

TOWNSHIP OF O'HARA
ALLEGHENY COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF O'HARA, ALLEGHENY COUNTY, PENNSYLVANIA AMENDING AND RESTATING THE TOWNSHIP OF O'HARA GRADING ORDINANCE NO. 674 WHICH REGULATES THE DESIGN, CONSTRUCTION, MAINTENANCE OR ALTERATION OF GRADING EXCAVATIONS AND FILLS, CONTAINING CERTAIN RELATED PROVISIONS, AND PROVIDING PENALTY FOR VIOLATION

BE IT ORDAINED AND ENACTED by the Council of the Township of O'Hara and is hereby ordained and enacted by and with the authority of the same as follows:

SECTION 1. TITLE AND PURPOSE

(1) TITLE. This Ordinance shall be known and may be cited as "The Township of O'Hara Grading Ordinance."

(2) PURPOSE. The purpose of this Ordinance is to provide minimum standards to safeguard persons and property, to protect and to promote the public welfare, by preventing excess erosion, hazardous rock and soil slippage, sediment production and other soil and water management problems, and by regulating and controlling the design, construction, quality of materials, use, location and maintenance of grading, excavation and fill.

SECTION 2. DEFINITIONS

Wherever used in this Ordinance the following words shall have the meaning indicated:

(1) ADMINISTRATOR shall mean the person qualified and officially appointed by the governing body to implement this ordinance.

(2) BEDROCK shall mean natural in situ rocklayer, hard or soft, in place at ground surface or beneath surficial deposits.

(3) ENGINEER, PROFESSIONAL shall mean a person licensed by the Commonwealth of Pennsylvania to practice engineering and who is knowledgeable in the branch of civil engineering.

(4) ENGINEERING GEOLOGIST shall mean a person who holds a degree in geology from an accredited college or university and who has training and experience in the field of engineering geology.

(5) EROSION shall mean the detachment and movement of soil or rock fragments by water, wind, ice or gravity, including such processes as gravitational creep.

(6) EXCAVATION shall mean 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 there from.

(7) FILL shall mean 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 resulting.

(8) GOVERNING BODY shall mean the Council of the Township of O'Hara.

(9) GRADING shall mean excavation, fill or any combination thereof that results in a change in topography that affects stormwater, and shall include the conditions resulting from any excavation, fill or change in topography that affects stormwater.

(10) GRADING PERMIT shall mean any permit required under these regulations.

(11) HAZARD shall mean 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.

(12) PERSON shall mean an individual but shall also include a partnership, corporation, trust or association.

(13) SITE shall mean a lot, tract or parcel of land, or a series of lots, tracts, or parcels of land which are adjoining where grading work is continuous and performed at the same time.

(14) SOIL SURVEY shall mean the unpublished and operational soil survey for Allegheny County, Pennsylvania and the accompanying text Soil Survey Interpretations of Allegheny County, Pennsylvania, as prepared by the USDA Soil Conservation Service et al. When applicable, Soil Survey shall mean Soil Survey, Allegheny County, Pennsylvania when this publication is completed.

(15) SOILS ENGINEER shall mean a person registered by the Commonwealth of Pennsylvania as a professional engineer and who has training and experience in the branch of soils engineering.

(16) SOLID WASTE shall mean all parts or combinations of ashes, garbage, refuse, radioactive material, combustible demolition materials and industrial wastes such as flue gas solids, food-processing wastes, wood, plastic, metal scrap, etc.

SECTION 3. SCOPE

A grading permit must be obtained from the Administrator for new grading, excavations and fills; changes, additions or alterations made to existing excavation or fills shall conform to the provisions of these regulations. A separate grading permit shall be required for each site or phase of a total project.

For a project which is to be completed in more than one phase, the applicant must first apply for and obtain a permit for the entire project. The issued permit shall permit the applicant to proceed with work on the first phase of the project, but for each subsequent development phase of the project the applicant must apply for and receive an additional permit. One permit may cover the grading, excavation, and any fills made on the same site, project or phase of a project.

SECTION 4. HAZARDOUS CONDITIONS

Whenever the Administrator determines that any existing excavation, embankment or fill has become a hazard as defined in Section 2, the owner of the property upon which the excavation, embankment or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Administrator shall within the reasonable period specified therein repair, reconstruct or remove such excavation, embankment, or fill so as to eliminate the hazard.

If, after such notification, the property owner has not made the necessary repairs within the time adopted, then the Township may direct that the required repairs shall be made. Upon failure of the property owner to make the requested repairs, the Township may make said repairs or contract to have the repairs done and collect the cost of same, together with 10% of said cost. The Township may file a municipal claim against the premises to recover said cost plus 10%, or bring an action in assumpsit. The Township may also, in addition to any of the above, file a bill in equity to enforce these provisions, enjoin any action or to recover any expenses incurred by the Township.

SECTION 5. APPLICATION. DUTIES OF ADMINISTRATOR

Every applicant for a grading permit shall file a written application therefore with the Administrator in a form prescribed by the Administrator. Such application shall:

(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 definitely locate the proposed work.

(2) Be accompanied by plans and specifications prepared, signed and sealed by a professional engineer, surveyor or architect giving a reasonable representation of the site and proposed soil erosion controls, if any. The Administrator may waive the preparation or approval and signature by the professional engineer, surveyor or architect only when it is self-evident that the proposed work is simple, clearly shown on the plans submitted, and creates no hazard or potential nuisance to adjacent property, and does not include the construction of a fill upon which a structure may be erected. Such plans may include a description of the site proposed for grading; accurate location by lot, block, tract, street address, longitude and latitude, co-ordinates, a location map or other similar information; 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 which show the

method of benching both cut and/or fill. In addition, a plot plan may show the location of the grading, boundaries, lot lines, neighboring streets or ways, buildings, surface and subsurface utilities and waterways. In addition, plans may include a description of the type and classification of the soil from the Soil Survey or better; details and location of any proposed drainage structures and pipes, walls, and cribbing; seeding locations and schedules, debris basins, diversion channels; nature of fill material and such other information as the Administrator may need to carry out the purposes of this Ordinance. All plans shall be dated and bear: (a) the name and seal of the Professional Engineer who prepared the same; (b) the name of the applicant; and (c) the owner of the land. Plans shall be submitted in triplicate, one set of which shall be of reproducible nature.

- (3) State the estimated dates for the starting and completion of grading work.
- (4) State the purpose for which the grading application is filed.

The duty of the Administrator shall be to obtain information and reports from governmental agencies, and scientific and/or engineering journals, if available, and professional engineers and/or engineer-geologists, if necessary. This information and these reports must be of sufficient detail to insure that proposed grading will not create a hazard and that there will be a minimum of soil erosion on the site to be graded.

To be adequate, a geological report may include a detailed description of the geological conditions of the site; may include conclusions and recommendations that will demonstrate the relationship of the geological conditions to the proposed development, including hazardous conditions, water resources, mineral resources and environmental impact. A soil conservation report may include existing site description as to topography, drainage, cover and soils; major resource problems as to soil limitations, erosion and sediment potential and surface runoff changes; and recommendations to minimize soil limitations, erosion and sediment, and surface water disposal problems.

In no case shall the administrator require more than minimum adequate standards, as recommended by governmental agencies, professional engineers or engineering geologists, and other requirements specified in this Ordinance, for issuing a grading permit.

SECTION 6. COMPLETION AND PERFORMANCE GUARANTEE

Before issuance of a grading permit, the applicant shall post a bond, corporate surety, or other approved security in the amount of ten (10) percent of the estimated cost of the grading work and erosion control facilities proposed for the permit to guarantee of said work and erosion control facilities proposed for the permit to guarantee of said work and facilities in a satisfactory manner and meeting the requirements of this Ordinance. No bond shall be required if another bond or other approved security is posted for construction and/or site improvements. When all requirements of this permit have been met and the work has been completed in a satisfactory manner, the full amount of security shall be returned to the person posting said security.

SECTION 7. EXPIRATION OF PERMIT

Every grading permit shall expire and become null and void if the work authorized by such permit has not been commenced within one (1) year or is not completed within three (3) years from the date of issue. Grading projects which are planned to have a life in excess of three (3) years shall be developed and proposed in complete phases that do not exceed three (3) years duration. Any physical changes in the site such as surface water drainage, soil and bedrock dislocations, alteration of groundwater discharge or any other natural or man-made modification which would cause a doubt to be cast upon the feasibility of the contents of the original permit approval, must be reported to the Administrator in the intervening period between approval of permit and completion of the project.

SECTION 8. DENIAL OF PERMIT. APPEAL.

When the requirements of this Ordinance for obtaining a permit have been met, the Administrator shall approve the proposed plan and grant a Grading Permit to the applicant. Approved work may then start. However, when in the opinion of the Administrator, work proposed by the applicant is likely to endanger any property, or person, drainage facility, bridge, or any street or alley, or create hazardous conditions, the grading permit shall be denied. In determining whether the proposed work is likely to endanger any of the preceding, or create hazardous conditions, the Administrator shall give due consideration to: possible saturation by rains, earth movements, run-off surface waters and sub-surface conditions, such as the stratification and faulting of rock, aquifers, springs and the nature and type of the soil or rock.

Within fifteen (15) days of the denial of a permit or the issuance of a permit imposing conditions upon the applicant, the applicant may appeal to the governing body in writing stating the reasons upon which the appeal is based. Within fifteen (15) days of receiving the appeal, the President of the governing body shall set the time and place for hearing on the appeal and shall so notify the applicant in writing. The hearing shall take place within thirty (30) days from the date of receiving the appeal. Within fifteen (15) days after the hearing of the appeal, the decision of the governing body must be communicated to the applicant in writing and shall set forth findings of fact and the reasons for its adjudication. The appeal need not be heard by all members of the governing body, but may be heard by no less than three (3) members as are appointed by the President of the governing body to hear said appeal. The appeal procedure set forth herein in no way affects or limits any other legal right or remedy that the applicant or permit holder shall have.

SECTION 9. GRADING INSPECTION AND SUPERVISION

(1) The permit holder or his agent shall notify the Administrator in writing of the start and completion of each continuous grading operation. Notice shall be received by the Administrator or at his office at least two (2) working days before start or completion of grading operations.

(2) Grading work at these stages or at any other time will be subject to spot inspections at the discretion of the Administrator to determine that the work is being performed in compliance with these regulations.

(3) In special cases, when grading occurs in areas of landslide-prone soil as recognized by the Soil Survey or better, the Administrator may require special precautions from the grader. The results of all soil tests and core borings made relating to the site graded shall be submitted to the Administrator.

SECTION 10. STANDARDS FOR EXCAVATION

(1) Maximum slope steepness of a cut shall be three (3) horizontal to one (1) vertical for minimizing erosion and landslide hazard. However, a governmental review agency, professional engineer or engineering geologist may recognize the types of soil on the site to be graded from the Soil Survey or better. Maximum slopes cannot exceed the maximum slope of the existing stable condition.

(2) Cut slopes which are steeper than those specified above may be allowed under a grading permit, provided one or both of the following is satisfied:

(a) 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 essentially non-existent, must be submitted to the Administrator.

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

(3) The top or bottom edge of slopes shall generally be set back at least ten (10) feet from adjacent property lines or street right-of-way lines in order to permit the normal smoothing of the edge without encroaching on the abutting property or street.

(4) Guidelines for cuts in the Erosion and Sediment Control Handbook for Allegheny County, Pennsylvania shall be followed. One or a combination of guidelines should be used to minimize hazard, depending on site conditions and proposed grading.

SECTION 11. STANDARDS FOR FILLS

(1) No fill shall be placed over trees, stumps or any other material which could decompose and create a hazard. Instead, such materials may be buried in natural ground, and not within the vertical limits of a slope, where no structures will be built or hazard created. Limbs can be chipped and mixed with the topsoil.

(2) All fills shall be compacted to provide stability of fill material and to prevent undesirable settlement or slippage.

(3) Clean soil or earth shall be placed over the top and exposed surfaces of the fill to a depth sufficient to conceal all materials used in the fill other than clean soil or earth. If the filling operation is intermittent, the top and exposed surfaces of the fill should be so covered at the completion of each lift.

(4) The top or bottom edge of slopes should generally be set back at least ten (10) feet from adjacent property lines or street right-of-way lines in order to permit the normal smoothing of the edge without encroaching on the abutting property or street.

(5) Guidelines for fills in the Erosion and Sediment Control Handbook for Allegheny County, Pennsylvania shall be followed. One or a combination of guidelines shall be used to minimize hazard, depending on site conditions and proposed grading.

SECTION 12. STANDARD FOR MINIMIZING EROSION AND SEDIMENTATION

Guidelines for minimizing Erosion and Sedimentation in the provisions of the Pennsylvania Department of Environmental Protection Chapter 102 issued under Sections 5 and 402 of The Clean Streams Law shall be followed unless otherwise noted. One or a combination of guidelines should be used to minimize hazard, depending on site conditions and proposed grading. However, the Administrator may approve grading plans not meeting guidelines of The Clean Streams Law if proposed grading will not constitute a hazard. Governmental and/or engineering reports shall be used as evidence that proposed grading will not constitute a hazard.

SECTION 13. RETAINING WALLS

(1) Definition of Retaining Wall. 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 Ordinance, and which is more than four (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 Ordinance and Section 72-13.91 of the Zoning Ordinance, a building permit, as provided for by other municipal 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 sub-surface drainage facilities shall be done strictly in accordance with the provisions of this Ordinance and the appropriate municipal specifications.

(5) In general, where a wall is replacing an exposed slope, the vertical face of the wall shall be ten (10) feet back from the adjoining property.

(a) A special exception to this requirement may be applied for and granted by the Administrator 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) The requirement of this paragraph may also be set aside 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.

SECTION 14. DRAINAGE PROVISION

Adequate provisions shall be made to prevent any surface or sub-surface waters from damaging:

- (a) the cut face of an excavation;
- (b) the sloping surface of a fill; and
- (c) adjacent property affected by the change in the existing natural run-off pattern.

To prevent damage, grading plans should follow Vegetative Control Methods and Ditch and Conduit Control Methods in the Erosion and Sediment Control Handbook for Allegheny County, Pennsylvania when they fit the site. The Administrator may approve methods and materials recommended by governmental agencies and professional engineers when they are more suitable to the site in preventing damage. Drainage facilities shall be designed to accommodate the run-off resulting from the maximum consequences of a 50-year storm.

SECTION 15. MAINTENANCE

(1) The owner of any property on which an excavation or fill has been made shall maintain in good condition and repair the excavation or fill permitted, and also all retaining walls, cribbing, drainage structures, fences, ground cover, and any other protective devices as may be a part of the permit requirements.

(2) If, at any time subsequent to the completion of the grading work, the cut face or fill slope shall evidence signs of deterioration, erosion, or other evidence which might be detrimental to the properties above and below the grading site; the Administrator may direct the property owner to take necessary remedial steps in accordance with sound engineering practice to restore the grading to a safe condition, and to do so in a reasonable period of time.

SECTION 16. LIABILITY

Neither the issuance of a permit under the provisions of this article, nor the compliance with the provisions hereto or with any condition imposed by the Administrator hereunder, shall relieve any person from any responsibility for damage to persons or property resulting there

from, or as otherwise imposed by law, nor impose any liability upon the Township for damages to persons or property.

SECTION 17. VIOLATION AND PENALTIES

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 Ordinance.

When written notice of any of the provisions of this Ordinance has been served by the Administrator on any person, such violation shall be discontinued immediately or within a reasonable time limit specified in such notice. If violation is not discontinued, or extends beyond the specified time limit, the Administrator shall revoke the grading permit and the violation is subject to fine.

Any person violating any of the provisions of the Ordinance shall be liable on conviction thereof to a penalty not exceeding \$300.00 per day for each and every offense. Whenever such person shall have been notified by the Administrator by service of summons in a prosecution or in any other way that he is committing such violation of this Ordinance, each day that he shall continue such violation after such notification, shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

SECTION 18. FILING AND INSPECTION FEES

In order to defray a part of the cost incurred by the Township in reviewing plans and inspecting the grading site(s), filing fees as stated in the Township Fees Resolution, as may hereinafter be amended, shall accompany the filing of the grading plan or any request for a permit to do any matter covered by these regulations.

The applicant, shall, at the time of filing the plan or request deposit with the Township Manager a sum sufficient to cover and pay all fees and cost incurred by the Township for filing and inspection.

In the event that the sum deposited, by the applicant is in excess of the fees and cost incurred by the Township, the excess sum will be returned to the applicant. If the sum deposited is inadequate, the applicant shall be required to deposit an additional amount to make up the deficit.

SECTION 19. REMEDIES

In case any work is performed by any person in violation of any of the provisions of this Ordinance, the proper officer of the Township of O'Hara 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.

SECTION 20. VALIDITY

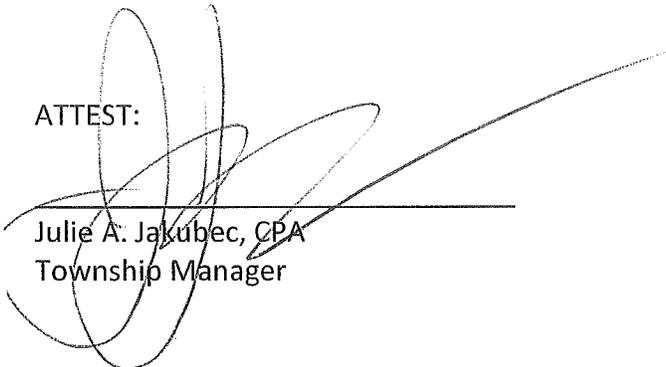
The provisions of this Ordinance are severable, and if any of its provisions or any part of any provision shall be held unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions. It is hereby declared to be the intent of Council that this Ordinance would have been enacted had such unconstitutional provisions or parts thereof not been included herein.

SECTION 21. REPEALER

All ordinances or parts thereof in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of the conflict to give this Ordinance full force and effect.

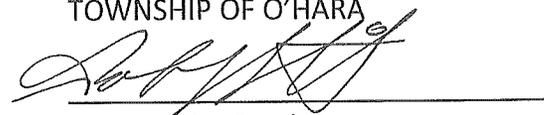
ORDAINED AND ENACTED into law this 9th day of August, 2011 by Council vote of 6 to 0.

ATTEST:



Julie A. Jakubec, CPA
Township Manager

TOWNSHIP OF O'HARA



Robert John Smith
President of Council



First Reading:	<u>Kozera, Sr. - Vogel</u>	<u>6 - 0</u>	<u>07/12/2011</u>
Public Hearing:	<u>08/09/2011</u>		
Second Reading and Adoption:	<u>Vogel -Kozera, Sr.</u>	<u>6 - 0</u>	<u>08/09/2011</u>
Advertised:	<u>08/25/2011</u>	Codified:	_____