

TOWNSHIP OF NORTH MIDDLETON  
CUMBERLAND COUNTY, PENNSYLVANIA  
ORDINANCE NO. 2017-01

AN ORDINANCE OF THE TOWNSHIP OF NORTH MIDDLETON,  
CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING THE  
NORTH MIDDLETON TOWNSHIP CODE OF ORDINANCES TO  
INSERT A NEW CHAPTER 81, GRADING, ESTABLISHING  
REGULATIONS FOR GRADING, FILLING, AND EXCAVATING  
SHOWN ON A FINAL LAND DEVELOPMENT PLAN  
APPROVED BY NORTH MIDDLETON TOWNSHIP.

WHEREAS, Section 1506 of the Second Class Township Code, 53 P.S. 53 P.S. § 66506, authorizes the Township of North Middleton ("Township") Board of Supervisors to adopt ordinances necessary for the proper management, care and control of the Township and the health and welfare of the Township and its citizens; and

WHEREAS, the Township Board of Supervisors determined it to be in the best interest and general welfare of the residents of the Township to adopt certain regulations for grading, filling, and excavating shown on a Final Land Development Plan approved by North Middleton Township; and

WHEREAS, the Township Board of Supervisors desires to amend the North Middleton Township Code of Ordinances to insert a new Chapter 81, Grading, establishing regulations for grading, filling, and excavating shown on a Final Land Development Plan approved by North Middleton Township.

NOW, THEREFORE, the Board of Supervisors of North Middleton Township hereby ordains and enacts as follows incorporating the above recitals by reference:

**SECTION 1:** The North Middleton Township Code of Ordinances is amended by inserting a new Chapter 81, Grading, as set forth in the attached document.

**SECTION 2:** Relationship to Other Ordinances. All other Ordinances, parts of Ordinances or parts of Resolutions inconsistent herewith shall be and the same are expressly repealed.

**SECTION 3:** Effective Date. This Ordinance shall take effect in accordance with applicable law.

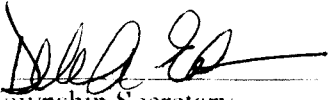
**SECTION 4:** Severability. In the event that any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, section, sentence, clause or part of this Ordinance or other Ordinances affected by

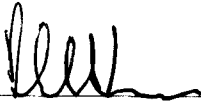
this Ordinance, it being the intent of North Middleton Township that such remainder shall be and shall remain in full force and effect.

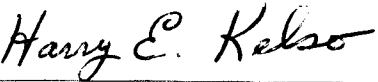
**ORDAINED** and **ENACTED** this 4 day of May, 2017,  
by the Board of Supervisors of North Middleton Township in lawful session duly assembled.

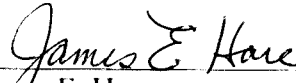
ATTEST:


TOWNSHIP OF NORTH MIDDLETON:

  
Township Secretary  
(Seal)

  
Robert A. Reisinger, Chairman

  
Harry E. Kelso, Vice Chairman

  
James E. Hare


  
Charles P. McDowell

\_\_\_\_\_  
David B. Smith

CERTIFICATE

I, the undersigned, Secretary of the Township of North Middleton, Cumberland County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township (the "Board"), which duly was enacted by affirmative vote of a majority of the members of the Board at a meeting held on May 4, 2017; said Ordinance duly has been recorded in the Ordinance Book of the Township; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unlamented, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 5 day of May, 2017.

  
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Secretary

(SEAL)

CHAPTER 81 GRADING  
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## GRADING

§ 81-101. Title.

This Chapter shall be known and may be cited as the "North Middleton Township Grading Ordinance."

§ 81-102. Purpose.

The purposes of this Chapter are to regulate the modification of existing terrain, the alteration of drainage, to protect property, and to promote the public welfare by regulating and controlling grading, filling, and excavating shown on a Final Land Development Plan approved by North Middleton Township.

§ 81-103. Definitions.

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

**APPLICANT** – any person or entity who applies for or to whom a permit is issued pursuant to this Chapter and/or who is subject to inspection under this Chapter.

**BOARD OF SUPERVISORS** – the Board of Supervisors of the North Middleton Township, Cumberland County, Pennsylvania.

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

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

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

**FILL** – any act by which earth, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported or moved to a new location, including the conditions resulting therefrom, or the material used in such activity.

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

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

GRADING PERMIT – a permit issued by the Township to authorize work to be performed in compliance with, and as required by, this Chapter.

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

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

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

PERSON – unless otherwise specified, “person” shall mean both the singular and plural, male or female, firm, business, partnership, association, limited liability company or corporation, or any other legal entity.

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

TOWNSHIP – North Middleton Township, Cumberland County, Pennsylvania

TOWNSHIP ENGINEER – the professional engineer licensed as such in the Commonwealth of Pennsylvania duly appointed by the Board of Supervisors to serve as the engineer of the Township, and/or his authorized designee.

TOWNSHIP MANAGER – the Township Manager duly appointed by the Board of Supervisors, his authorized designee and/or the authorized designee of the Board of Supervisors.

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

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

§ 81-104. Scope.

New grading, required to bring the existing site elevations to the finished grades shown on a Final Land Development Plan approved by North Middleton Township shall conform to the provisions of this Chapter, except that this Chapter shall not apply to:

1. Work required to construct a street, alley, or sidewalk.

2. Work required to install utilities.

§ 81-105. Permits Required.

A Grading Permit shall be obtained from the Township Codes Officer at the same time a Building Permit is requested. A separate Grading Permit shall be required for each site.

§ 81-106. Application.

1. Every applicant for a Grading Permit shall file a written application with the Township Codes Officer. Such application shall:
  - a. Describe the land on which the proposed work is to be completed, by lot, tract or street address or similar description which will readily identify and definitely locate the proposed work.
  - b. Be accompanied by applicable plans and specifications from the Final Land Development approved by North Middleton Township.
  - c. State the estimated dates for starting and completing the grading work.
2. No permit shall be transferable without the written consent of the Township.
3. Where, owing to special circumstances and conditions, compliance with the provisions of this Ordinance would result in unnecessary hardship, the Board of Supervisors may make such reasonable exceptions as will not be contrary to the public interest, and may impose such conditions as it deems necessary to adequately protect the public interest.

§ 81-107. Fees.

Before issuing a grading permit, the Township shall collect a \$350.00 permit fee from the applicant in accordance with the current fee schedule established by the Township. The Township Board of Supervisors shall establish from time to time by resolution fees to be paid by the applicant/developer at the time of filing the relevant application under this Chapter.

§ 81-108. Issuance of Permits.

1. The Township may attach conditions to a Grading Permit as reasonably necessary to prevent danger to property, including any sanitary sewer, storm drain or watercourse, or to prevent work from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance. No grading permit shall be issued until the applicant certifies that all work shall be performed pursuant to the approved plans, specifications and schedules.
2. If the application conforms substantially to the requirements of this Chapter, the Township shall approve the same and issue a Grading Permit to the applicant without unreasonable delay.

3. After actual work begins, the Township may require additional or revised controls from time to time in the event that the Township determines that the originally approved controls are inadequate.
4. Permits issued pursuant to this Part do not relieve the owner of responsibility for securing any and all necessary permits and approvals as required by any other applicable code, ordinance or regulatory agency.

§ 81-109. Responsibility of Applicant.

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

- A. Performing all work in accordance with the Grading Permit, approved plans, specifications, and timing schedule and in compliance with all requirements of this Chapter.
- B. Preventing damage to public utilities within the area where work is performed and along any routes traveled by construction equipment, and repairing any such damage if necessary.
- C. The prevention and/or repair of damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.
- D. The prompt removal and legal disposal of all soil, debris or other material spilled, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfares during transit to and from the construction site.
- E. The prevention of all sediment from entering into any public sanitary or storm sewer system or watercourse.

§ 81-110. Revocation or Suspension of Permit.

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

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



§ 81-111. Expiration of Permit

Unless otherwise provided by Pennsylvania law, every Grading Permit shall automatically expire if the authorized work is not commenced within 6 months, or is not completed within 1 year from the date of such permit issuance. If the applicant provides satisfactory evidence in writing that unusual difficulties have prevented the work from being started or completed within the specified time limits, the Township may grant a reasonable extension of time. An applicant must file an application for the extension of time before the date of expiration of the Grading Permit.

§ 81-112. Approval of Plan Modifications.

Any proposed modifications to the finished grades and specifications shown on the Final Land Development Plan approved by North Middleton Township shall be submitted to the Township Engineer for review and approval.

§ 81-113. Inspections.

1. The Township Engineer shall make the inspections required under this Chapter. Following inspection, the Township Engineer shall approve any portion of the work that has been completed and notify the applicant of any portion of the work that fails to comply with the provisions of this Chapter.
2. The approved grading plans shall be maintained at the site until all permitted work has been approved by the Township Engineer.
3. The applicant shall request from the Township Engineer all inspections provided in the following schedule at least 72 hours before the inspection is to be made:
  - a. Initial inspection: when work related to the Grading Permit is about to commence.
  - b. Rough grading: when all rough grading has been completed.
  - c. Special inspection: if at any time conditions are found which are not stated on the permit holder's application.
  - d. Final inspection: when all work has been completed.
4. If at any stage of the work the Township Engineer shall determine by inspection that further work as authorized by an existing permit issued hereunder is likely to endanger private property, or public streets, alleys or ways, or create hazardous conditions, the Township, through the Engineer, shall stop further execution of the work until such time as the applicant or holder of the permit shall eliminate the likelihood of such danger by, inter alia, the construction of additional drainage facilities, berms, terracing, compaction, cribbing or other means.
5. The inspections of the work by the Township Engineer as hereinabove set forth shall be limited to a determination by him as to whether or not the work is progressing in accordance with the application. Such inspections and/or right of inspections hereunder are not intended to include

and do not include any supervision or right of supervision of the manner or means utilized by the applicant or holder of the permit in the progress of the work.

6. All actions taken by the applicant to satisfy the hazardous conditions shall in no way transfer liability to the Township.
7. Prior to the issuance of the permit, the Township may require that the applicant file a hold harmless agreement to indemnify the Township and its agents.

§ 81-114.                   Liability.

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

§ 81-115.                   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 Chapter.
2. When written notice of violation of any of the provisions of this Chapter has been served by the Township on any person, such violation shall be discontinued immediately.
3. Any person violating any of the provisions of this Chapter, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Chapter continues shall constitute a separate offense. Whenever such person shall have been notified by the Township by service of summons in a prosecution or in any other way that he is committing such violation of this Chapter, each day that he shall continue such violation after such notification, shall constitute a separate offense punishable by a like fine.

§ 81-116.                   Remedies.

In case any work is performed by any person in violation of any of the provisions of this Chapter, the proper officers of the Township, in addition to other remedies, may institute in the name of the Township an appropriate action or proceeding, whether by legal process to prevent such unlawful work and to restrain or abate such violation. In the case of an emergency which threatens public safety, the Township may undertake (itself or through hiring of a third party) such work necessary to abate the safety concern and the cost of such remediation shall be billed to the developer and/or land owner.