

**LOWER SAUCON TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2007-01

**AN ORDINANCE OF THE TOWNSHIP OF LOWER SAUCON,
NORTHAMPTON COUNTY, PENNSYLVANIA, BY REPEALING
ORDINANCE NO. 2003-03 AND ORDINANCE NO. 2005-02, THEREBY
AMENDING REGULATIONS AND STANDARDS TO GOVERN AND
REGULATE THE GRADING OF LAND, THE MODIFICATION OF
NATURAL TERRAIN, THE ALTERATION OF DRAINAGE, THE
MAINTENANCE OF DRAINAGE NECESSARY TO CONTROL SOIL
EROSION, THE ISSUANCE OF GRADING PERMITS, PROVIDING FOR
THE ENFORCEMENT THEREOF AND PROVIDING FOR PENALTIES
IN THE EVENT OF VIOLATION THEREOF**

WHEREAS, the Council of Lower Saucon Township, Northampton County, Pennsylvania, (hereinafter referred to as “Township”) has determined that the public health, safety, and welfare will be advanced by regulating the modification of natural terrain and the alteration of drainage by providing for regulations related to runoff, grading, erosion and sedimentation control; and

WHEREAS, this Ordinance is authorized by the provisions of the Second Class Township Code and this Ordinance implements Title 25, Rules and Regulations, Part I, Commonwealth of Pennsylvania Department of Environmental Resources, Subpart C, Protection of Natural Resources, Article II, Water Resources, Chapter 102, Erosion Control, and it is also in support of the efforts of the Northampton County Conservation District; and whereas, existing Ordinance 2003-03 adopted April 2, 2003, as amended by Ordinance 2005-02, adopted March 2, 2005, need to be substantially revised to refer to the 2006 Stormwater Management Ordinance of the Township and for other reasons.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Lower Saucon Township Council of Northampton County, Pennsylvania, as follows:

SECTION 1 TITLE

The name of the Ordinance shall be the Lower Saucon Township Earth Disturbance Ordinance.

SECTION 2 REGULATED ACTIVITIES

Earth moving and grading including, but not limited to, removal of vegetation and/or changes in topography are activities regulated by this ordinance.

Earth moving and grading activities shall be subject to the requirements of State Soil Erosion and Sedimentation Control Regulations, the Township Zoning Ordinance (Chapter 180), the Township Subdivision and Land Development Ordinance (Chapter 145), the Township Flood Plain Ordinance (Chapter 90), and the Township Stormwater Management Ordinance (Chapter to be assigned), whether or not it is regulated by this Ordinance.

Notwithstanding anything to the contrary set forth in this Section, no permit shall be required pursuant to this Ordinance in the following circumstances:

- A. Earth disturbance for the purposes of normal agricultural operations, gardening and topsoil preparation for planting of grass or other vegetative groundcover; or
- B. Earth disturbance for the purposes of residential accessory structures or residential accessory uses where the aggregate area to be stripped of vegetation at any one time does not exceed the following criteria:
 - 1. 1,000 square feet, or
 - 2. 1,500 square feet for lots smaller than one acre in size when the earth disturbance is no closer than twenty (20) feet to a lot line, top of bank of any stream or watercourse, wetland, riparian corridor, or steep slope, (that is greater than 15%).
 - 3. 2,000 square feet for lots of one acre in size or larger but smaller than three acres in size when the earth disturbance is no closer than fifty (50) feet to a lot line, top of bank of any stream or watercourse, wetland, riparian corridor, or steep slope, (that is greater than 15%).
 - 4. 4,000 square feet for lots of 3 acres in size or larger but smaller than 5 acres when the earth disturbance is no closer than (50) feet to a lot line, top of bank of any stream or watercourse, wetland, riparian corridor, or steep slope, (that is greater than 15%).
- C. Earth disturbance, up to a limit of one acre (43,560 square feet), for any purpose, no closer than one hundred (100) feet to a lot line, top of bank of any stream or watercourse, wetland, riparian corridor, or steep slope, (that is greater than 15%) regardless of the size of the lot.

- D. Earth disturbance necessary for the construction of a single family home or residential accessory structures or residential accessory uses on a lot in excess of five (5) acres when the Township Manager, in his sole discretion, determines that a permit is not necessary for the reasonable protection of adjacent properties.
- E. Earth disturbance necessary for the construction or repair of public utilities and/or roads by public agencies, and/or Public Utility Commission regulated utility companies.
- F. Earth disturbance necessary for the construction of above ground swimming pools.

SECTION 3 UNLAWFUL ACTS

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

- A. To remove vegetated ground cover or improved ground cover;
- B. To cut, fill, or change the existing grade of any land;
- C. To disturb, modify, block, divert, or affect the existing overland or subsurface flow of stormwater; or
- D. To construct, erect or install any dam, ditch, culvert, drainpipe, bridge or any other obstruction affecting the drainage of any property, or portion thereof.

SECTION 4 EFFECT ON OTHER PERMITS AND DEFINITIONS

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

The definition of terms used shall be the definition used by the Township in the:

Township Zoning Ordinance
Township Stormwater Management Ordinance
Township Subdivision and Land Development Ordinance

Except as specifically defined or described herein.

SECTION 5 APPLICATION FOR A PERMIT

- A. Any person, firm, or corporation proposing to engage in activity requiring a permit hereunder shall apply for a permit by written application which shall include the Applicant's agreement to comply with the applicant's plans and supporting documents and this Ordinance, upon issuance of the permit.
- B. The Applicant shall consult the Lower Saucon Township Zoning Ordinance (Chapter 180), Subdivision and Land Development (Chapter 145), Flood Plain Ordinances (Chapter 90), and Township Stormwater Management Ordinance (Chapter to be assigned) as prepared, and as may be amended, which govern the development of land and land use within the Township prior to making application for a permit under the Ordinance.
- C. A separate application shall be required for each earth disturbance operation. Three (3) copies of all the documents referred to below shall be submitted with each application. The application forms submitted shall consist of the forms provided by the Township together with the required fees. All applications shall be submitted to the Township Zoning Officer who shall retain one for Township records and forward two copies of all documents to the Township Engineers for initial plan review.
- D. The Council of Lower Saucon Township shall determine the fees for such permits, from time to time, by resolution.
- E. Any application for an Earth Disturbance Permit shall be accompanied by a plan showing the following:
 - 1) A Topographic Survey Plan of the site, at a suitable scale of no less than 1" = 50' and contour interval of no more than 2'-0", prepared by a registered Professional Land Surveyor or registered Professional Engineer, including a boundary line survey, the location and description of vegetative cover, the general location of all major trees (as defined by the Township Zoning Ordinance) and any other pertinent existing natural or man made features. Interpolated contours from USGS maps or any other similar source are not acceptable. The plan size shall be a minimum, 8½" x 14".
 - 2) This Topographic Survey Plan shall also show existing rights-of-ways and easements.

- 3) A Site Improvement and Grading Plan of the same size and scale as Subsection (1) hereof, showing and describing all changes to the site including final contours, structures, paving, waste disposal systems, and wells. This improvement and grading information may be combined on the topographic survey when all information can be clearly and legibly shown.

This Site Improvement and Grading Plan shall show (on one or more plans) the following:

- a) Existing and ultimate rights-of-ways and easements.
- b) 100-year Floodplain limit and elevation and riparian corridors or buffers.
- c) Karst Features (if required by the Township Zoning Ordinance).
- d) The limits of Major Trees (as defined by the Township Zoning Ordinance) to be removed. Plans should identify the age and general condition of woodland areas (i.e., successional growth, mixed deciduous, coniferous, etc.)
- e) Portions of the property sloped 8 percent – 15 percent, 15 percent – 25 percent, and steeper than 25 percent.
- f) Watercourses, ponds, lakes, vernal ponds, and wetlands (if any).
- g) Existing and proposed stormwater management facilities. If new stormwater management facilities are proposed, the engineering calculations used to design those facilities shall also be provided.
- h) The design location and grading associated with any proposed onlot sewage disposal system.
- i) The area reserved for providing a replacement onlot sewage disposal system (if required).
- j) Landscape buffers or screens.
- k) Any upstream watershed draining onto the property, with a clear description of how stormwater runoff from the upstream watershed will be accommodated.

- l) Limits of disturbance and disturbance ratios.
- m) Limits and amounts of existing and proposed impervious cover with coverage ratios.
- n) All natural resources as identified in the Zoning Ordinance. A tabulation shall be provided on the Plan showing the area, the required protection rate and area, the maximum disturbance area, the proposed disturbance area, and the remaining allowable disturbance area for each natural resource identified in the Zoning Ordinance.,

Incidental improvements such as mailboxes, electric, or telephone boxes and downspout locations do not need to be shown.

- 4) A written description of soil erosion and sedimentation control measures (with appropriate plans and specifications), in accordance with Section 44 of Chapter 102, Title 25, Rules and Regulations, Part I, Commonwealth of Pennsylvania Department of Environmental Protection, Subpart C, Protection of Natural Resources, Article II, Water Resources, Chapter 102, Erosion Control, which shall be in conformity with the standards and specifications of the Lower Saucon Township Ordinances.
- 5) If the proposed activity requires the submission and implementation of a Stormwater Management Plan in accordance with the Township Stormwater Management Ordinance such plan and supporting calculations shall be prepared by a Registered Professional Engineer and shall be submitted with this application for the Earth Disturbance Permit.
- 6) A time schedule stating the anticipated starting and completion dates of the development sequence, the expected date of completion of construction of each of the measures referred to in Subsection (4) herein, and the time of exposure of each area prior to the completion of such measures.
- 7) A Carbonate Geology Report (if the site is located within the Carbonate Geology Areas identified in the Zoning Ordinance) identifying all features and restrictions noted in the Zoning Ordinance.

- F. The Site Plans required herein shall also be prepared in accordance with the Site Plan requirements of Chapter 65 Section 107.6, Chapter 65 Section 112.1, and or other specific requirements of other Ordinances and regulations of the Township that include but are not limited to:

- 1) Floodplain Regulations
- 2) Onlot Sewage Regulations
- 3) Zoning Ordinance Requirements
- 4) Driveway Regulations
- 5) Stormwater Management Regulations
- 6) Subdivision and Land Development – Construction Standards

SECTION 6 NONASSUMPTION OF LIABILITY

- A. It is recognized that earth disturbance creates risks of runoff and soil erosion damage. This Ordinance establishes guidelines for reducing these risks, but in all cases the property owner and their designers, agents, and contractors shall be responsible for any damage directly or indirectly caused by any activity regulated by this Ordinance.
- B. The public is hereby notified that the Township, Township employees, and Township consultants undertake no responsibility for loss of property, loss of life or personal injury due to activities regulated by this Ordinance, even if all regulations and Ordinances of the Township are followed.

SECTION 7 SPECIFICATIONS AND REQUIREMENTS

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

- A. All drainage facilities proposed shall be designed in accordance with the Township Stormwater Management Ordinance.
- B. Lots shall be graded to secure proper drainage away from buildings and, to the extent possible, away from street areas, except streets where curbs, storm sewer piping system, or roadside swales exist.
- C. All drainage provisions shall be designed to efficiently carry surface waters to the nearest street (if curbs, adequately sized storm sewer piping system or swales exist), storm drain, or natural watercourse. If the aforementioned facilities do not exist, then in that event, stormwater shall be evenly dispersed over the lot so as to best promote infiltration of stormwater into the ground within the boundaries of the subject lot and to minimize impacts to adjacent properties and roads. The design shall clearly indicate how this will be achieved.

- D. The Permittee shall construct and/or install such drainage structures and/or pipes which are necessary to prevent erosion damage and to satisfactorily manage surface waters in accordance with Title 25, Rules and Regulations, Part I, Commonwealth of Pennsylvania Department of Environmental Protection, Sub Part C. Protection of Natural Resources, Article II, Water Resources, Chapter 102, Erosion Control. Any drainage system not operating as planned shall be corrected at the expense of the Applicant.
- E. No person, firm, or corporation shall modify, fill, excavate, or regrade the land in any manner as to endanger or damage any adjoining public street, sidewalk, alley, or any other public or private property without protecting such property from settling, cracking, erosion, sediment, stormwater pooling, or other physical damage or personal injury which might result. Such activity without such protection will constitute a ~~nuisance~~ violation punishable by the provisions of this Ordinance.
- F. No person, firm, or corporation shall deposit or place any debris or other material whatsoever, or cause such to be thrown or placed, in any drainage ditch or drainage structure in such a manner as to obstruct free flow.
- G. Stockpiled topsoil shall be protected from erosion.
- H. All disturbed areas shall be seeded, sodded, and/or planted or otherwise protected from erosion within (60) days of ground breaking, and shall be watered, tendered, and maintained until growth is well established. If Commonwealth regulations require a shorter time, the shorter time shall be required.
- I. All permanent grading shall be designed and undertaken to meet the following criteria:
- 1) Provide positive surface drainage away from on-site sewage disposal systems; and
 - 2) Provide positive surface drainage away from buildings and structures (except for structures designed for acceptance of that drainage; and
 - 3) Provide that no cutting or filling, either temporarily or permanently, shall be allowed to occur within two feet (2') of any property line, except at locations where specific grading and/or drainage easements exist for the purposes of such grading, and/or is shown on a Grading Plan approved as part of a subdivision of lots.

- J. The Permittee shall limit stormwater runoff rate and concentration from the subject lot to other lands in a manner that will minimize risk of damage to downstream property owners in accordance with the Township Stormwater Management Ordinance.
- K. Stormwater control facilities shall be designed, constructed, and maintained in accordance with the Township Stormwater Management Ordinance. Any stormwater management facilities provided must meet the requirements of the Township Stormwater Management Ordinance, even if the proposed impervious cover is less than 10,000 square feet.

If the applicant proposed an increase of impervious cover of more than 2,500 square feet, the Grading Plan shall provide stormwater volume control for a 100-year return storm (three inches [3"] over the impervious surface), with a footprint of at least 1/5th the size of the proposed impervious surface or stormwater flow rate shall be regulated so as not to exceed 0.25 cfs greater than predevelopment rates during the 2-year, 10-year, 25-year, and 100-year return storms.

If the applicant proposes an increase in impervious cover of more than 10,000 square feet, the Grading Plan shall provide for stormwater runoff volume and quality control facilities in accordance with the Township Stormwater Management Ordinance.

Individual onlot volume or rate control shall ~~not~~ be required; however, it shall not be applicable for properties being developed in a Subdivision or Land Development that has been provided with an overall Comprehensive Stormwater Management System approved by the Township in accordance with Township Subdivision and Land Development Regulations, provided the proposal is consistent with the original design parameters.

- L. The existing points of concentrated or sheet flow drainage discharge onto adjacent property receiving stormwater runoff from a watershed of twenty-five hundred (2,500) square feet or more shall not be altered without written approval of the affected property owner(s). If the Developer verifies that they have made reasonable attempts to secure such approval and verifies that such approval will not be granted by the affected property owner(s), the Township Council may waive this requirement with the receipt of the following documentation:
 - 1) Documentation of the Developer's request for affected owner's approval.

- 2) Documentation from the Developer's Engineer certifying that the alterations proposed will not adversely affect the downstream property owner.
- 3) An indemnification and Hold Harmless Agreement from the Developer proposed as a Covenant running with the land.

All such documentation must be provided to the satisfaction of the Township Council.

SECTION 8 APPROVAL OF PERMITS

The Township shall review and approve Earth Disturbance Applications and Plans on the form provided by the Township for that purpose. No Earth Disturbance Permit, Building Permit, or Driveway Permit shall be issued by the Township until such time as an Earth Disturbance Application and Plans have been found to be acceptable to the Township. Furthermore, no Certificate of Occupancy permit shall be issued by the Township until such time as the Township Zoning Officer determines that all earth disturbance has been completed in general conformity with the approved Site Improvement and Grading Plan.

In all cases, the Permittee shall be required to undertake all earth moving and grading activities in accordance with this Ordinance and the approved Site Improvement and Grading Plan, whether or not inspection by the Township is provided and whether or not a Certificate of Occupancy is issued.

SECTION 9 REGULATIONS FOR PERMIT HOLDERS AND OTHERS

- A. The Permittee is responsible for any property damage or personal injury caused by activity authorized by the permit.
- B. No person, firm, or corporation shall modify, fill, excavate, pave, or grade land in any manner as to endanger or damage public or private property, or to cause physical damage or personal injury. All precautions will be taken to prevent any damage to adjoining streets, sidewalks, building, and other structures which could be caused by settling, cracking, erosion or sediment.
- C. No person, firm, or corporation shall fail to adequately maintain in good operating order, any stormwater management facility on its premises. All watercourses, drainage ditches, culverts, drainpipes, structures, and other stormwater management facilities shall be kept open and operating at all times.

- D. The Owner of any property on which any work has been done pursuant to a permit issued under this Ordinance shall continuously maintain and repair all graded surface and anti-erosion devices such as retaining walls, drainage structures or means, plants and ground cover, installed or completed.
- E. The Permittee shall make adequate provision for dust control.
- F. All plans and specifications accompanying any permit application shall include provisions for both temporary and permanent grading and stabilization.
- G. The installation and maintenance of erosion and sedimentation control measures shall be accomplished in accordance with standards and specifications established by the Northampton County Conservation District.
- H. The issuance of an Earth Disturbance Permit shall not negate the Owner and/or Permittee's responsibility for obtaining any other permits or approvals from any agency, including the Lower Saucon Township, which may have jurisdiction over any aspect of the project.
- I. Property corners to be set prior to final inspection.

SECTION 10 INSPECTIONS

- A. Inspections by the Township may be carried out on a random basis at the option of the Township.
- B. If the construction of a building or structure is occurring immediately after the initial earth moving and grading activity; (1) no excavation for footings shall commence until after the building permit approval; (2) immediately following construction of the foundation wall, and prior to the erection of the superstructure of any building, the Permittee shall provide the Township with three (3) copies of a "Foundation Location and Elevation Survey" bearing a certification from the permittee's licensed Engineer or Surveyor indicating compliance with the approved plan; and (3) no further construction above the foundation wall will be permitted until the Township has issued approval of the aforementioned Foundation Plan.
- C. A final inspection may, at the option of the Township, be conducted by the Township to verify compliance with this Ordinance.
- D. In all cases, however, the Permittee shall be required to undertake all earth moving and grading activities in accordance with this Ordinance and the approved Site Improvement and Grading Plan, whether or not inspection by the Township

is provided. As-built Plans shall be required prior to the issuance of a Certificate of Occupancy if the Owner or Permittee is seeking any change to the approved Site Improvement and Grading Plan.

- E. When weather conditions or time of year prevent the Permittee from completing all earth moving and grading activities prior to a request for an Occupancy Permit, the Township, on a case by case basis, may issue a temporary Occupancy Permit upon satisfaction of all of the following criteria:
- 1) All final earth moving and soil stabilization that can be completed is completed,
 - 2) Temporary soil erosion and sedimentation control facilities are properly installed and in good repair,
 - 3) Temporary seeding and mulching of disturbed areas is complete,
 - 4) The Owner provides an agreement to the satisfaction of the Township Solicitor to guarantee completion of the earth disturbance within six (6) months of the date of the agreement.

SECTION 11 REVOCATION OR SUSPENSION

Any permit issued under this Ordinance may be revoked or suspended by the Township after notice by the Township for:

- A. Failure to carry out the soil erosion control or stormwater control measures described in the application documents and/or failure to satisfy the provisions of the earth moving and grading and restoration time schedule described in the application documents or within such reasonable extensions as may be granted by the Township.
- B. Violation of any other condition of the permits.
- C. Violation of any provision of this Ordinance or any other applicable law, Ordinance, rule, or regulation relating to the work; or
- D. Existence of any condition or the doing of any act constituting or creating a nuisance, hazard, or endangering human life or the property of others.

SECTION 12 REMEDIES

In the case of any paving, filling, stripping, grading or regrading; any disturbing, modifying, blocking, or diverting the overland or subsurface flow or stormwater; or any construction, erection, and installation of any dam, ditch, culvert, drainpipe, bridge, or any other structure or obstruction affecting the drainage of any premises, in violation of this Ordinance, or any regulations made pursuant hereto, the proper Township authorities, in addition to other remedies provided by law, may institute any appropriate action or proceedings against the Permittee and/or Owner to prevent such unlawful activities; to restrain correct or abate such violations; to prevent the use of the applicable premises; to prevent any illegal act, conduct of business or use in or about such premises. In addition, upon the failure of any permit holder to complete the control measures specified in approved application, the Township may, after revoking such permit, proceed to complete such measures itself, and recover the cost thereof from the Permittee and/or Owner.

SECTION 13 PENALTIES

For any and every violation of the provisions of this Ordinance, 1) the Permittee, Owner, Agent, or Contractor where such violation has been committed or shall exist; (2) the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist; (3) the Permittee, Owner, Agent, Contractor, Lessee or Tenant or any part of a building or premises in which part such violation has been committed or shall exist; and (4) the Permittee, Owner, Agent, Architect, Contractor or any other person who knowingly commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation exists; shall be liable on conviction thereof before a District Justice to pay a fine or penalty not to exceed One Thousand (\$1,000.00) Dollars for each and every offense. Any such enforcement action shall be brought before a District Justice in the same manner provided for the enforcement of summary offenses under the PA Rules of Criminal Procedure. Whenever such person, or persons, shall have notified by the Township Zoning Officer, Township Engineer, or the Township Council, or the Township Solicitor, by service of a complaint in a prosecution, or by registered mail, that a violation of this Ordinance is being committed, each day's continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty. Such fines and penalties shall be collected as like fines or penalties are now collected by law.

SECTION 14 SEVERABILITY

If any provision, sentence, clause, section, or part of this ordinance is, for any reason, found to be unconstitutional, illegal, or invalid by any Court of competent jurisdiction, such decision shall not affect or impair any of the remaining provisions of this ordinance. It is hereby declared as the intent of Lower Saucon Township that this ordinance would have been adopted had such stricken revision not been included herein.

SECTION 15 REPEALER

All other Ordinances or parts thereof which are contradictory with the provisions hereof, are repealed to the extent of such inconsistencies. This includes, but is not limited to, the specific repeal of Ordinance No. 2003-03 and Ordinance No. 2005-02.

SECTION 16 EFFECTIVE DATE

This ordinance shall become effective five (5) days after its enactment.

ENACTED and ORDAINED this 17th day of January, 2007.

ATTEST

LOWER SAUCON TOWNSHIP

Jack Cahalan
Township Manager & Secretary

Glenn C. Kern
Council President