

## **Chapter 9**

### **Grading and Excavating**

#### **Part 1 General**

- §9-101. Short Title
- §9-102. Definitions
- §9-103. Purpose
- §9-104. Scope
- §9-105. Inspections
- §9-106. Plans to Be Maintained at Grading Sites
- §9-107. Engineer's Authority to Require Safety Precautions
- §9-108. General Requirements
- §9-109. Excavations Standards
- §9-110. Fill Standards
- §9-111. Slope Treatment
- §9-112. Standards for Compaction of Fills and Benching
- §9-113. Drainage
- §9-114. Maintenance
- §9-115. Grading Certificates of Completion
- §9-116. Violations; Cessation upon Notice Required
- §9-117. Appeals

#### **Part 2 Permit**

- §9-201. Required; Exceptions
- §9-202. Application; Required Information; Accompanying Documents
- §9-203. Bonding Requirements
- §9-204. Expiration
- §9-205. Denial



**Part 1****General****§9-101. Short Title.**

This Chapter shall be known and may be cited as the "Borough of West Homestead Grading Ordinance."

(Ord. 426, 5/16/1974, §1)

**§9-102. Definitions.**

Wherever used in this Chapter, the following words shall have the meanings indicated:

*Building permit* - a permit issued by the Borough Building Inspector, pursuant to the provisions of the Borough building code as is then in force.

*Engineer* - the appointed Engineer of the Borough.

*Excavation* - any act by which earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions 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 conditions resulting therefrom.

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

*Grading* - excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

*Grading permit* - any permit required under Part 2 of this Chapter.

*Site* - a lot, tract, or parcel of land, or a series of lots, tracts or parcels of land, joined together, where grading work is continuous and performed at the same time.

(Ord. 426, 5/16/1974, §1)

**§9-103. Purpose.**

The purpose of this Chapter is to provide minimum standards to safeguard persons, to protect property 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.

(Ord. 426, 5/16/1974, §1)

**§9-104. Scope.**

New grading, excavations and fills or changes, additions, repairs or alterations made to existing excavations and fills shall conform to the provisions of this Chapter, except that this Chapter shall not apply to work in a public street or alley or a Borough park, playground, or recreation area or on other public property.

(Ord. 426, 5/16/1974, §2)

**§9-105. Inspections.**

1. The Engineer shall, when requested, make the inspections required in this Section and shall either approve that portion of the work covered by this Chapter which has been completed or notify the holder of a permit required by Part 2 of this Chapter as to how the work fails to comply with the provisions of this Chapter.

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

3. The permit holder shall notify the Engineer 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 and crib walls and when reinforcing steel is 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.

(Ord. 426, 5/16/1974, §8)

**§9-106. Plans to Be Maintained at Grading Sites.**

Plans for grading work, approved by the Engineer, shall be maintained at the site during the progress of the grading work until the work has been approved.

(Ord. 426, 5/16/1974, §8)

**§9-107. Engineer's Authority to Require Safety Precautions.**

If, at any stage of work covered by this Chapter, the Engineer 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 property, streets or alleys, or create hazardous conditions, the Engineer may require, as a condition to allowing the work to be done, that such reasonable safety precautions be taken as the Engineer considers advisable 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, berms, terracing, compaction, cribbing, or walls.

(Ord. 426, 5/16/1974, §8)

**§9-108. 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.

2. A fence not less than 4 feet in height, of the design approved by the Building

Inspector and the Engineer, shall be placed at the top of all cuts or fill slopes in excess of 1½ horizontal to one vertical.

3. The owner of a property shall be responsible to protect and clean up lower properties of silt and debris washing from his property as a result of the regrading of his property.

4. In order to prevent the denuding of the landscape, wherever practicable, large trees and other natural features constituting important physical, esthetic and economic assets to existing or impending suburban development shall be preserved.

(*Ord. 426, 5/16/1974, §15*)

### **§9-109. Excavation Standards.**

1. No excavation shall be made with a cut face steeper in slope than 2 horizontal to 1 vertical, except under one or more of the following conditions. [*Ord. 618*]

A. The excavation is located so that a line having a slope of 2 horizontal to 1 vertical and passing through any portion of the cut face will be entirely inside a line 3 feet inside the property lines of the property on which the excavation is made. [*Ord. 618*]

B. The material in which the excavation is made is sufficiently stable to sustain a slope of steeper than 2 horizontal to 1 vertical and a written statement of a civil Engineer, licensed by the Commonwealth of Pennsylvania and experienced in geotechnical engineering, to that effect is submitted to the Engineer and approved by him. The statement shall state that the site has been tested and inspected and the deviation from the slope specified above will not result in injury to persons or drainage to property. The statement shall be accompanied by calculations demonstrating the stability of such steeper slopes. [*Ord. 618*]

C. A retaining wall or other approved support designed by a registered Engineer, which design is approved by the Borough Engineer is provided to support the face of the excavation.

2. The Engineer may require an excavation to be made with a cut face flatter in slope than 2 horizontal to one 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. [*Ord. 618*]

3. 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.

4. 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 notify in writing the owners of adjoining buildings not less than 30 days before such excavation is to be made. Adjoining properties and structures shall be protected as provided in the Borough building code as is then on file in the office of the Building Inspector, and/or as required by the Engineer.

(*Ord. 426, 5/16/1974, §9; as amended by Ord. 618, 8/9/2005, §1*)

**§9-110. Fill Standards.**

1. No fill shall be made which creates any exposed surface steeper in slope than 2 horizontal to 1 vertical, except under one or more of the following conditions:

A. The fill, in the opinion of the Engineer, 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, streets, alleys, or buildings.

B. A written statement from a civil engineer, licensed by the Commonwealth of Pennsylvania and experienced in geotechnical 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 Engineer. The statement shall be accompanied by calculations demonstrating the stability of such steeper slopes. [*Ord. 618*]

2. The Engineer may require that the fill be constructed with an exposed surface flatter than 2 horizontal to 1 vertical if he finds that under the particular conditions such flatter surface is necessary for stability and safety.

3. Whenever a fill is to be made of materials other than clean soil or earth, work performed under a grading permit issued pursuant to Part 2 of this Chapter shall be subject to the following additional limitations and requirements:

A. The fill shall be completed within a reasonable length of time, such time limit to be determined by the Engineer and to be specified on the grading permit.

B. Clean soil or earth shall be placed over the top and exposed surfaces of the fill to a depth sufficient to effectively conceal all materials, other than clean soil or earth, within the fill. When the fill is other than clean soil or earth, the Engineer may require clean soil or earth to be placed over the top and exposed surfaces of the fill to a depth sufficient to conceal all materials at the end of each day's operations.

C. 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.

(*Ord. 426, 5/16/1974, §10; as amended by Ord. 618, 8/9/2005, §1*)

**§9-111. Slope Treatment.**

1. In order to prevent erosion of slopes, a permittee under Part 2 of this Chapter shall be required to provide adequate ground covering of such kind and character as may be approved by the Engineer. The ground covering shall be either grass, crown vetch, or other approved variety of vegetation.

2. In order to prevent erosion of slopes, the permittee shall implement all erosion control measures as may be shown on the Erosion Control Plan required by *Ord 543*. Failure to implement and maintain erosion controls shall be a violation of the permit. [*Ord. 618*]

(*Ord. 426, 5/16/1974, §11; as amended by Ord. 618, 8/9/2005, §1*)

**§9-112. Standards for Compaction of Fills and Benching.**

All fills covered by this Chapter shall be compacted to provide stability of material and to prevent undesirable settlement. Fills shall be compacted according to the specification provided by the permittee's engineer and approved by the Borough

Engineer, but in no event shall compaction requirements be less stringent than required under Pennsylvania Department of Transportation Form 408, latest edition. The Engineer may require tests 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 5% or more, benching of the surface shall be required and indicated on the cross sections.

(*Ord. 426, 5/16/1974, §12; as amended by Ord. 618, 8/9/2005, §1*)

### **§9-113. Drainage.**

Adequate provisions shall be made to prevent any surface waters from damaging the cut face of an excavation or the sloping surface of a fill. Excavated slopes of more than 8 feet in vertical height at slopes gradients in excess of 1½ horizontal to one vertical shall have terraces or benches at their base with a width equal to ½ the height of the cut. The bench shall be back sloped at a grade of 5% to trap loose material and runoff water. The Engineer shall require such drainage structure or pipes to be constructed or installed as are necessary to prevent erosion damage and to satisfactorily carry off surface waters. All drainage provisions shall be of such design as to carry surface waters to the nearest practical street, storm drain, or natural watercourse approved by the Engineer as a safe place to deposit and receive such waters.

(*Ord. 426, 5/16/1974, §13*)

### **§9-114. Maintenance.**

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 and further, the continued use of such area shall be contingent upon the maintenance and upkeep, satisfactory to the Borough and subject to such further conditions as the Borough may prescribe from time to time. The certificate of completion therefore may, at any time, be revoked by the Borough Council upon the recommendation of the Borough Engineer and/or Street Commissioner 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. Before such revocation, the Engineer shall first give written notice to the permit holder and to the owner of the property involved, specifying the defective condition and stating that unless such defective condition is remedied, the certificate may be revoked. If the defective condition is remedied, the certificate shall not be revoked. Such conditions shall be corrected within 30 days of notice to the owner to correct same.

(*Ord. 426, 5/16/1974, §14*)

### **§9-115. Grading Certificates of Completion.**

1. If, upon final inspection of an excavation or fill, it is found that the work authorized by a grading permit issued pursuant to Part 2 of this Chapter has been satisfactorily completed in accordance with the requirements of this Part, a grading certificate covering such work and stating that the work is approved, shall be issued to the permit holder by the Engineer.

2. The Borough shall have the power to revoke any grading certificate whenever

it finds that the work covered by the certificate has been materially extended or altered, without a permit to do so, or that any retaining walls, cribbing, drainage structures, fence, or other protective devices shown on the approved plans and specifications submitted for a permit have not been maintained in good order and repair.

3. Before such revocation, the Engineer shall first give written notice to the permit holder and to the owner of the property involved, specifying the defective condition and stating that unless such defective condition is remedied, the certificate may be revoked. If the defective condition is remedied, the certificate shall not be revoked. Such conditions shall be corrected within 30 days of notice to the owner to correct same.

*(Ord. 426, 5/16/1974, §16)*

#### **§9-116. Violations; Cessation Upon Notice Required.**

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 Chapter.

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

*(Ord. 426, 5/16/1974, §17)*

#### **§9-117. Appeals.**

The Borough Council shall consider promptly appeals from the provisions of this Chapter or from the determinations of the Engineer, and the Council may consider alternate methods, standards or materials proposed by the applicant. Any applicant or permit holder shall have the right to appeal to any court of competent jurisdiction from any decision or determination of the Borough Council.

*(Ord. 426, 5/16/1974, §7)*

**Part 2**

**Permit**

**§9-201. Required; Exceptions.**

1. No person shall commence or perform any grading, excavation or fill without first having obtained a grading permit from the Building Inspector with the approval of the Borough Engineer. A separate grading permit shall be required for each site. One permit may cover both an excavation and any fill made on the same site.

2. A grading permit will not be required in the following situations, but in all other respects, the provisions of this Chapter shall apply:

A. An excavation which does not exceed 3 feet in vertical depth at its deepest point measured from the natural ground surface or cover an area of more than 1,000 square feet. This exception shall not affect the applicability of this Chapter to or the requirement of a grading permit for any fill made with the material from such excavation, unless such fill is within the exception of subparagraph .B of this paragraph.

B. A fill which does not exceed 10 cubic yards of material on any one site and a fill which does not exceed 3 feet in vertical depth at its deepest point measured from the natural ground surface and does not cover an area of more than 1,000 square feet, provided that the surfaces of such fills do not have a slope at any point steeper than 5 horizontal to one vertical.

C. 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 the street; provided, however, that a permit is required for excavation of a driveway between the building site and the street when conditions such as excessive cut or fill make such permit necessary. This exception shall not affect the applicability of this Chapter to or the requirement of a grading permit for any fill made with the material from such excavation unless such fill is within the exception of subparagraph .B of this paragraph. A grading permit shall not be required for the temporary stockpiling on the same site, of the material from such excavation.

D. A single-family house site where the maximum gradient between property lines or the maximum excavation or fill, exclusive of the situations referred to in subparagraph .C of this Section, do not exceed the grades or quantities set forth in the following table:

<b>Single Family House Site</b>	<b>Maximum Gradient Without Permit</b>	<b>Maximum Excavation of Fill Without Permit</b>
Less than 6,000 s.f.	12 in 100 feet	75 c.y.
From 6,000 to 10,000 s.f.	15 in 100 feet	100 c.y.
From 10,000 to 18,000 s.f.	15 in 100 feet	200 c.y.
From 18,000 to 30,000 s.f.	15 in 100 feet	250 c.y.

Single Family House Site	Maximum Gradient Without Permit	Maximum Excavation of Fill Without Permit
Over 30,000 s.f.	20 in 100 feet	250 c.y.

(Explanatory Note: s. f. equals square feet; c. y. equals cubic yards)

(Ord. 426, 5/16/1974, §3)

### **§9-202. Application; Required Information; Accompanying Documents.**

1. Every applicant for a grading permit required by this Part shall file a written application therefor with the Borough Engineer. Such application shall: [Ord. 618]

A. Describe the land on which the proposed work is to be done, by lot, tract or street address, or similar description which will readily identify and definitely locate the proposed work.

B. Be accompanied by plans and specifications prepared by a registered Engineer, including a contour map showing the present contours of the land and the proposed contours of the land after completion of the proposed grading and a plan showing cross sections of the proposed cut or fill on 50 foot intervals which show the method of benching both cut and/or fill. However, under no circumstances shall there be less than three cross sections for each property involved under such permit containing: a plot plan showing the location of the grading, boundaries, lot lines, neighboring streets and alleys, buildings, trees over 8 inches in diameter 2 feet above the ground, and sufficient dimensions and other data to show the location of all work; a description of the type and classification of the soil; details and locations of any proposed drainage structures and pipes, walls and cribbing; the nature of fill material and such other information as the Engineer may require to carry out the purposes of this Chapter. All plans shall be dated and bear:

(1) The name and seal of the registered professional engineer who prepared the same.

(2) Name of the applicant.

(3) The name of the owner of the land. Plans shall be submitted in triplicate.

C. State the estimated dates of starting and completion of the grading work.

D. State the purpose for which the grading application is filed.

2. The Engineer may waive the requirement of any or all plans and specifications listed above if he finds that the information on the application is sufficient to show that the work will conform to the provisions of this Chapter.

3. As a condition to the granting of a permit under this Chapter, the applicant shall file with the Borough and with the Allegheny County Conservation District an erosion and sediment pollution control plan which meets the requirements of the Allegheny County Conservation District. Prior to actual issuance of the permit under this Section, the applicant shall submit to the Borough a letter from the Allegheny County Conservation District stating that the erosion and sediment pollution control plan is adequate. The applicant shall contact the Allegheny County Conservation District for all information regarding the preparation of said erosion and sediment pollution control plan and any required fees therefore. In cases where a permit is not

required under this Chapter, the person proposing to conduct operations that will entail earth disturbance shall have an erosion and sediment pollution control plan for the work to be performed. [Ord. 543]

4. Unless specifically waived by the Engineer, in writing, the foregoing items, together with any items required under §§9-109 and 9-110 of this Part, are necessary for an application to be considered proper and complete. [Ord. 618]

(Ord. 426, 5/16/1974, §4; as amended by Ord. 543, 10/12/1993, §1; and by Ord. 618, 8/9/2005, §1)

### **§9-203. Bonding Requirements.**

1. Before issuing a grading permit, the Borough Secretary shall collect a permit fee as follows:

A. *Permit Fee.* The Borough Secretary shall collect a permit fee in an amount as established from time to time by resolution of Borough Council at the time application for a grading permit is made. [Ord. 623]

B. *Review Deposit.* The Engineer, within 5 working days of receipt of a proper and complete application, shall determine the amount of the review deposit to be made by the applicant and shall notify the Borough Secretary of same; provided, however, that the review deposit in an amount as established from time to time by resolution of Borough Council. The review deposit is due and payable when the applicant is notified by the Engineer that the permit application is complete and contains all necessary items as listed in §§9-202, 9-109 and 9-110 of this Part. The review deposit shall be used to reimburse the Borough for the cost of engineering review of the application. In determining the amount of the deposit, the Engineer shall use the same rates as is charged by the Borough for normal engineering work. This review deposit is required whether or not a permit is issued. Technical review of the permit application will not begin until the application is proper and complete and the review deposit has been paid. [Ord. 623]

C. *Inspection Deposit.* Upon determination that the applicant has met the requirements for a permit under this Part, the Engineer shall determine the amount of the inspection deposit, if any, to be made by the applicant and shall notify the Borough Secretary of the same. The inspection deposit shall be used to reimburse the Borough for the cost of inspection of the work authorized under the permit and in accordance with §9-107 of this Part. The inspection deposit is due and payable at the time of permit issuance. In determining the amount of the deposit, the Engineer shall use the same rates as are charged to the Borough for normal inspection work.

D. *Unused Deposits.* Upon issuance of a permit, any portion of the review deposit remaining shall be credited to the inspection deposit that might be due, if a permit is denied, any portion of the review deposit remaining shall be returned to the applicant upon request. After the final inspection has taken place, any portion of the review deposit remaining shall be returned to the permittee upon request.

E. *Insufficient Deposit.* If either the review or the inspection deposit is less than sufficient to pay all proper costs, the permittee shall, upon demand, pay to the Borough an amount equal to the deficiency. If the permittee fails or refuses to pay

such deficiency, the Engineer shall either withhold permit issuance or suspend the permit, and the Borough may institute an action to recover same in any Court of competent jurisdiction.

F. *Disputed Deposit Amounts.* If an applicant disputes the amount of the review and/or inspection deposits determined by the Engineer, the applicant may file an appeal in accordance with §9-117 of this Part.

[*Ord. 618*]

2. No such permit shall be issued for the filling of materials other than clean soil or earth until a faithful performance bond in the amount of at least 10% more than the Engineer's estimate cost of adequately covering such fill with clean soil or earth has been furnished to the Borough. Such bond shall be executed by a 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 Engineer. In lieu of such bond, a cash deposit in the amount thereof may be made with the Borough Secretary, or with a bank or trust company, approved by the Borough Solicitor, which shall act as escrow agent.

(*Ord. 426, 5/16/1974, §5; as amended by Ord. 618, 8/9/2005, §1; and by Ord. 623, 2/14/2006*)

#### **§9-204. Expiration.**

Every grading permit issued under this Part shall expire by limitation and become null and void if the work authorized by such permit has not been commenced within 6 months or is not completed within 1-year from the date of issue, provided that the Engineer may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented the work being started or completed within the specified time limits, grant a reasonable extension of time, and provided further, that the application for the extension of time is made before the date of expiration of the permit.

(*Ord. 426, 5/16/1974, §6*)

#### **§9-205. Denial.**

Where, in the opinion of the Engineer, the work covered by this Chapter, as proposed by the applicant is likely to endanger any property or any street or alley, or where the submitted plans and information fail to demonstrate that the public health and safety will be assured, he shall deny the grading permit required by this Part. In determining whether the proposed work is likely to endanger property, or streets or alleys, or create hazardous conditions, the Engineer shall give due consideration to, but shall not be 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 or rock.

(*Ord. 426, 5/16/1974, §7; as amended by Ord. 618, 8/9/2005, §1*)