

**HARDING TOWNSHIP
ORDINANCE NO. 03-11**

**“AN ORDINANCE CREATING A NEW CHAPTER 204 OF THE CODE OF THE TOWNSHIP
OF HARDING ENTITLED “GRADING PERMITS” AND AMENDING CHAPTER 346
(STREETS AND DRIVEWAYS) TO MODIFY DRIVEWAY PERMITTING REQUIREMENTS”**

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY AS FOLLOWS:

SECTION 1. A new Chapter 204 entitled “Grading Permits” is hereby established, as follows:

204-1. Findings and purposes.

The Township Committee does hereby find that grading and related site improvements not subject to subdivision or site plan approval should be suitably regulated to ensure compliance with various Township requirements. It is the purpose of this article to establish an efficient and effective mechanism to ensure such regulation.

204-2. Applicability and Exemptions

- A. Applicability. Subject to the provisions listed below, a Grading Permit is required for any project which includes any of the following:
- (1) New roof area exceeding 400 square feet in area. New roof area resulting from a project that includes demolition of existing building area(s) down to the first floor deck or below. Additionally, new roof area resulting from the construction of a second floor over an existing first floor shall not be counted toward the 400 square foot area unless the first floor is demolished down to the first floor deck or below
 - (2) New patio area exceeding 400 square feet in area, which shall include demolition and reconstruction of the existing patio area.
 - (3) New recreation courts exceeding 400 square feet in area, which shall include demolition and reconstruction of the existing recreation court area.
 - (4) Projects which result in a disturbance of more than 5,000 square feet that are required to comply with Article XVII (Soil Erosion and Sediment Control) of the Township Land Use and Development Code (Chapter 225).
 - (5) Projects that include construction of a new driveway.
- B. Exemptions. Projects exempt from the requirements of the section are as follows:
- (1) Projects receiving subdivision or site plan approval from the Planning Board or Board of Adjustment provided that required performance bonds and inspection fees have been posted. This exemption is applicable only to subdivision or site plan improvements and not individual lot construction.
 - (2) Projects that are exempt from Article XVII (Soil Erosion and Sediment Control) and have been granted a variance from stormwater requirements and steep slope requirements (as applicable) and do not include construction of a driveway.

204-3. Permit Procedures.

Whenever a permit is required in connection with an applicable project, said permit shall be obtained from the Township Engineer in accordance with the procedures set forth below and the requirements and standards of this article.

- A. Any person desiring to engage in activities identified in B(1) of this section shall file an application with the Building Department on a form to be provided for said purpose and shall pay the associated application and escrow fees. Application and escrow fees shall be in accordance with Article III of the Township Land Use and Development Code (Chapter 225-7). Said application shall be accompanied by a Grading Plan prepared by a Licensed Professional Engineer.
- B. Any person desiring to engage in activities subject to Article XVII (Soil Erosion and Sediment Control) of the Township Land Use and Development Code (Chapter 225) shall also submit an application for Plan Certification as required by that Article.
- C. The filing of an application shall constitute the applicant's consent to the Township Engineer or his/her designee(s) for entry upon the land for purposes of inspection and enforcement.
- D. Within 30 days of the filing of an application, the Township Engineer shall render his/her decision upon the application and, in the case of partial or complete disapproval, shall set forth the basis for such decision in writing.

204-4. Permit Issuance.

The Township Engineer shall issue a Grading Permit upon receipt of an application for such permit, approval of a Grading Plan, and payment of permit fees and escrow fees as required in Article III of the Township Land Use and Development Code (Chapter 225-7). For projects that are subject to Article XVII (Soil Erosion and Sediment Control) of the Township Land Use and Development Code (Chapter 225), a Grading Permit shall not be issued unless Plan Certification has been granted.

204-5. Plan content.

All permit applications shall be accompanied by a Grading Plan prepared by a Licensed Professional Engineer. The plan shall include the following:

- A. All information as required on Checklist A, attached to this Chapter.
- B. All information as necessary or appropriate to fully and adequately describe the proposed project and all measures required to comply with requirements of the Township Code.
- C. The plan shall cover all stages and aspects of the proposed project from grading, stripping, excavation and other site preparation through and including both final grading and the installation of permanent improvements.

204-6. Approval of Plan.

In considering and approving a plan, the Township Engineer may impose reasonable conditions or requirements necessary or desirable for the proper implementation of the plan, in accordance with the purposes and intent of this article.

204-7. Compliance with Plan.

After a plan has been approved, it shall be unlawful for the applicant, or any person performing services in implementing the plan, to deviate from or change, amend or modify the plan in any way, except in accordance with subsection 204-8 below.

204-8. Minor amendments to plan.

Amendments, changes or modifications of a minor nature to a plan required as the result of conditions arising in the field during construction may be ordered or approved by the Township Engineer.

204-9. Standards for permit issuance.

The following factors shall be taken into consideration in determining whether to issue a Grading Permit:

- A. Whether the proposed project is in conformance with the following sections of the Township Code (as applicable):
 - Soil Erosion and Sediment Control (Article XVII of Chapter 225)
 - Steep Slopes (Article XVIII of Chapter 225)
 - Flood Damage Prevention (Article XIX of Chapter 225)
 - Stormwater Management (Article XXXIX of Chapter 225)
 - Driveways (Article III of Chapter 346)
- B. Whether the proposed project would permanently alter existing drainage patterns.
- C. Whether the grading activity has any negative impact on the stormwater drainage onto adjoining lands.
- D. Whether the proposed project, whenever feasible, retains and protects natural vegetation and the natural ground surface.
- E. Whether the proposed design conforms to accepted safety and engineering practices.

204-10. Enforcement and inspection.

- A. The requirements of this article shall be enforced by the Township Engineer who shall also inspect or require adequate inspection of the work carried out pursuant to this article.
- B. Generally, inspections shall be conducted at the following times:
 - (1) Prior to the issuance of a permit to evaluate existing site conditions and identify potential problems.
 - (2) Intermittently during the course of construction to verify the maintenance of satisfactory site conditions.
 - (3) During the construction of all required stormwater control measures.
 - (4) After completion of all construction and the completion of vegetative stabilization measures.
 - (5) At other times as may be necessary because of unsatisfactory conditions.
- C. If the Township Engineer finds conditions other than as shown in the plan, or in the event of failure to comply with the plan or any condition thereto, he/she may refuse to approve further work and may require necessary measures to be promptly installed and may require modifications to the plan when, in the judgment of the Township Engineer, such are necessary to properly control off-site impacts.
- D. The applicant shall have the approved plan on-site during construction.

- E. In the event of failure to comply with the requirements of this section, the Zoning Official shall refuse to issue Zoning Permits and shall revoke Zoning Permits which may have been issued.

204-11. Violations and penalties.

- A. If any person violates any of the provisions of this article, the Township may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations, and such court may proceed in a summary manner.
- B. Any person who violates any of the provisions of this article, any standard promulgated pursuant to this article or fails to comply with the provisions of a Grading Permit shall be liable to a penalty of not less than \$25 nor more than \$2,000, to be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq. except for soil erosion and sediment control violations which shall be subject to the provisions of §225-94.
- C. The Superior Court and municipal court shall have jurisdiction to enforce the Penalty Enforcement Law.
- D. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

204-12. Appeals

- A. Grading Plan Approval. Any person aggrieved by a decision or action of the Township Engineer in denying plan approval shall first submit a written request for reconsideration to the Township Engineer within ten (10) working days of the action taken, and schedule a meeting to review the reasons for the denial. If the applicant is still aggrieved, the Engineer shall identify the bases for noncompliance in a written opinion within thirty-five (35) calendar days after the meeting, unless additional time is mutually agreed upon by the Township Engineer and the aggrieved person. If the Applicant is still aggrieved, he shall file a written notice of appeal with the Township Clerk within ten (10) working days of the meeting with the Township Engineer, and the Township Committee shall hear the appeal within sixty (60) days of receipt of the notice of appeal.
- B. Steep Slope requirements. Development of steep slopes is regulated in Section 225-116 of the Land Use and Development ordinance. Any appeals must be heard by the Board of Adjustment.
- C. Flood Damage Prevention requirements. Exceptions from Flood Damage Prevention requirements must be heard by the Planning Board in accordance with Section 225-102 of the Land Use and Development Ordinance.
- D. Stormwater Management requirements. Stormwater management requirements are referenced in Section 225-116 of the Land Use and Development ordinance. Any appeals, including appeals of any waiver determination by the Township Engineer, must be heard by the Board of Adjustment.
- E. Driveways. Driveway standards are contained in Section 225-76 of the Land Use and Development ordinance. Any appeals to these standards must be heard by the Board of Adjustment in accordance with Section 346-14D of the Township Code.

SECTION 2. Section 346-2 is hereby revised to read as follows:

346-2. Permit required for driveway construction [**; fee.**]

The construction of any driveway connecting with a road is prohibited unless a **grading** permit therefore has first been obtained from the **Township Engineer [Clerk]**. **[The fee for a driveway permit shall be as provided in Chapter 171, Fees. A separate driveway permit shall not be required if the driveway is part of a project for which a grading permit was already approved and the driveway was shown on the approved plans submitted for the grading permit.]**

SECTION 3. Paragraph B of Section 346-14 is hereby revised to read as follows:

- B. Prior to construction of a driveway, an application for a **grading [driveway]** permit shall be made to the **Township Engineer [enforcement officer]** as required by Article I of this chapter. **[The application shall be accompanied by an application fee in accordance with Chapter 171, Fees.]**

SECTION 4. Paragraph D of Section 346-14 is hereby revised to read as follows:

- D. This chapter shall be enforced by the **Township Engineer [Zoning Officer]**, and appeals from his determinations hereunder may be taken to the Board of Adjustment after the payment of a fee as set forth in Chapter 171, Fees.

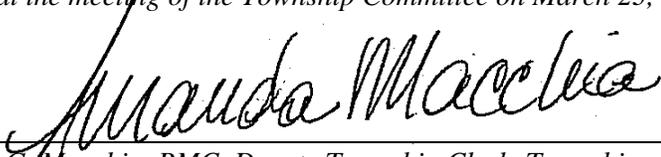
SECTION 5: If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

SECTION 6: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7: This ordinance shall take effect after final passage and publication as prescribed by law.

I, Amanda G. Macchia, Deputy Township Clerk of the Township of Harding, do hereby certify this document to be a true copy of the original ordinance as adopted at the meeting of the Township Committee on March 23, 2011.

Date: March 29, 2011



Amanda G. Macchia, RMC, Deputy Township Clerk, Township of Harding