.

**EROSION** — The detachment and movement of soil or rock fragments by water, wind, ice or gravity, including such processes as gravitational creep.

**EXCAVATION** — Any act by which earth, sand, gravel, rock, coal or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or relocated, including the conditions resulting therefrom.

**EXISTING OR NATURAL GRADE** — The elevation of the existing ground surface above sea level prior to any excavating or filling.

**FENCE** — A structural barrier to prevent intrusion within a given area.

**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, including the conditions resulting therefrom, or the material used in such activity.

**FINISHED GRADE** — The elevation of the ground surface above sea level after grading has been completed and the elevation coincides with the elevation called for in a plan of grading.

**GRADING** — An excavation or fill or any combination thereof (either initially or repeatedly), including the conditions resulting from any excavation or fill.

GRADING PERMIT — A permit issued by the Township to authorize work to be performed in compliance with and as required by this Ordinance.

HAZARD — A danger or potential danger to life, limb or health or an adverse effect or potential adverse effect to the safety, use or stability of property, waterways, public ways, structures, utilities, and storm sewers, including stream pollution.

PAVING — The application of such material as will produce a dust-free, all weather, hard and impervious surface.

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (PADEP) — The Department of Environmental Protection of the Commonwealth of Pennsylvania or any agency successor thereto.

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION (PENNDOT) — The Department of Transportation of the Commonwealth of Pennsylvania or any agency successor thereto.

PERSON — Unless otherwise specified, "person" shall mean both the singular and plural, male or female, firm, business, partnership, association, limited-liability company or corporation, or any other legal entity.

PROFESSIONAL ENGINEER — A person currently licensed or otherwise authorized by the Commonwealth of Pennsylvania to practice engineering, whose specialty is in the field of civil engineering, unless another specialty is set forth herein (e.g., such as that required for excavation and fill for faces steeper than 2/1 slope).

PROFESSIONAL LANDSCAPE ARCHITECT — A person currently licensed or otherwise authorized by the Commonwealth of Pennsylvania as a landscape architect.

PROFESSIONAL SURVEYOR — A person currently licensed or otherwise authorized by the Commonwealth of Pennsylvania as a surveyor.

RETAINING WALL — A structure composed of concrete, steel or other approved building material constructed for the purpose of supporting a cut or filled embankment and which is more than four feet in height, as measured on the exposed vertical surface of the wall.

ROUGH GRADE — That state of grading which approximates the finished grade in a plan of grading.

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

SLOPE — That ratio formed by the horizontal over the vertical difference of position and where the vertical difference is usually expressed as one (e.g., 2/1, 3/1, etc.).

SOIL — All earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment. The term "clean soil or earth" shall mean that earthen material consisting only of uncontaminated soils, stones or rocks, or a mixture or combination of such materials, of appropriate dimensions, that are raw materials, excavated or extracted from a borrow pit or some earthen bank.

STRIPPING — Any activity which removes or significantly disturbs the vegetative surface cover.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (SALDO) — 91-2, Subdivision and Land Development, of the Code of Hopewell Township, Beaver County, Pennsylvania, and as the same may be amended.

TOWNSHIP — Hopewell Township, Beaver County, Pennsylvania.

TOWNSHIP ENGINEER — The professional engineer licensed as such in the Commonwealth of Pennsylvania duly appointed by the Board of Commissioners to serve as the Engineer of the Township and/or his or her authorized designee.

TOWNSHIP MANAGER — The Township Manager duly appointed by the Board of Commissioners, his or her authorized designee and/or the authorized designee of the Board of Commissioners.

WASTE — All parts of or any combination of material that is an unintended by-product of a manufacturing process and/or that is intended to be or has been discarded. Examples of waste for the purposes of this Ordinance include but are not limited to ashes, garbage, refuse, radioactive material, demolition materials and industrial wastes such as food-processing wastes, wood, plastic, metal scrap, or any similar materials.

WATERCOURSE — Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, drainageway, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

WORK — Any activity authorized under a grading permit, including, but not limited to, clearing, construction, grading and stripping.

ZONING ORDINANCE — Ordinance 95-2, Zoning, of the Code of Hopewell Township, Beaver County, Pennsylvania, and as the same may be amended.

### **§ Article 3 Scope**

New Grading (excavations or fills) or changes, additions, repairs, or alterations made to existing grading (excavations or fills) shall conform to the provisions of this Ordinance.

### **§ Article 4 Grading Permit Required**

- A. Except as exempt in Article 5, no person shall do any clearing, stripping, grading, construction or other activity involving the disturbance of natural terrain or vegetative ground cover, and no person shall allow such activities to occur on his property, unless he has applied for and obtained a valid grading permit from the Administrator of the Township.

Specifically, the following activities require a grading permit:

- (1) Modifying, disturbing, blocking, diverting or otherwise adversely affecting the natural overland or subsurface flow of stormwater.
- (2) Construction, erection or installation of any drainage dam, ditch, culvert, drainpipe, bridge or any other structure or obstruction affecting the drainage of any premises.

- (3) Filling, stripping, excavating and grading of any land, including stockpiling (temporary or permanent) of excavated or fill material.
- B. Prior to beginning work associated with a grading permit, an applicant shall provide proof that the applicant or applicant's representative has applied for and/or obtained all necessary permits and approvals, including, but not limited to, permits granted by PADEP.
- C. Where proposed work relates to a major or minor land development plan approved under the Subdivision and Land Development Ordinance (Ordinance 91-2), and as the same may be amended, the Township Administrator may grant a grading permit prior to the developer's compliance with all applicable conditions of such approval.
- D. One grading permit may cover all of the grading on one site. If a major development, such as a planned residential development or a planned industrial park, is proposed for one continuous parcel or under a single phase of construction, then one grading permit may be applied for and approved
- E. Where a major development is proposed and the work is to be completed on more than one parcel or under more than one phase of construction, the Township Administrator may:
  - (1) Require the applicant to submit more than one grading permit application; and/or
  - (2) Issue certificate(s) of completion on a parcel-by-parcel basis notwithstanding the scope of the grading permit.
- F. Where major modifications or alterations are proposed for work covered by an existing grading permit, the Township Administrator may require that an application for a new grading permit be submitted.

#### **§ Article 5 Exceptions**

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

- A. An excavation which does not exceed four (4) feet in vertical depth at its deepest point measured from the existing grade, if the grading does not cover an area of more than 20% of the site and does not exceed 5,000 square feet and does not exceed 250 cubic yards. This exception shall not affect the applicability of Article 1 to the requirement of a grading permit for any fill made with the material from such excavation, unless such fill is within the exception of Subsection B herein.
- B. A fill which does not exceed four (4) feet in vertical depth at its deepest point measured to the existing grade, if the grading does not cover an area of more than 20% of the site and does not exceed 5,000 square feet and does not exceed 250 cubic yards, provided that the surface of such fill does not have a slope at any point steeper than three (3) horizontal to one (1) vertical.
- C. An excavation for a basement, footing of a building, swimming pool or underground structure authorized by a building permit, and an excavation of a driveway between a building site and the street where the plot plans attached to the building permit indicate existing and proposed contours.
- D. A single-family dwelling site where the slope between property lines measured in any direction or the maximum excavation or fill, exclusive of the situations referred to in Subsection C hereof, do not exceed the slopes or quantities set forth in the following table:

Single Family House area to be Graded (Square Feet)	Maximum Slope without Permit (Feet vertical per 100 feet horizontal)	Maximum Excavation or Fill without Permit (cubic yards)
Less than 12,000 S.F.	12 in 100 Feet	100
From 12,000 to 30,000 S.F.	15 in 100 Feet	200
Over 30,000 S.F.	20 in 100 Feet	250

- E. Authorized Township capital improvement and public works projects; provided, however, that erosion and sedimentation control measures as approved by the Township have been and are being employed.
- F. Accepted agricultural land management practices, such as plowing, nursery operations, removal and/or transplanting of cultivated sod, shrubs and trees and tree cutting at or above existing ground and logging operations leaving the stump, ground cover and root mat intact.

**§ Article 6 Hazardous conditions**

- A. Whenever the Township Administrator determines that an existing excavation, retaining wall, embankment or fill has become a hazard, the owner of the property upon which the excavation, retaining wall, embankment or fill is located, or other person or agent in control of said property, shall, upon receipt of notice in writing from the Township Administrator and within the reasonable period specified therein, repair, reconstruct or remove such excavation, retaining wall, embankment or fill so as to eliminate the hazard.
- B. If, after such notification, the property owner or other person has not made the necessary repairs within the time requested, then the Township may make the required repairs, and the cost thereof shall be borne by the property owner by a lien or judgment obtained as provided by law.

**§ Article 7 Permit application**

- A. To obtain a grading permit, an applicant shall first file a written application upon forms furnished by the Township, including three copies of the application and required plans, specifications, and timing schedule with the Township. The application must be signed by the owner of the property or an authorized agent. If the owner is a corporation, firm, business, partnership, association, limited-liability company, or any other legal entity, it must be signed by the authorized agent thereof.
- B. A separate application shall be required for each site.
- C. No permit shall be transferable without the written consent of the Township Manager. No grading permit shall be issued for work related to construction or development not permitted by the Zoning Ordinance (95-2) or Subdivision and Land Development Ordinance (91-2), and as each may be amended.
- D. The plans, specifications, timing schedule and accompanying application shall be submitted to the Township prior to commencement of any such activity and shall include the following data:

- (1) Describe the land on which the proposed work is to be done by lot, block, tract or street address or similar description, which will readily identify and locate the proposed work.
- (2) Provide a plan of the site, prepared by a professional engineer, surveyor, or landscape architect, drawn to a scale of not less than 50 feet to one inch, showing:
  - a. The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.
  - b. Existing topography on the site and land adjacent to the site within 100 feet of the site boundary lines, including the location of any buildings, structures, utilities, sewers, water and storm drains, wooded areas and other significant natural features.
  - c. Proposed improvements on the site, including proposed contours of the land after completion of the proposed grading.
  - d. All drainage provisions, erosion and sediment control measures, vegetative practices or other protective devices to be constructed in connection with or as part of the proposed work.
  - e. Provisions for erosion control during construction (temporary) and during the life of the facility (permanent). Such provisions shall include a timing schedule and sequence of operations indicating the anticipated start and completion dates of the particular development sequence.
  - f. A soil classification map identifying soils and listing limiting factors of applicable soils.
  - g. The name of the proposed development and names, addresses, training and experience of the developer and persons who prepared the plan.
  - h. The plans and specifications shall be supported by such supplemental reports, data and additional information as the Township Engineer may reasonably require, including, but not limited to, the following:
    - [1] Storm drainage computations and studies.
    - [2] Field investigation reports indicating the nature, condition and characteristics of existing drainage and flooding conditions.
    - [3] Results from actual soils investigations, reports or test borings, if applicable.
- (3) The Township Administrator may waive the requirements for plans, specifications, timing schedule or cost estimate if he finds that the information on the application is sufficient to show that the work will conform to the requirements of this Ordinance.

## **§ Article 8 Fees**

Before issuing a grading permit, the Township shall collect a permit fee, from the applicant in accordance with the following provisions:

- A. Application fees and deposits. The Township Board of Commissioners shall establish from time to time by resolution fees and deposits to be paid by the applicant/developer at the time of filing the relevant application under this Ordinance.
- B. Review fees and expenses. The applicant/developer shall reimburse the Township for all fees and expenses incurred by the Township related to an application and/or grading permit under this Ordinance, including, but not limited to, the reasonable and necessary charges of the Township professional consultants, the Township Engineer and the Township Solicitor for review and report on an application and/or grading permit under this Ordinance and the inspection of improvements and/or work related thereto.

- C. Upon filing an application, the applicant must agree, in writing, to pay costs actually incurred by the Township, regardless of whether the work related thereto is ever initiated or completed.

#### **§ Article 9 Financial Security**

- A. Prior to issuance of a grading permit, the applicant shall provide the Township with financial security guaranteeing the completion, timely installation, and proper construction of any work within and/or impacting a Township road right-of-way as required by the applicable Township ordinances and the Township-approved plans, specifications and timing schedule for the grading permit. The amount of such financial security shall be equal to 110% of the cost of completing the work within and/or impacting the Township road right-of-way. Such financial security shall be from a source and in a form acceptable to the Township Solicitor.
- B. After the completion of the work secured by the financial security, and as a prerequisite for the Township's release of such financial security, the applicant shall request a final inspection and certificate of completion by the Township to certify completion of the work in compliance with the applicable Township ordinances and the Township-approved plans and specifications for the grading permit. Within a reasonable time after Township issuance of a certificate of completion, the Township shall release the financial security and return it to the applicant.
- C. Where work under a grading permit is being conducted on a parcel-by-parcel basis, and the applicant has provided the Township with a single financial security instrument, the applicant may request, and the Board of Commissioners may authorize, the reduction of the financial security by an amount attributable to a specific parcel covered by the grading permit following issuance of a certificate of completion for such parcel.

#### **§ Article 10 Issuance of Permits**

- A. The Township Administrator may attach conditions to a grading permit as reasonably necessary to prevent danger to property, including any sewer, storm drain or watercourse, or to prevent work from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance. No grading permit shall be issued until grading plans, erosion and sediment control plans, specifications, a timing schedule and a cost estimate are approved by the Township Engineer and the applicant certifies that all work shall be performed pursuant to the approved plans, specifications and schedules.
- B. If the application conforms substantially to the requirements of this Ordinance, the Township Administrator shall approve the same and issue a grading permit to the applicant without unreasonable delay.
- C. After actual work begins, the Township Administrator may require additional or revised controls from time to time if the Township Administrator determines that the originally approved controls are inadequate.
- D. Permits issued pursuant to this Ordinance do not relieve the owner of responsibility for securing all necessary permits and approvals as required by any other applicable code, ordinance or regulatory agency.



- E. A grading permit issued by the Township is specifically conditioned on the applicant obtaining a certificate of completion from the Township to confirm completion of all applicant responsibilities under this part and to obtain return of the financial security.

#### **§ Article 11 Denial of Permit Application**

- A. If an application for a grading permit does not conform to the requirements of this Ordinance, the Township Administrator shall deny the application in writing, setting forth the basis for the denial. The Township Administrator shall forward the written denial to the applicant without unreasonable delay.
- B. Where, in the opinion of the Township Administrator, the work as proposed by the applicant is likely to endanger any person, property or any street or way, or create hazardous conditions, or damage the ecology of the area, the application for grading permit shall be denied. In determining whether the proposed work is likely to have such an effect, the Township Administrator shall consider factors including, but not limited 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, rock or other minerals.

#### **§ Article 12 Responsibilities of Applicant**

During grading or other work, the applicant shall be responsible for:

- A. Performing all work in accordance with the grading permit, approved plans, specifications, and timing schedules and in compliance with all requirements of this Ordinance.
- B. Preventing damage to public utilities within the area where work is performed and along any routes of travel of construction equipment and repairing any such damage if necessary.
- C. The prevention and/or repair of damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.
- D. The prompt removal and legal disposal of all illicit/improper soil, debris or other material spilled, dumped, or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares during transit to and from the construction site. The Township Administrator may require the construction of a haul road or other approved vehicle cleaning method to prevent the spread of debris.
- E. The prevention of all sediment from entering any public sanitary or storm sewer system or watercourse.

- F. Applying for and obtaining a certificate of completion from the Township to confirm completion of all applicant responsibilities under this part. As part of this application for a certificate of completion, the applicant shall be responsible for proving to the Township that:
- (1) All work under the grading permit has been completed in compliance with the applicable Township ordinances and the Township-approved plans and specifications for such grading permit;
  - (2) The work as completed does not negatively impact or interfere with stormwater drainage and stormwater management on the subject property and/or adjacent properties; and
  - (3) The work as completed does not create a nuisance or hazard on the subject property and/or adjacent properties.

#### **§ Article 13 Revocation or Suspension of Permit**

Following written notice issued to the applicant and reasonable opportunity to cure, the Township Administrator may revoke or suspend any permit issued under this Ordinance for:

- A. Violation of any condition of the grading permit.
- B. Violation of any provision of this Ordinance or any other applicable law, ordinance, rule or regulation relating to work authorized under a grading permit.
- C. Existence of any condition or the doing of any act constituting or creating a nuisance or hazard or endangering human life or the property of others.

#### **§ Article 14 Expiration of Permit**

Unless otherwise provided by Pennsylvania law, every grading permit shall automatically expire if the authorized work is not commenced within six months or is not completed within one year from the date of such permit issuance. If the applicant provides satisfactory evidence in writing that unusual difficulties have prevented the work from being started or completed within the specified time limits, the Township Administrator may grant a reasonable extension of time. An applicant must file an application for the extension of time before the date of expiration of the grading permit.

#### **§ Article 15 Approval of Plan Modifications**

All modifications to the approved plans, specifications, timing schedule and cost estimate for a grading permit shall be submitted to the Township for review and approval by the Township Administrator. There shall be no differentiation between major and minor modifications with respect to this section. Modifications of the approved plans shall be reviewed and approved in the same manner as the original plan.

#### **§ Article 16 Inspections**

- A. The Township Engineer shall make the inspections required under this Ordinance. Following inspection, the Township Engineer shall approve any portion of the work that has been completed and notify the applicant of any portion of the work that fails to comply with the provisions of this Ordinance. Where the Township Engineer determines that the soil or other conditions are not as stated or shown on the application, the Township Administrator shall stop work on the site

immediately until the Township approves a revised grading plan in accordance with § Article 15 above.

- B. All approved grading plans shall be maintained at the site until all permitted work has been approved by the Township Administrator.
- C. The applicant shall request from the Township Administrator all inspections provided in the following schedule at least 72 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: if at any time conditions are found which are not stated on the permit holder's application.
  - (5) Special structures: when excavations are complete for retaining and other structural supporting walls (e.g., such as crib walls) and when reinforcing steel is in place and before concrete is poured.
  - (6) Final inspection: when all work, including the installation of all drainage and other structures, has been completed.

#### **§ Article 17 Standards for Excavations**

- A. No excavation shall be made with a cut face steeper in slope than two (2) horizontal to one (1) vertical, except under one or more of the following conditions:
  - (1) The material in which the excavation is made is sufficiently stable to sustain a slope of steeper than two (2) horizontal to one (1) vertical and the applicant submits a written statement signed and sealed by a professional engineer experienced in geological sciences and erosion control. The Township Engineer must review and approve the statement prior to the commencement of any such work under the grading permit. The statement shall state that the site has been inspected and approved and that the deviation from the required slope will not result in increased risk of injury to persons, damage to property, or damage to receiving streams.
  - (2) A retaining wall or other approved structure used to support the face of the excavation is designed, and plans for the structure are signed, sealed, and submitted by a professional engineer.
- B. The Township Administrator may require an excavation to be made with a cut face less or flatter in slope than two (2) horizontal to one (1) vertical if he finds the material in which the excavation is to be made is unusually subject to erosion or if other conditions exist which, under applicable engineering practice, make such flatter cut slope necessary for stability and safety.
- C. Excavations adjacent to any footing, foundation or structure shall extend below the angle of repose or natural slope of the soil under the nearest point of the same, unless such footing, foundation or structure is first properly underpinned or protected against settlement.
- D. A soil erosion and sedimentation control plan shall be prepared in accordance with the provisions of Chapter 102 of Title 25 of the Pennsylvania Code, Erosion and Sediment Control, as amended,

prior to commencement of any grading or other regulated earth disturbance activity, unless the Beaver County Conservation District determines that a soil erosion and sedimentation control plan is not required.

- E. No grading shall be permitted in a floodplain or wetland area unless a permit is obtained from the appropriate PADEP office. The applicant shall be responsible for payment for all costs associated with obtaining said permit and shall produce said permit for inspection upon request of the Township.

#### **§ Article 18 Standards for Fills**

- A. No fill shall be made which creates any exposed surface steeper in slope than two (2) horizontal to one (1) vertical, except under one or more of the following conditions:
  - (1) The material in which the fill is made is sufficiently stable to sustain a slope of steeper than two (2) horizontal to one (1) vertical, and the applicant submits a written statement signed and sealed by a professional engineer experienced in geological sciences and erosion control. The Township Engineer must review and approve the statement prior to the commencement of any work under the grading permit. The statement shall state that the site has been inspected and approved and that the deviation from the required slope will not result in increased risk of injury to persons, damage to adjacent property, or damage to receiving streams.
  - (2) The Township Manager may require that the fill be constructed with an exposed slope less than or flatter than two (2) horizontal to one (1) vertical if the Township Engineer finds that under the particular conditions such flatter slope is necessary for stability and safety.
- B. Whenever fill is to include materials other than clean soil or earth, the grading permit shall be subject to the following additional limitations and requirements:
  - (1) The fill shall be completed within a reasonable length of time, said time limit to be determined by the Township Administrator and to be specified on the grading permit.
  - (2) Clean soil or earth shall be placed over the top of and cover exposed surfaces of the fill to a depth sufficient to conceal all materials, other than clean soil or earth, within the fill. Topsoil must meet Pennsylvania Department of Transportation Publication 408 specifications.
  - (3) Debris or waste shall not be considered as fill material.
  - (4) No rock or material in excess of 12 inches in any dimension, or nominal lift thickness, whichever is less, shall be buried or placed in fills.
  - (5) No organic or frozen materials shall be placed in fills.

- (6) No fill of any kind shall be placed over trees, stumps or other material which would create a nuisance or be susceptible to attracting rodents, termites or other pests.

#### **§ Article 19 Standards for Minimizing Erosion and Sediment**

In order to prevent erosion, the permittee shall be required to provide adequate surface treatment by installing ground cover or such kind and character as may be approved by the Township Administrator. Earth moving activity which affects one (1) or more acres must be approved by the Department of Environmental Resources, Beaver County Conservation District Pursuant to Section 102.41 and 102.42 relating to permit requirements of Title 25, Chapter 102, Erosion Control. One (1) or a combination of guidelines for erosion and sediment control should be used to minimize hazard, depending on site conditions and proposed grading. However, the Township Administrator may approve grading plans not meeting governmental guideline if the proposed grading will not constitute a hazard. Governmental and/or engineering reports should be used as evidence that the proposed grading will not constitute a hazard.

#### **§ Article 20 Standards for Compaction of Fills and Benching**

All fills shall be completed to provide stability of material and of prevent undesirable settlement. The fill shall be spread in a series of layers and shall be compacted by sheepsfoot roller or other approved method after each layer is spread. The Township Administrator may require test or other information if, in his opinion, the conditions or materials are such that additional information is necessary. Where fills are placed on slopes of 15% or more, benching of the surface shall be required and indicated on the cross sections. Fills that exceed a height of eight (8) feet shall be provided at the toe of the slope with a key bench at least two (2) feet deep and four (4) feet wide across the entire length of the toe.

#### **§ Article 21 Retaining Walls**

- A. A grading permit shall apply to a retaining wall proposed to satisfy the requirements of this Ordinance. Such retaining wall must comply with the regulations provided in this Ordinance, including, but not limited to, inspections.
- B. Retaining walls must be constructed in accordance with sound engineering practice and plans submitted to the Township for review. All plans submitted shall bear the seal of a professional engineer.
- C. The backfilling of retaining walls and the insertion of below-grade drainage facilities associated with the retaining walls shall strictly comply with the provisions of this Ordinance and appropriate Township specifications.

#### **§ Article 22 Drainage**

Adequate provisions shall be made to prevent any surface waters from damaging the cut face of an excavation or sloping surface of a fill. The Township Administrator shall require drainage structures or pipes to be constructed or installed which are necessary to prevent erosion and to satisfactorily carry off surface waters. All drainage provisions shall be of such design as to carry surface waters to the nearest practical location or natural water course which is a safe place to deposit or receive such waters. Culverts

and bridges of proper size shall be installed where a water course is to be crossed in accord with Commonwealth rules, regulations and laws.

#### **§ Article 23 Maintenance Requirements**

The developer or the owner of any property on which work has been done pursuant to a grading permit, or any other person or agent in control of such property, shall maintain in good condition and promptly repair or restore all damaged grade surfaces, walls, drains, dams and structures, plantings, vegetation, erosion and sedimentation control measures and other protective devices. Such repair, restoration and maintenance shall be in accordance with the approved plans, specifications and grading permit as required by this Ordinance.

#### **§ Article 24 Liability**

Neither the issuance of a grading permit nor compliance with this Ordinance or any conditions imposed by the Township shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law, nor impose any liability upon the Township for damages to any person or property.

#### **§ Article 25 Violations and penalties**

- A. Any person, firm, partnership or corporation who shall violate any of the provisions of this Ordinance, on conviction thereof in an action brought before a Magisterial District Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000, plus costs, including reasonable attorneys' fees incurred by the Township. Each day that a violation of this Ordinance continues or each section of this Ordinance which shall be found to have been violated shall constitute a separate offense.
- B. In addition, the Township, through its Solicitor, may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

#### **§ Article 26 Remedies**

In case any work is performed by any person in violation of any of the provisions of this Ordinance, the Administrator in addition to 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.

#### **§ Article 27 Appeals**

- A. Any applicant or person aggrieved by a decision of the Township Administrator, the Board of Commissioners and/or the Township or a notice or order issued under this Ordinance shall have the right of appeal to the Board of Commissioners, provided that a written application for an appeal is filed with the Township Manager within Ten (10) days after receipt of said decision, notice or order, along with payment of an appeal hearing fee in an amount set from time to time by Resolution of the Board of Commissioners. An application for appeal shall be based on a claim

that the true intent of this Ordinance or the rules legally adopted hereunder has been incorrectly interpreted, or the provisions of this Ordinance do not fully apply. The Board of Commissioners shall hold a public hearing and render a determination on the appeal in accordance with the requirements of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10901 et seq., as amended.

- B. All appeals from decisions of the Board of Commissioners rendered pursuant to this section shall be taken to the Court of Common Pleas of Beaver County and shall be filed within Thirty (30) days after entry of the decision as provided in 42 Pa.C.S.A. § 5572 (relating to time of entry of order).

**§ Article 28 Repealer**


All ordinances and parts of ordinances inconsistent herewith are hereby repealed including Ordinances 1974-03 and 1979-06.


Ordained and Enacted this 10<sup>th</sup> Day of October 2022

EFFECTIVE IMMEDIATELY

TOWNSHIP OF HOPEWELL  
BOARD OF COMMISSIONERS

ATTEST:

  
\_\_\_\_\_  
Secretary

BY   
\_\_\_\_\_