

## **Chapter 9**

### **Grading and Excavating**

#### **Part 1 Grading**

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## Part 1

### Grading

#### §9-101. Short Title, Purpose, Severability and Definitions.

1. *Short Title.* This Part shall be known and may be cited as the “Forest Hills Borough Grading Ordinance.”

2. *Purpose.* This Part is intended to provide minimum standards to protect the safety of persons and property and promote the public health and welfare by regulating the design, construction, quality of materials, manner of use, location and maintenance of grading, excavation and fill of earth within the corporate limits of Forest Hills Borough.

3. *Definitions.* For the purpose of interpreting the provisions of this Part, the following words will have the meaning or meanings hereby ascribed to them, viz.:

*Borough Engineer* - the engineer appointed by the Council of Forest Hills Borough.

*Building permit* - a permit issued by the Building Inspector of Forest Hills Borough pursuant to the provisions of the Construction Code [Chapter 5, Part 1].

*Excavation* - any act by which earth, sand, gravel, rock or any similar material is penetrated, cut, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the condition of the land surface resulting therefrom.

*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 and shall include the condition of the land surface resulting therefrom.

*Grade* - the elevation of the existing land surface at the location of any proposed excavation or fill.

*Grading* - excavation or fill, or any combination thereof, including the condition of the land surface resulting from any excavation or fill or combination thereof.

*Grading permit* - a permit required under §9-103 of this Part.

*Hazard* - a danger or potential danger to life or health and an actual or potentially adverse effect on the safety, use or stability of land, waterways including stream pollution, public ways, structures, utilities and storm sewers.

*Notice* - a writing, mailed by certified mail to the property owner at his mailing address or served by any competent adult in the manner provided by the Pennsylvania Rules of Civil Procedure for the service of a summons.

*Person* - a natural person, his heirs, personal representatives and assigns and a corporation, its successors and assigns.

*Property owner* - the owner of record of real property. In the case of tenants in common or joint tenants, it shall mean any or all of them and where such real property is managed or operated by an agent, it shall mean the owner’s agent. Where a record owner is deceased, it shall mean his personal representatives and heirs or either of them.

*Security* - a bond of an applicant, with approved corporate surety, conditioned

as the circumstances shall require and at the amount indicated by the Borough Manager or by counsel, or a cash deposit with the Borough in an equal amount.

*Site* - a lot, tract or parcel of land or a series of lots, tracts or parcels of land forming a single contiguous whole tract where grading, excavation or fill occurs as a continuous or unitary operation.

*Soil survey* - Until the publication and promulgation of the Soil Survey for Allegheny County, Pennsylvania, "soil survey" means the unpublished and operational soil survey dated January, 1968, together with all accompanying documents and the accompanying text, "Soil Survey Interpretation for Allegheny County," as prepared under the authority of the U.S.D.A. Soil Conservation Service. Upon the publication and promulgation of Soil Survey, Allegheny County, Pennsylvania, "soil survey" shall mean said official document.

(*Ord. 610, 3/14/1973, §1*)

### **§9-102. Scope.**

1. This Part provides the standards intended and designed to protect the safety of persons and property and promote the public health and welfare by regulating the design, construction, location, use and maintenance of grading, excavation, slopes and fill of earth within the corporate limits of Forest Hills Borough.

2. The standards prescribed herein shall be construed to be the minimum standards permissible.

3. The provisions of this Part shall apply to:

A. All gradings, excavations and fills begun subsequent to the effective date of this Part.

B. All additions, alterations and repairs made to gradings, excavations and fills begun prior to the effective date of this Part.

C. All gradings, excavations and fills necessary to abate any nuisance, hazard or dangerous condition as determined by the procedure hereinafter set forth.

(*Ord. 610, 3/14/1973, §2*)

### **§9-103. Permits Required.**

Subject to the exceptions set forth below, no person shall commence any grading, excavation or fill without first having obtained a grading permit from the Borough Manager. The fee for a grading permit shall be established from time to time by resolution of Borough Council. One permit shall be required for each site and shall include both excavation and fill to be done on such site. Exceptions to the above requirement are: [*Ord. 976*]

A. Grading limited to the mining, quarrying or stockpiling of coal, rock, sand, aggregate or clay that satisfies the requirements or regulations of the Commonwealth of Pennsylvania.

B. Grading limited to solid waste disposal or sanitary landfills operated in accordance with the requirements, rules and ordinances adopted by the Pennsylvania Department of Environmental Protection and the Allegheny County Health Department. [*Ord. 976*]

C. An excavation which does not exceed 5 feet in vertical depth at any point and does not include any area of more than 1,000 square feet and is not located in an area recognized by the soil survey as containing landslide-prone soils. The determination of landslide-prone soil, areas can also be made by the Pennsylvania Bureau of Topographic and Geological Survey or an engineering geologist. This exception shall not affect the applicability of this Part to or the requirement for a grading permit for any fill made with a material from such excavation, unless such fill is within the scope of paragraph .B hereof.

D. A fill which does not exceed 25 cubic yards of material on any one site and a fill which does not exceed 5 feet in vertical depth at any point and does not cover an area of more than 1,000 square feet and is not in an area recognized by the Soil Survey as containing landslide-prone soils, provided that the surfaces of such fills do not have a slope at any point steeper than a ratio of 3 horizontal to 1 vertical.

E. An excavation below finished grade for basements and footings of a building, swimming pool, or underground structure authorized by a building permit and excavation of a driveway between a building site and a public road or street when conditions such as excessive cut or fill make such permit necessary. This exception shall not affect the applicability of this Part to or the requirement of a grading permit for any fill made with the material from such excavation unless such fill is within the scope of paragraph .B hereof. A grading permit shall not be required for the temporary stockpiling on the same site of the material from such excavation.

F. A single-family dwelling site with the maximum gradient between property lines and the maximum excavation or fill (exclusive of the situations referred to in subsection .C hereof) not in excess of the quantities set forth in the following table:

<b>Single-Family Dwelling Site</b>	<b>Maximum Gradient Without Permit</b>	<b>Maximum Excavation or Fill Without Permit</b>
Less than 6,000 sq. ft.	12 in 100 ft.	75 cubic yards
From 6,000 to 10,000 sq. ft	15 in 100 ft.	100 cubic yards
From 10,000 to 18,000 sq. ft.	15 in 100 ft.	200 cubic yards
From 18,000 to 30,000 sq. ft	15 in 100 ft.	250 cubic yards
Over 30,000 sq. ft.	20 in 100 ft.	250 cubic yards

(*Ord. 610, 3/14/1973; as amended by Ord. 976, 1/16/2008*)

**§9-104. Application for Permit.**

Every applicant for a grading permit shall file a written application therefor with the Borough Manager setting forth:

A. A description by reference to a lot number in a recorded lot plan with the page reference of the plan, a lot and block designation from Allegheny County Deed Registry records, a street address or a metes and bounds description of the land containing the site.

B. Plans and specifications submitted in triplicate and prepared by a

registered professional engineer or a registered surveyor containing the following:

(1) A contour map on a scale of one inch equal to 50 feet showing the present contours of the land at 5-foot intervals and the proposed contours of the land at 5-foot intervals after completion of the proposed grading.

(2) A plan showing cross-sections of the proposed, grading at 50 foot intervals showing the method of benching required for grading. A minimum of two cross-sections for each separate property in the permit application shall be required.

(3) A plot plan showing the application of the grading, boundaries, neighboring streets and alleys, buildings, trees greater than 15 inches in diameter and taller than 2 feet, tree clusters and sufficient dimensions and other data to show the location of all work to be accomplished.

(4) Written information describing the type and classification of the soil, fill material, details and location of any proposed drainage structure and pipes, walls and cribbing. The location of any and all public or private utilities, existing drainage pattern, mine openings, capped wells, and other pertinent physical features shall also be provided.

(5) Any and all other information that the Borough Manager or Borough Engineer may require to secure compliance with this Part.

(6) The name and seal of the registered professional engineer or the registered surveyor who prepared the plans and specifications, the name of the applicant, the owner of the land, and the date of the application.

C. The estimated dates of starting and completion of the work.

D. The purpose of the proposed work and whether a structure or improvement requiring a permit under the Construction Code [Chapter 5, Part 1] is contemplated.

The Borough Manager may waive or modify the requirement of any or all plans or specifications listed above if he finds that the information on the application is sufficient that the work will conform to the provisions of this Part.

(*Ord. 610, 3/14/1913, §4*)

#### **§9-105. Work Completion Guarantee.**

1. The application for a grading permit shall be accompanied by an application review fee established from time to time by resolution of Borough Council.

2. With each application for a permit providing for the movement of more than 1,000 cubic yards of material, security in the amount of 25 percent of the estimated cost of the work shall be posted, conditioned upon proper completion of the work, including slope treatment and drainage shown in the application. Said security shall comply with the provisions of Part 8 of Chapter 1 of Forest Hills Borough Code of Ordinances, "Financial Security." The agreement for the holding and return of such security shall be prepared at the applicant's expense in a form acceptable to the Borough Solicitor. In projects involving less than 10,000 cubic yards the agreement may be waived by the Council but the security shall never-the-less be posted.

(*Ord. 610, 3/14/1973, §5; as amended by Ord. 976, 1/16/2008*)

**§9-106. Expiration of Permit.**

Authorized work shall commence within 6 months of the date of the issuance of the permit and be completed within 12 months of the date of issuance. The times for commencement or completion may be extended by the Borough Manager upon request of the applicant prior to the expiration of the permit and the showing of reasonable grounds for delay.

(*Ord. 610, 3/14/1973, §6*)

**§9-107. Appeals.**

All appeals under this Part shall proceed under the regulations and procedures established under Part 1 of Chapter 5 of Forest Hills Borough Code of Ordinances, "Construction Code."

(*Ord. 610, 3/14/1973, §7; as amended by Ord. 976, 1/16/2008*)

**§9-108. Abatement of Hazardous Conditions.**

The existence and abatement of a hazardous condition arising out of grading, excavation, slopes and fills shall be determined by the following procedure:

A. When any condition comes to the attention of the Borough Manager that is or may be hazardous, he shall promptly make an on-site inspection thereof. If he finds that such condition is a hazard he shall make a written report setting forth:

(1) His findings of fact.

(2) His conclusion that the condition is a hazard.

(3) A reasonable period of time within which such hazard should be abated.

(4) A procedure to be followed by the Borough in abating the hazard in the event of the default by the property owner.

B. Upon completion of his report, the Borough Manager shall give notice to the property owner to abate such hazardous condition within the time delineated in the report. A copy of said report shall be served on the property owner along with the notice. The property owner shall then abate such hazardous condition within the specified time.

C. Unless the hazard is found by the Borough Manager to be of an emergency nature, the property owner shall be allowed 10 days within which to appeal the decision of the Borough Manager to Council.

D. If the Manager finds the hazard to be of an emergency nature, the property owner shall be required to commence work to abate such hazard forthwith, subject to a right of reimbursement for reasonable costs and expenses if the Council or a court of competent jurisdiction upon appeal finds that the emergency did not exist.

(*Ord. 610, 3/14/1973, §8*)

**§9-109. Mandatory Inspections and Certification of Completion.**

1. The Borough Manager shall, when requested, make the inspections hereinafter required and shall either approve that portion of the work which has been completed or notify the permit holder wherein the same fails to comply with the provisions of this

Part. Where it is found by inspection that the soil or other conditions are not as stated or shown in the application, the Manager may refuse to approve further work until approval is obtained for a revised grading plan conforming to the existing conditions.

2. Plans for grading work, approved by the Borough Manager, shall be maintained at the site and available for inspection during the progress of the work until final approval is received from the Borough Manager.

3. The permit holder shall notify the Borough Manager in order to obtain inspections in accordance with the following schedule and such notification shall be made by the permit holder at least 24 hours before the inspection is to be made:

A. *Initial Inspection.* When work on the excavation or fill is about to be commenced.

B. *Rough Grading.* When all rough grading has been completed.

C. *Drainage Facilities.* When drainage facilities are to be installed and before such facilities are backfilled.

D. *Special Structures.* When excavations are complete for retaining, crib walls erected, reinforcing steel in place, and before concrete is poured.

E. *Final Inspection.* When all work, including the installation of all drainage and other structures has been completed.

4. If, at any stage of the work, the Borough Manager shall determine by inspection that the nature of the formation is such that further work as authorized by an existing permit is likely to endanger any public or private property, or streets, or alleys, or create hazardous conditions, the Borough Manager may suspend operations. The Borough Manager may require, as a condition to allowing the work to continue, that the permit holder take reasonable safety precautions to avoid such likelihood of danger. Safety precautions may include, but shall not be limited to, specifying a flatter exposed slope, construction of additional drainage facilities, beans, terracing, compaction, cribbing or walls.

5. The cost for all inspections shall be borne by the owner of the land at rates established by the Borough.

6. Upon completion of all grading installation and other work on the permit site to the satisfaction of the Borough Manager, a certificate of completion shall be issued by said Manager.

(Ord. 610, 3/14/1973, §9)

#### **§9-110. Requirements and Standards for Excavations.**

1. No excavation shall be made with a cut face steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:

A. A governmental review agency, professional engineer or engineering geologist may classify according to the soil survey the types of soil on the site to be graded. Maximum slopes must then be determined as follows:

(1) Landslide-prone soils where slopes are greater than 25 percent shall have cut slopes no steeper than three horizontal to one vertical. Soil survey map symbols relative to this requirement are:

34-DE-6    34-E-2    34-F-1    65-E-2

(2) Landslide-prone soils where slopes are less than 25 percent shall have cut slopes no steeper than two horizontal to one vertical. Soil survey map symbols relative to this requirement are:

32-B-2    32-C-2    34-B-2    34-C-2    34-D-2  
 65-B-2    65-C-2    65-D-2    67-C-2    67-D-2

(3) Soils which are not or have a low probability of being landslide-prone shall have a slope no steeper than one and one half horizontal to one vertical. All soil survey map symbols except the symbols listed above denote soils of low landslide probability.

B. Cut slopes which are steeper than those specified in §9-110(1)(A) may be allowed under a grading permit, provided one or both of the following is satisfied:

(1) The material in which the excavation is made is sufficiently stable to sustain a slope steeper than the slope specified above for recognized soil conditions on the site. A written statement, signed and sealed by a professional engineer, stating that the steeper slope will have sufficient stability and that risk of creating a hazard will be slight, must be submitted to the Borough Manager.

(2) A retaining wall or other approved support, designed by a professional engineer and approved by the Borough Manager, is provided to support the face of the excavation.

C. The excavation is located so that a line having a slope of two horizontal to one vertical and passing through any portion of the cut face will be entirely inside the property lines of the property on which the excavation is made.

D. A written statement from a registered professional engineer, licensed by the Commonwealth of Pennsylvania, and experienced in soils engineering, certifying that he has inspected the site and that the material in which the excavation is to be made is sufficiently stable to sustain a slope steeper than two horizontal to one vertical and that said steeper slope will not endanger any property or result in property damage, is submitted to and approved by the Borough Manager.

E. A retaining wall or other approved support designed by a registered professional engineer is provided to support the face of the excavation.

(1) A retaining wall is a structure composed of concrete, steel or other approved building material constructed for the purpose of supporting a cut or filled embankment which would otherwise not comply with the requirements of the standards set forth in this Part, and which is more than 4 feet in height as measured on the exposed vertical surface of the wall.

(2) If a retaining wall is constructed to satisfy a requirement of this Part, a building permit, as provided for by other Borough regulations, shall not be required. The grading permit will apply to the retaining wall, and the requirements for inspection, etc., as stated herein will be complied with.

(3) Retaining walls must be constructed in accordance with sound

engineering practice. The plans submitted for approval shall bear the seal of a professional engineer.

(4) The backfilling of retaining walls and the insertion of subterranean drainage facilities shall be done strictly in accordance with the provisions of this Part and the appropriate Borough specifications.

(5) In general, where a wall is replacing an exposed slope, the vertical face of the wall shall be 3 feet back from the adjoining property.

(a) A special exception to this requirement may be applied for and granted by the Borough Manager if it can be satisfactorily demonstrated that such a variance is necessary to insure normal use of the property, i.e., for a sideline driveway.

(b) An exception to the requirements of this clause may also be made when the proposed retaining wall is a joint venture between adjacent property owners, and appropriate documents so stating are filed with the application for the permit.

2. The top or bottom edge of slopes shall generally be set back from adjacent property lines or street right-of-way lines in order to permit the normal rounding of the edge without encroaching on the abutting property or street.

3. The Borough Manager may require an excavation to be made with a cut face flatter in slope than 2 horizontal to 1 vertical if he finds the material in which the excavation is to be made unusually subject to erosion, or if other conditions exist which, under applicable engineering practice, make such flatter cut slope necessary for stability and safety.

4. Excavations adjacent to any footing, foundation or structure shall not extend below the angle of repose or natural slope of the soil under the nearest point of same unless such footing, foundation or structure is first properly underpinned or protected against settlement.

5. Before commencing any excavation which will in any way affect an adjoining property or structures thereon, the person making or causing the excavation to be made shall give notice to the owners of adjoining buildings not less than 30 days before such excavation is to be made that the excavation is to be made.

6. Guidelines for minimizing erosion and sediment in the "Erosion and Sediment Control Handbook for Allegheny County, Pennsylvania" should be followed. One or a combination of guidelines should be used to minimize hazard, depending on site conditions and proposed grading. However, the Borough Manager may approve grading plans not meeting guidelines of the handbook if the proposed grading will not constitute a hazard. Governmental and/or engineering reports should be used as evidence that proposed grading will not constitute a hazard.

*(Ord. 610, 3/14/1973, §10)*

### **§9-111. Requirements and Standards for Fills.**

1. Guidelines for fills in the "Erosion and Sediment Control Handbook for Allegheny County, Pennsylvania" should be followed. One or a combination of guidelines should be used to minimize hazard, depending on site conditions and

proposed grading.

2. No fill shall be made which creates any exposed surface steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:

A. The fill, in the opinion of the Borough Manager, is located so that settlement, sliding or erosion of the fill material will not result in property damage or be a hazard to adjoining property, street, alleys or buildings.

B. A written statement from a registered professional engineer, licensed by the Commonwealth of Pennsylvania and experienced in soils engineering, certifying that he has inspected the site and that the proposed deviation from the slope specified above will not endanger any property or result in property damage, is submitted to and approved by the Borough Manager.

3. The Borough Manager may require that the fill be constructed with an exposed surface flatter than two horizontal to one vertical if he finds that under the particular conditions such flatter surface is necessary for stability and safety.

4. Fills, embankments and finish grading shall be designed in accordance with the following:

A. Because of the potential for unexpected conditions in earth materials and a possibility of earth movement, the bearing value and stability of the material under proposed fills and embankments shall be determined by subsurface investigation performed by a qualified registered professional engineer.

B. The type of fill material available in each stage of the grading operations shall be specified in order to plan proper filling procedures.

(1) Broken concrete, concrete block, cinder block, brick, slag and stone may be incorporated in fills and embankments, but only in layers 24 inches thick, maximum, as per Commonwealth of Pennsylvania, Department of Highways Specification, 1961, Form 408, Section 3.4.3, Paragraph D, or later specifications which the Commonwealth may adopt, with voids filled and a blanket of compacted fill separating one layer of rock from the next. Rock fill should be placed near the bottom of fill away from building foundations, building caissons and subsurface utility installations. Suitable earth shall be reserved or be provided to cover rock fill under proposed seeded or planted areas.

(2) Coal, boney, red-dog, expansive shale and cinders, shall not be placed in fill areas.

(3) Wood or decomposable material shall not be placed in fill areas.

C. All organic debris and all topsoil shall be removed from areas to receive fill.

D. On major fills or embankments, as determined by the Borough Manager, a toe bench shall be constructed below mantle under the toe of fill in accordance with §9-113 of this Part.

E. To take care of ground and subsurface water in the proposed fill area, a porous drain shall be installed on the bottom and back wall of the toe bench, together with a drain pipe and suitable discharge pipe to existing surface, beyond and below the toe of the proposed fill.

F. Overfilling of slopes is desirable to permit final shaping of surface to proposed grade without the addition of loose fill over the surface of the slope; provided, that no fill shall be higher than 6 feet vertically before the slope is shaped to proper grade.

G. At the end of each work day, the horizontal surface of the fill area shall be shaped, compacted and rolled to slope to the outside edge to provide for drainage.

5. No grading permit shall be issued for the filling of materials other than clean soil or earth until a performance bond in the amount of 110 percent of the Borough Manager's estimate of the cost of adequately covering such fill with clean soil or earth has been furnished to the Borough. Such bond shall be executed by an approved corporate surety, as well as by the principal, and shall be subject to the approval of the Borough Solicitor as to form. The bond shall inure to the benefit of the Borough and be conditioned upon the faithful performance of the work required under the terms and conditions of the grading permit to the satisfaction of the Borough Manager. In lieu of a surety bond, a cash deposit in the same amount may be made with the Borough or with a bank or trust company under an escrow agreement prepared at applicant's cost and approved by the Borough Solicitor.

(*Ord. 610, 3/14/1913, §11*)

#### **§9-112 Slope Treatment and Ground Covering.**

1. In order to prevent erosion, the permittee shall provide adequate ground covering of such kind and character as may be approved by the Borough Manager. For slopes steeper than 3 horizontal to 1 vertical, the ground covering shall be an approved mixture of crown vetch and tall fescue. These areas shall be mulched in an approved manner. The ground covering for other slopes shall be either grass, crown vetch, or other approved variety of vegetation.

2. The completion of fills, embankments and finish grading should be done during a season of the year when turf or ground cover can best be established.

(*Ord. 610, 3/14/1913, §12*)

#### **§9-113. Standards for Compaction of Fills and Benching.**

1. All fills shall be compacted to provide stability of material and to prevent undesirable settlement. Except as provided in §9-111.4.B(1), the fill shall be spread in a series of layers, each not exceeding eight inches in thickness and shall be compacted by a spread. Fill should be placed at the optimum moisture content for the specified degree of compaction. The Borough Manager may require, at the applicant's expense, any tests or other information he deems necessary.

2. Where fills are placed on slopes of 5 percent or more, benching of the surface shall be required and indicated on the cross sections.

(*Ord. 610, 3/14/1973, §13*)

#### **§9-114. Drainage.**

1. Adequate provisions shall be made to prevent any surface water from damaging the cut face of an excavation or the sloping surface of a fill.

2. The drainage pattern prior to construction shall be indicated on the plans and

adequate measures shall be taken to eliminate any erosion and water runoff damage to adjacent properties during the grading and/or construction and after completion of grading and/or construction. [Ord. 830]

3. The grading and/or necessary storm sewers, catch basins, drainage ditches and swales to protect adjacent properties shall be constructed before the property to be graded is cleared and grubbed and before any excavation or filling is started.

4. The storm sewers, catch basins, drainage ditches and swales must be maintained, cleaned, cleared and open during construction. If the above is not complied with, the Borough Manager shall stop all clearing and grading on the site until the necessary drainage facilities are completed, or the permit will be revoked and the required bond will be forfeited.

5. Drainage ditches shall be constructed at the toe and top of cut and ahead of fill slopes to divert the surface water to drainage facilities during and after construction.

6. New storm sewers and other facilities and utilities traversing a proposed fill area shall be buried a minimum of 3 feet from top of pipe to existing grade, or the fill shall be constructed in such area prior to excavating for the installation of said sewers and utilities.

7. The minimum size storm sewer shall be 15 inches in diameter unless a variation in size is approved by the Borough Manager.

8. Slopes steeper than 2 horizontal to 1 vertical and of more than 15 feet in vertical height shall be separated by a level berm of at least 4 feet in width at intervals of no more than 15 feet vertically.

A. Cut slopes which are steeper than that specified in subsection .8, above, shall not require separation by a level berm of at least 4 feet vertically; provided the following requirements are satisfied: [Ord. 751]

(1) The material in which the slope is cut is rock.

(2) A written statement, signed and sealed by a professional soils engineer is delivered to the Borough Manager stating that the requirement of level berms may be eliminated without creating a condition damaging to the cut face of an excavation or hazardous to adjacent property or lives, or in the alternative, recommending, to the Borough Manager a safe, sufficient and appropriate interval for placement of level berms of at least four feet in width.

(3) Having considered the likelihood of a landslide, and protection of adjacent property and lives, the Borough Engineer shall deliver a written statement, signed and sealed, to the Borough Manager concurring in the opinion of the professional soils engineer retained on behalf of the applicant.

9. On slopes of 2 horizontal to 1 vertical, or less steep, the 4 foot level berms will not be required unless deemed necessary by the Borough Manager.

10. Drainage ditches with a grade of 7 percent, or a velocity of less than 7 feet per second, shall be grassed and sloped in such a manner that they can be conveniently cut and maintained.

11. Drainage ditches with a grade of 7 percent or greater, or a velocity more than 7 feet per second, shall be paved with concrete, bituminous mixture, brick, half pipe, rubble or other hard surface material.

12. Drainage structures, storm sewers and appurtenances shall be of proper design and so constructed as to carry surface water and any subsurface water encountered to the nearest practical storm drain or natural watercourse approved by the Borough Manager as a safe place to deposit and receive such waters.

13. Approval by the Borough Manager shall not relieve the owner of his legal responsibilities to adjacent property owners.

14. If, in the opinion of the Borough Manager, the proposed drainage structures, storm sewers and appurtenances are not adequate, he shall require the addition of such facilities as necessary to prevent erosion damage and to satisfactorily carry off both surface waters and subsurface drainage.

(*Ord. 610, 3/14/1973, §14; as amended by Ord. 745, 4/18/1984, §1; by Ord. 751, 12/19/1984; and by Ord. 830, 3/18/1992*)

#### **§9-115. Maintenance.**

1. The owner of any property on which an excavation or fill has been made shall maintain in good condition and repair all retaining walls, cribbing, drainage structures, fences, ground cover and other protective devices as established by permit.

2. The continued use of said area shall be contingent upon its maintenance and upkeep in a manner satisfactory to the Borough and shall be subject to such further conditions as the Borough may prescribe from time to time.

3. The certificate of completion issued under §9-109.6 may at any time be revoked by the Council upon a finding of the Borough Manager that the conditions of the permit are not being observed and that conditions exist that prejudice the health, safety and welfare of any person, persons or property. Such procedure is in addition to the procedure outlined for hazardous conditions in §9-108, "Abatement of Hazardous Conditions."

(*Ord. 610, 3/14/1973, §15*)

#### **§9-116. General Requirements.**

1. The top or bottom edge of slopes shall be at least 3 feet from property or right-of-way lines of streets in order to permit the normal rounding of the edge without encroaching on the abutting property. A fence not less than 4 feet in height, approved by the Borough Manager and meeting Borough fence requirements, shall be placed at the top of all cuts or fill slopes in excess of 1 ½ horizontal to 1 vertical. Before a grading permit is issued, a bond shall be required as provided in §9-105, to guarantee the protection of steep slopes.

2. The acceptance by the Borough of such statement of the permit holder or the issuing by the Borough of a certificate of completion in no way relieves the permit holder, property owner or future property owners, from the responsibility to maintain the project in a safe and acceptable condition.

3. Whenever it is found that the project or work covered by a Certificate of Completion has been extended or altered without a permit to do so; or that any retaining walls, cribbings, drainage structures, fence or other protective means or device shown on the approved plans and/or specifications submitted for a permit have not been built, or maintained in good order and repair, the Borough Engineer shall

advise the Borough Manager of all of the work required to be done so as to make the project substantial and safe. The Borough Manager shall give written notice to the property owner, specifying the defective condition(s) and stating that unless such defective condition(s) is remedied, appropriate legal action will be taken. Such defective condition(s) shall be remedied within 30 days from the date of notice to the owner to comply.

(*Ord. 610, 3/14/1973, §16*)

**§9-117. Violation and Penalties.**

1. No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any provision of this Part.

2. When written notice of a violation of any of the provisions of this Part has been served by the Borough Manager on any person, such violation shall be discontinued immediately.

3. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with Chapter 1 of this Code.

4. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

5. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(*Ord. 610, 3/14/1913, §17; as amended by Ord. 830, 3/18/1992; and by Ord. 976, 1/16/2008*)

**§9-118. Remedies.**

In case any work is performed by any person in violation of any of the provisions of this Part, the proper officer of the Borough, in addition to other remedies, may institute in the name of the Borough, any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful work and to restrain or abate such violation.

(*Ord. 610, 3/14/1973, §18*)

