

**BOROUGH OF BANGOR
COUNTY OF NORTHAMPTON
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 996**

**AN ORDINANCE OF THE BOROUGH OF BANGOR, NORTHAMPTON
COUNTY, PENNSYLVANIA, ESTABLISHING THE REQUIREMENT
FOR A GRADING AND EXCAVATING PERMIT, REGULATING THE
MODIFICATION OF THE NATURAL TERRAIN, THE ALTERATION
OF DRAINAGE, MINE OR QUARRY RECLAMATION, MINING
ACTIVITIES, AND TO PROVIDE FOR CERTAIN EROSION AND
SEDIMENT CONTROL MEASURES, AND PRESCRIBING PENALTIES
FOR VIOLATION THEREOF, REPEALING ALL INCONSISTENT
ORDINANCES OR PORTIONS THEREOF AND ESTABLISHING AN
EFFECTIVE DATE**

NOW, THEREFORE, it is hereby **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Bangor, County of Northampton and Commonwealth of Pennsylvania, as follows:

Section 1. Short Title.

This Ordinance shall be known and may be cited as the "Grading Ordinance," implanting Title 25 Pa. Code, Rules and Regulations, Pt 1, Commonwealth of Pennsylvania, Department of Environmental Protection, Sub-part C, Protection of Natural Resources, Article II, Water Resources, Chapter 102, "Erosion Control," as well as provisions of Act 167, Stormwater Management Act, 32 P.S. Section 680.1 et seq., Article 5 of the Municipalities Planning Code, 53 P.S. Section 10501 et seq., and the Borough Code, 8 Pa. C.S. Boroughs and Incorporated Towns Section 101 et seq.

Section 2. Purposes.

The purposes of this Ordinance are to regulate the modification of the natural terrain, the alteration of drainage, mine or quarry reclamation, mining activities and to provide for certain erosion and sediment control measures with the Borough to assure and safeguard health, safety, ecology and the general welfare in the Borough.

Section 3. Scope.

From and after the effective date of this Ordinance, any subdivision and/or land development activities approved under the Borough Subdivision and Land Development Ordinance #966, as amended and/or Zoning Ordinance #984, as amended, any activity regulated by the Borough Stormwater Management Ordinance #905, as amended, or any activity requiring a permit under Section 5, Subsection 1, herein, shall be in conformity with this Ordinance. In the event of a conflict between the Ordinance and any other statute, ordinance or regulation, the strictest statute, ordinance or regulation shall take precedence.

Section 4. Definitions.

Unless specifically defined below, words and phrases used in the Ordinance shall be interpreted to have common English usage, to give effect to the purposes set forth in Section 2 above and to provide reasonable application to this Ordinance. As used in the Ordinance, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context.

BMP (BEST MANAGEMENT PRACTICE)

Activities, facilities, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater quality/recharge and to otherwise meet the purposes of the Ordinance, including, but not limited to, infiltration, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters and detention basins.

BOROUGH

Bangor Borough or Borough of Bangor

DEVELOPMENT

Any man-made change to improved or unimproved real estate including, but not limited to, the construction or placement of buildings or other structures, mobile homes, streets and other paving utilities, mining, dredging, filling, grading, excavation or drilling operations and the subdivision of land.

EARTH DISTURBANCE

A construction or other human activity which disturbs and destabilizes the surface of the land including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, road maintenance, mining activities, quarrying activities or, mine or quarry reclamation and the moving, depositing, stockpiling or storing of soil, rock or earth materials.

EROSION

Process by which the surface of land, including channels, is worn away by water, wind or chemical action.

EROSION AND SEDIMENT POLLUTION CONTROL (E&S) PLAN

A site-specific plan identifying the BMPs to minimize accelerated erosion and sedimentation, pursuant to 25 Pa. Code, Chapter 102.

EXISTING GRADE

Vertical elevation of the ground surface prior to earth disturbance.

FINISHED GRADE

Final vertical elevation of the ground after development.

GRADE

Slope of a street, other public way, land area, drainage facility or pipe specified in

percent.

GRADING PERMIT

The permit required to be obtained prior to earth disturbance in connection with the conduct of activities regulated by this Ordinance.

LIMIT OF DISTURBANCE

The perimeter of earth disturbance on site.

NATURAL GROUND SURFACE

Ground surface in its original state before any earth disturbance.

NCCD

Northampton County Conservation District.

NPDES

National Pollution Discharge Elimination System.

ON-LOT SEWAGE SYSTEM

A sewage system which uses a system of piping, tanks or other facilities for collecting, treating or disposing sewage into a soil absorption area or spray field or by retention in a retaining tank within or in close proximity to the lot it serves.

ON-LOT WATER

A water source and conveyance method within or in close proximity to the lot it serves.

PARCEL

All contiguous land under single and separate ownership.

PERMANENT VEGETATION

Ground cover establishing a 75% vegetated cover to control soil erosion and to survive severe weather conditions.

PERMIT

A grading permit.

PERMITTEE

Any person to whom a grading permit is issued.

PERSON

Any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any clause prescribing and imposing a penalty, person includes the members, trustees, partners, directors, officers, managers and supervisors, or any of them, of partnerships, associations, corporations or other form of entity.

PUC

Public Utilities Commission.

SITE

A parcel or parcels of land intended to have one or more buildings, intended to be subdivided into two or more lots or any parcel of land used in any other manner requiring a permit under this Ordinance.

SLOPE

The face of embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are expressed in a percentage based upon vertical distance in feet per 100 feet of horizontal distance.

STORMWATER MANAGEMENT ORDINANCE

An ordinance initially adopted by the Borough, in 1996 and subsequently readopted by Ordinance #905, as amended.

STRIPPING

Any activity which removes the vegetative surface cover, including tree removal; and the clearing and storage or removal of topsoil.

WATERCOURSE

An ephemeral, intermittent or perennial stream of water, river, brook, creek or swale identified on USGS or SCS mapping; and/or delineated waters of the commonwealth.

Section 5. Grading Permit.

1. The following activities require a grading permit:
 - A. Modifying, disturbing, blocking, diverting or otherwise adversely affecting the natural flow of surface water within an ephemeral, intermittent or perennial stream or, in a manner to impact an adjoining parcel.
 - B. Construction, erection or installation of any draining dam or obstruction affecting the drainage of any parcel.
 - C. Earth disturbance in excess of 3,000 square feet, cumulatively in one year; a year being 12 consecutive months from the date of the first disturbance or application for a grading permit.
 - D. Any mining activities, quarrying activities or, mine or quarry reclamation.

2. The following activities do not require a grading permit:
 - A. Use of land for gardening for home consumption.
 - B. Agriculture when operated in accordance with a conservation plan, nutrient management plan or erosion and sedimentation control plan approved by the NCCD, including activities such as growing crops, rotating crops, tilling of soil and grazing animals.
 - C. Forest management operation following the Department of Environmental

Protection's management practices contained in its publication Soil Erosion and Sedimentation Control Guidelines for Forestry and operating under an E&S plan approved by the NCCD which have a zoning permit approval by the Borough.

- D. Public road replacement paving, repaving and/or maintenance.
- E. Any emergency activity immediately necessary for the protection of life, property or natural resources.
- F. Repair of an on-lot sewage system.
- G. Maintenance and repair of a PUC regulated utility in a public right-of-way.

3. Application for Grading Permit.

- A. Grading permits shall be issued in the name of the owner of the property who must apply for, and sign, the permit application.
- B. No person, firm or corporation shall engage in any activity requiring a grading permit unless a grading permit had been obtained by the owner of the property.
- C. The grading permit application shall be accompanied by a fee and review escrow established by resolution of the Borough Council and included in the Borough's Fee Schedule.
- D. All applications must be accompanied by an erosion and sedimentation control plan in accordance with Section 6 of this Ordinance.
- E. Not more than one grading permit will be issued for a site at any one time. Active grading permits may be amended by the permittee (property owner) if additional earth disturbance is proposed.
- F. Additional improvements or grading not shown on the approved grading permit plan must be identified on a revised grading permit plan approved by the Borough prior to installation/construction activities.
- G. Applications pertaining to mining, quarrying or reclamation activities shall include approvals from all required County, State and Federal agencies regulating such activities.

4. Issuance of Permits.

- A. Before a Borough grading permit can be issued, all other applicable federal, state, county and local permits must be obtained. This may include, but is not limited to: DEP/County required NPDES permits, stormwater maintenance responsibilities that may be required by Lehigh Valley Planning Commission, Act 167 approvals, letter of adequacy as issued by Northampton County Conservation District, Borough road opening permit, Borough Zoning Permit, DEP 105 permits (waterway encroachment).
- B. All erosion and sedimentation control features must be reviewed and approved by the designated Borough official prior to issuance of the grading permit.
- C. Upon the approval of all required plans and/or applications by the appropriate Borough official/employee, the Borough shall issue the grading permit. No grading permit shall be issued until all the plans and applications required to be submitted by the Ordinance for all proposed earth disturbances, filling or stripping activities have been reviewed and found satisfactory by the appropriate Borough office/employee as set forth in this Ordinance.
- D. Zoning permit approval must be obtained from the Zoning Officer, in accordance

with the Borough Zoning Ordinance #984, as amended, prior to issuance of grading permit.

5. Standards for Issuance of Grading Permit.
 - A. Notwithstanding any provision of this Ordinance or any part of the grading permit, the permittee is responsible for the prevention of damage to other people or property that may be affected by the earth disturbance, filling or stripping activity.
 - B. No person, firm or corporation shall modify, cut, fill, excavate, pave, strip, grade, regrade land or conduct an earth disturbance in any manner that endangers or damages any adjoining street, alley or any other public or private property. Any earth disturbance conducted adjacent to a property or street line shall include measures to prevent physical damage or personal injury that might result. The Borough reserves the right, at its sole discretion, to impose restrictions on use of Borough roadways as a condition of permit issuance.
 - C. No person, firm, or corporation shall deposit, place, throw or cause to be deposited, placed or thrown any debris or other material in any drainage structure or watercourse.
 - D. No person, firm or corporation shall fail to maintain in adequate working order any drainage facility on the site. All drainage ditches, culverts, drain pipes, drainage structures and watercourses shall be kept open and free-flowing at all times.
 - E. The owner of any property upon which any work is performed pursuant to a grading permit granted under this Ordinance shall continuously maintain and repair all graded surfaces, erosion and sediment control devices, retaining walls, drainage structures and other protective devices, plants and ground cover, installed or completed in accordance with the approved plan.
 - F. All trees in an area of extreme grade change greater than 25%, as determined by the Borough, shall be protected with suitable tree wells, unless the necessity for removal is established. Precautions shall be taken to prevent the unnecessary removal of trees. Any grading around trees or any removal of trees must comply with the Borough's Zoning Ordinance and Subdivision and Land Development Ordinances.
 - G. In connection with site grading for roads, driveways, building areas or other site improvements, the lateral extent of cut or fill areas shall not be more than 30 feet beyond the top of slope in fills or the toe of slope in cuts or extend closer than 100 feet to the bank of any watercourse, lake, pond or wetland.
6. All permits shall require the permittee to:
 - A. Notify the Borough Zoning Officer and/or Borough Engineer a minimum of 48 hours prior to commencement of any earth disturbance.
 - B. Obtain permission from the Borough Zoning Officer and where applicable, NCCD, prior to modifying the erosion and sedimentation control plan.
 - C. Allow the Borough official/employee and Borough Zoning Officer to enter the site for the purpose of inspecting compliance with the grading permit.
 - D. Provide, until the problem is corrected, additional stabilizing measures on site

that, in the judgement of the Borough Zoning Office and Borough Engineer, are found to be eroding excessively within one year of completion of the construction activity.

- E. Be responsible to ensure all erosion and sedimentation control measures are maintained in accordance with the inspection schedule outlined on the approved erosion and sedimentation control plan. The Borough Zoning Officer and/or Borough Engineer shall determine the condition and need for replacement or repair of in-place measures, the overall effectiveness of the plan, and the need for additional control measures.

Section 6. Erosion and Sedimentation Control Plan.

1. An erosion and sedimentation (E&S) control plan prepared pursuant to requirements of the Clean Stream Law, 35 P.S. Section 691.1 et seq., and 25 Pa. Code, Chapter 102, shall be submitted with all grading permit applications. The plan shall include a construction staging narrative indicating the sequence of earth disturbance activities, and proposed erosion and sedimentation control procedures. Measures used to control erosion and reduce sedimentation during construction activities shall strictly conform to the standards and specifications of the NCCD and 25 Pa. Code, Chapter 102 as amended. All applications proposing disturbance of more than one acre shall have the plan(s) and narrative approved by NCCD.
2. It shall be the responsibility of the property owner and each person, corporation or other entity performing grading and/or building activities to install and maintain erosion and sedimentation controls in accordance with the approved E&S plan until the site is stabilized. In the event any mud and/or debris is transported from the site onto a public roadway, the mud and/or debris shall be immediately removed and the roadway swept and/or washed as deemed necessary by the Borough.

Section 7. Grading Plans.

1. All applications for a grading permit shall be accompanied by a grading plan providing the following information:
 - A. A site plan (plot plan) drawn as a scale of not less than one-inch equals 50 feet and contour intervals of no more than two feet prepared by a registered professional land surveyor, landscape architect, or engineer, licensed in the Commonwealth of Pennsylvania.
 - (1) The site plan shall include all of the following located within 100 feet of the limits of disturbance:
 - a. Lot lines, monuments/pin/markers and setback lines.
 - b. Existing and proposed contours, existing vegetation, soil types and conditions, wetlands, watercourses, affected watersheds, and other natural features. Existing areas with grades in excess of 25% shall be separately delineated with hatching or shading.
 - c. Erosion and sedimentation control measures, high points, drainage arrows, drainage swales and the limits of disturbance.

- d. First floor and garage elevations.
- e. Existing and proposed building/structure locations, building/structure horizontal dimensions, wells, wastewater treatment system, sanitary laterals, water supply pipes, storm sewers, inlets, manholes, roadways, basement drains, sump pump drains, utility boxes, walls, fences, berms, underground utilities and all other man-made structures/features. As well as inverts of any stormwater facilities.
- f. Ground elevations at each corner of each building and at all door entrances.
- g. All earth disturbances and stripping changes to the site, including cuts, fills, structures, paving, utilities, roads, vegetation and topsoil proposed to be stripped, and cut/fill balance.
- h. Driveway openings and slopes, driveway turnarounds and parking areas, depressed curb length and driveway configurations from garage of parking area to street.
- i. Sidewalk and bikeway locations.
- j. Easement, covenants, equitable servitudes and deed restrictions.
- k. Existing and proposed impervious coverage, including roadways.
- l. Two dimensional ties from the vertical datum.
- m. Benchmark for the vertical datum.
- n. Citation of the PennDOT highway occupancy permit, where applicable.

(2) The site plan shall also include the following:

- a. Seal, signature and name/address of responsible engineer, surveyor or landscape architect.
- b. Name and address of permittee (property owner).
- c. Tax map parcel number and acreage.
- d. Location of site (address).
- e. Subdivision name, where applicable.
- f. North arrow.
- g. Location map showing relationship of the site to adjoining properties. Scale of the location maps shall be one-inch equals 800 feet.
- h. Date of preparation of the plan, a descriptive list of revisions to the plan and the revision dates.
- i. Deed restriction information, where applicable.
- j. Site plan information as required by Article Three – Plan Filing, Processing, and Review of the Borough Subdivision and Land Development Ordinance, as amended. Borough Council, in its sole discretion, at the request of the applicant, reserves the right to waive some or all of the site plan information required by this paragraph (2)j. should the proposed earth

disturbance be determined as De Minimus in nature.

- B. A stormwater management plan where applicable pursuant to Section 5.
- C. A statement, signed and sealed, by a registered professional land surveyor, landscape architect or engineer, licensed in the Commonwealth of Pennsylvania indicating that, to the best of his/her knowledge and belief, the proposed development and earth disturbance activities shall not significantly increase stormwater runoff to, and/or otherwise adversely impact, downstream properties except as may be part of an approved stormwater runoff collection and management plan.

Section 8. General Grading Requirements.

1. All erosion and sedimentation control measures shall be installed in accordance with the approved E&S plan prior to any earth disturbance, mining, quarry reclamation and/or stripping activities.
2. No excavation or fill shall be made with a slope steeper than three horizontal to one vertical feet, except under the following conditions:
 - A. The material is sufficiently stable to sustain a steeper slope. A sealed, written statement to that effect from an engineer licensed in the Commonwealth of Pennsylvania shall be submitted to the Borough. The statement shall affirm that the site has been inspected and the deviation from the slope restriction shall not result in injury to persons or damage to property. A detail of the treatment of the slope (proposed grade, seeding, erosion protection, etc.) shall be submitted with the application.
 - B. A concrete, masonry or other retaining wall is designed and constructed in accordance with acceptable engineering practice to support the slope of the excavation or fill. Design plans and calculations bearing the signature and seal of the responsible licensed professional engineer or architect shall be submitted to the Borough for review, comment and approval. A building permit is required for any wall in excess of 30 inches in height.
3. Edges of slopes shall be a minimum of ten feet from property lines, ultimate/future right-of-way lines of streets, and easements, in order to permit the normal rounding of the edge without encroachment of the abutting property, right-of-way or easement.
4. All lots, tracts or parcels shall be graded at a minimum slope of 2% to provide positive drainage away from buildings.
5. Stormwater shall not pond, except where (detention basins, swales, etc.) proposed in accordance with the stormwater management plan for the site.
6. In no case shall grading be completed in such a manner as to divert water onto adjacent property unless part of a stormwater management plan and an easement is obtained from the property owner.

7. Each person, corporation or other entity that makes any surface changes to the site shall be required to collect on-site surface runoff and control it to a point of discharge into the drainage area watercourse, stormwater easement or storm sewer system.
8. No grading equipment shall be permitted to be loaded, unloaded or stored on a public street. No grading equipment shall be permitted to travel on or across a public street unless licensed for operation on public throughfares.
9. The construction of underground utility lines involving installation, maintenance or repair that disturbs more than 2,000 square feet shall be subject to the following criteria:
 - A. No more than 500 feet of trench is to be opened at one time, unless approved by the Borough Zoning Officer.
 - B. Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.
 - C. Trench dewatering devices shall discharge in a manner that will not adversely affect flowing streams, drainage systems or off-site property.
10. Before granting final occupancy permits for buildings, building lots shall be finish graded and stabilized with permanent ground cover. A temporary occupancy permit may be issued by the Borough if it is not possible to establish lawns due to the season of the year. Prior to issuance of the temporary occupancy permit, Borough may require extra mulching, installation of silt barriers and/or construction of temporary sedimentation basins to control excess runoff, in addition to escrow to secure establishment of ground cover.
11. First Floor Certifications. Construction of any structure requiring a grading plan under the Ordinance shall not continue past the foundation state until the owner/builder has submitted certification that the first floor and garage floor elevations of the proposed structure conform to the plans submitted with the grading permit application. The certification shall be submitted to the Borough and shall be signed and sealed by the responsible registered professional land surveyor, landscape architect or engineer, licensed in the Commonwealth of Pennsylvania.

Section 9. Plan Review.

1. All plans prepared in conjunction with a grading permit application shall conform to the approved subdivision and/or land development plan for the site (where applicable).
2. Plans prepared in conjunction with an application for a grading permit shall be referred by the Borough to the Borough Engineer for review. The Borough Engineer shall review the plans submitted with the grading permit for compliance with provisions of this Ordinance and any other Ordinances, laws and/or regulations which apply. As part of the review, the Borough Engineer will prepare a review letter documenting any deficiencies found between the submitted documents and all applicable Ordinances, laws and/or regulations which apply.

3. The property owner shall comply with all conditions set forth in Borough Engineer's review letter prior to issuance of a grading permit.

Section 10. Inspections.

1. The Borough Engineer and/or Zoning Officer shall make inspections as hereinafter required to verify compliance with the approved grading plan and erosion and sedimentation control plan. All plans, reports and schedules required by and approved under this Ordinance shall be maintained by the applicant at the site during the progress of the work.
 - A. To obtain inspections, the permittee shall notify the Borough Zoning Officer and/or Engineer at least two working days before completion of the following:
 - (1) Installation of erosion and sedimentation facilities.
 - (2) Foundation installation.
 - (3) Final inspection prior to issuance of certificate of occupancy.
 - (4) Retaining wall installation.
2. A final inspection shall be conducted by the Borough Zoning Officer and/or Engineer to determine compliance with this Ordinance. Satisfactory compliance with this Ordinance shall be necessary before issuance of a use and occupancy permit.
3. Costs of inspections required or permitted hereunder shall be paid from fees collected by the Borough in accordance with the established Fee Schedule. All fees that exceed original permit costs or escrow funds shall be reimbursed by the property owner upon receiving invoicing for such costs from the Borough.

Section 11. Responsibility.

1. The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the Borough or its officials will not be made liable for this damage, by:
 - A. The issuance of a grading permit in accordance with the Ordinance or other applicable laws.
 - B. Compliance with the provisions of a permit or with conditions attached to it.
 - C. Failure of Borough officials to observe or recognize hazardous or unsightly conditions.
 - D. Failure of Borough officials to deny or to recommend denial of a permit.
 - E. Exceptions from the requirements of this Ordinance.

Section 12. Permit Expiration and Renewal.

Every grading permit issued hereunder shall expire at the end of twelve months from the date of issuance. The permittee may, within thirty days prior to expiration of the grading permit, request an extension in writing to the Borough, setting forth therein the reasons for the requested extension. If, at the discretion of the Borough, an extension is warranted, the Borough may grant additional time for completion of work.

Section 13. Amendment of Plans and Additional Conditions.

1. Amendments of the grading plan shall be submitted to the Borough and shall be processed and approved or disapproved in the same manner as the original plans. Field modifications of a minor nature may be authorized by the Borough Zoning Officer or Borough Engineer.
2. Where the Borough Zoning Officer determines that storm damage may result from grading at a site where work is authorized by a grading permit, work may be ordered by the Borough to be stopped and the permittee required to install temporary structures or take such other measures as may be necessary to protect adjoining property or public safety.
3. On a site with earth disturbance of a least one acre or where unusual site conditions prevail, and on all stream crossing projects, the Borough Zoning Officer may specify the time of start of grading and time of completion or may require that the operations be conducted in specific stages to ensure completion of protective measures prior to the advent of seasonal rains.

Section 14. Violations.

1. Penalties. Any person, firm or corporation who shall violate any provision of this Ordinance shall be issued a summons and fined \$100.00 for the first offence, and \$250.00 for each offence thereafter. If said fine is not paid and the project is not brought within compliance with the issued summons within 10 days after the issuance of the summons, then, upon issuance of a formal notice of violation and conviction thereof, any person, firm or corporation who shall violate any provision of this Ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of mote more than \$1,000.00, nor less than \$500.00, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of the Ordinance continues or each section of this Ordinance which shall be found to have been violated shall constitute a separate offense.
2. Remedy for Violation. In addition to the penalties as set forth in Subsection 1 above, any property subjected to earth disturbance or stripping activities performed in violation of this Ordinance shall be restored to its previous condition, including replacement of excavated earth, removal of illegally placed fill, and restoration of grades and planting. In order to enforce this section, the Borough Solicitor may seek injunctive relief in accordance with the rules of civil procedure and the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10101 et seq.
3. Revocation of Suspension of Permit. Any permit issued under the Ordinance, including those issued through approval of subdivision and land development plans, may be

revoked or suspended after notice to the permittee for:

- A. Failure to carry out the erosion and sedimentation control measures described in the application and/or accompanying plans at the times specified in the erosion and sedimentation control plan's construction schedule or within any extension that may be granted by the Borough.
 - B. Violation of any other condition of the grading permit.
 - C. Failure to carry out the erosion and sedimentation control measures described in the application and/or accompanying plans in a reasonable workmanlike manner.
 - D. Violation of any provision of this Ordinance or any other applicable law, ordinance, rule or regulation relating to the earth disturbance and/or stripping activities.
 - E. The existence of any condition or the doing of any acts constituting or creating a nuisance, hazard or endangering human life or the property of others, including, without limitation, the discharge of sediments from the site or the failure of the erosion and sedimentation controls to prevent accelerated erosion or waterborne sediment from leaving the site of construction.
4. Nonconforming Work. If at any stage of construction, the earth disturbance and/or stripping activities do not conform to the grading permit; to the attached conditions; to the accompanying plans and specification, including modifications thereof; or for any violation of this Ordinance, a written notice to comply shall be given to the permittee. Such notice shall set forth the nature of corrections required and the time within which corrections shall be made.
- A. Upon failure to comply within the time specified, the permittee shall be in violation of this Ordinance and shall be subject to the following penalties and sanctions:
 - (1) The revocation of any zoning building permit issued to the offending permittee pursuant to the grading permit and accompanying plans.
 - (2) A prohibition on the issuance of any further zoning building permits.
 - (3) The financial security, if any, shall be forfeited and penalties shall be imposed under Subsection 1 above.
 - B. The above-referenced sanctions shall be specified in the notice to comply provided above. Any and all remedies are cumulative, and the exercise of one shall not prohibit the exercise of any other remedies contained in either this subsection, this Ordinance or other applicable ordinances.
 - C. In the case of any paving, filling, stripping, grading or regrading; any disturbing, modifying, blocking or diverting the natural overland subsurface flow of 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 parcel in violation of this Ordinance or any regulations made pursuant thereto, the proper Borough authorities, in addition to other remedies provided by law, may institute any appropriate action or proceedings to prevent such unlawful activity; to restrain, correct or abate such violation; to prevent the use of the applicable premises; or to prevent any illegal act, conduct, business or use in or about such premises. In addition, upon the failure of any permittee to complete the control measures specified in the application, the Borough may,

after revoking such permit, proceed to complete such measures itself and recover the cost thereof from the permittee or its surety.

Section 15. Exceptions to Requirements.

If compliance with this Ordinance imposes severe hardship upon the applicant (i.e., the applicant cannot develop the property as zoned), the applicant may apply to the Borough Zoning Hearing Board for relief, which if granted, shall be the minimum necessary to permit reasonable use of the site. The Zoning Hearing Board may, in accordance with its procedures, authorize exceptions to or variances from any of the requirements and regulations set forth in this Ordinance. Application for any exception or variance shall be made by written request of the applicant, on required forms, stating fully the grounds of the request and facts relied upon the applicant, including supporting documentation. The written request shall be filed with the grading permit application.

Section 16. Repealer.

Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

Section 17. Severability.

If any section, sub-section, provision, regulation, limitation, restriction, sentence, clause phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance as a whole, or any other section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance. Borough Council hereby declares that it would have adopted this Ordinance and each section, sub-section, phrase and word thereof, irrespective of the fact that any one or more of the sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

Section 18. Effective Date.

This Ordinance shall take effect immediately upon its adoption.

ORDAINED AND ENACTED into an Ordinance this 24th day of May, 2021.

Borough Council of the Borough of Bangor

BY: James W Kresge
James Kresge, President

ATTEST: Tracy Palmer
Tracy Palmer, Secretary

APPROVED by the Mayor this 28th day of May, 2021.

BY: Brooke Kerzner
Brooke Kerzner, Mayor