

**AN ORDINANCE AMENDING THE BOROUGH CODE TO REGULATE LAND
DISTURBANCE AND PROVIDE FOR SOIL STABILIZATION IN THE
BOROUGH OF SPRING LAKE**

WHEREAS, the Mayor and Council, have determined that it is in the best interests of the health, safety and welfare of the residents of the Borough to regulate land disturbance and provide for soil stabilization; and

WHEREAS, the regulations herein will help to protect the environment and further the Borough's compliance with the State of New Jersey, Department of Environmental Protection's Stormwater Management rules while enhancing and protecting the aesthetic appearance of the Borough:

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Spring Lake in the County of Monmouth and State of New Jersey as follows:

Section 1.

The following regulations are adopted as part of the Borough Code:

LAND DISTURBANCE PERMIT.

Statement of Purpose.

The purpose of this section is to control the disturbance of land and related changes in grades and elevations by requiring adequate provisions for surface water retention, drainage and soil erosion in order to promote the public health, safety and general welfare of the community.

Definitions.

As used in this section:

Applicant shall mean a person, partnership, corporation or other private or public agency or entity requesting permission to engage in land disturbance activity.

Excavation or *cut* shall mean any act by which ground,, soil, rock or earth is cut into, dug, quarried, uncovered, removed, displaced or relocated.

Land shall mean any ground, soil, rock or earth, including marshes, swamps, drainage ways and areas not permanently covered by water, within the Borough.

Permit shall mean a land disturbance permit issued by the Construction Official or Zoning Review Officer to perform work in accordance with this section.

Site shall mean any plot, parcel or parcels of land.

Soil shall mean all unconsolidated mineral and organic material of any origin.

Stripping shall mean any activity, which significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations.

Permit Required.

No land or land area shall be disturbed by any person, partnership, corporation, municipal corporation or other public agency within the Borough unless prior thereto the applicant has obtained a valid land disturbance permit issued by the Construction Official in accordance with the requirements of this section.

Application Procedure.

A valid land disturbance permit shall be obtained by the filing of an application which shall be accompanied by a plot plan for the premises, which plot plan shall contain:

- a. The location and description of all existing natural and man-made features on the site, including general topography, existing drainage and water flow, proposed drainage and water flow and soil characteristics and a copy of the soil conservation soil survey.
- b. The location and description of proposed land disturbances, specifying all changes contemplated.

Municipal Action on Application.

Upon receipt of the application and plans as required hereunder, the Construction Official, the Zoning Review Officer and/or the Borough Engineer shall review same and then issue or deny the permit, which may be with or without special conditions.

General Conditions of Permit.

All Permit holders shall comply with the following requirements, unless expressly exempted by the approving Official.

- a. Notify the Borough of Spring Lake Construction Official in writing seventy-two (72) hours in advance of any land disturbance.
- b. Install a stabilized construction entrance into the lot (50' x 30' x 6" of IV₂" to 2" clean stone).
- c. Install an effective sediment barrier along the lower limits of construction so soil will not be carried off the site by rainwater. A continuous line of hay bales (dug in 4.0" and staked), or a silt fence (dug in 6" on the bottom) shall be used and installed according to the design plans of Illustration #1, Hay Bale Sediment Barrier Installation, or Illustration #2, Silt Fence Construction and Installation.
- d. Provide temporary stabilization of all exposed soils, not subject to construction traffic. Temporary stabilization may be done in non-growing seasons with straw mulch, applied at a rate of 95-115 lbs/1000 sq. ft. and held in place with a mulch binder.
- e. During the growing season, temporary stabilization will require the soil to be seeded with annual rye grass and mulched with 70-90-lbs/1000 sq. ft. of straw or hay.
- f. Permanent stabilization requires a three seed mixture of "permanent" or perennial seed types that are mulched and anchored.
- g. Remove all lot debris from the street and sidewalk regularly and sweep the street and sidewalk daily.

General Design Standards.

The following principles shall apply to all land disturbance permits:

- a. Stripping of vegetation, grading or other soil disturbance shall be done in a manner, which will minimize soil erosion.
- b. Whenever feasible, natural vegetation shall be retained and protected.
- c. Drainage provisions shall accommodate increased runoff, resulting from modified soil and surface conditions, during and after development or disturbance.
- d. Water runoff shall be minimized and retained on site whenever possible to facilitate groundwater recharge.
- e. Land disturbance shall be done in a manner that shall not cause a change in slope which would result in the slope exceeding ten (10%) percent.

Fees.

Each application shall be accompanied by a fee in the amount of seventy-five (\$75.00) dollars. However, any application hereunder which is made in conjunction with an application for a building permit for construction shall not require the payment of any fee in addition to that fee paid for the construction permit.

Enforcing Officer and Inspections.

The requirements of this section shall be enforced by the Construction Official, Zoning Review Officer and/or Code Enforcement Officer, who shall also inspect or require adequate inspection of the work. If the Enforcing Officer finds existing conditions are not as stated in the applicant's land disturbance permit or the site does not comply with all requirements of this section, he/she may refuse to approve further work and may seek other penalties as provided for.

Appeals.

Appeals from decisions under this section may be made to the Borough Council in writing within ten (10) days from the date of such decision. The appellant shall be entitled to a hearing before the Borough Council within forty-five (45) days from the date of appeal.

Violations and Penalties.

a. Any person who violates any of the provisions of this section or fails to comply or adhere to the land disturbance permit shall be subject to an action filed in the Superior Court for injunctive relief and/or damages for the restoration or correction of the violation or violations.

b. In addition, any person who violates any of the provisions of this section or fails to comply or adhere to the land disturbance permit granted hereunder shall be subject to the general penalty provisions stated in Chapter I, Article II, Sections 1-3 through 1-9 of the Code of the Borough of Spring Lake.

Compatibility with other Permit and Ordinance Requirements.

Permits issued pursuant to this chapter are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter is not intended to interfere with or annul any other ordinances, rule or regulation, statute, or other provision of law, except that, where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall apply.

Section 2.

All other provisions of the Borough Code not amended or replaced herein remain in full force and effect.

Section 3.

If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

Section 4.

The Clerk shall arrange for the transmittal of this Ordinance to the Publisher of the Borough Code for inclusion in the next regular update of the Code, and the Publisher shall determine the appropriate Chapter and Section designations for the provisions adopted herein.

Section 5.

This Ordinance shall take effect on upon passage and publication in accordance with applicable law.

INTRODUCED: **March 23, 2009**

ADOPTED:

APPROVED: _____
JENNIFER NAUGHTON, Mayor

Attest:

JANE L. GILLESPIE, BOROUGH CLERK