

ORDINANCE NO.: 2011-07
SPONSOR: MAYOR NORTON
INTRODUCED: JUNE 28, 2011 **ASSIGNED TO:** _____

AN ORDINANCE AMENDING SECTION 1224.09 OF GREEN'S CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS, the City of Green is required to meet Environmental Protection Agency requirements under the National Pollutant Discharge Elimination System ("NPDES") Permit Program; and

WHEREAS, the NPDES Permit Program specifically requires the City of Green to establish a local ordinance to ensure adequate long-term operation and maintenance of post-construction run-off controls; and

WHEREAS, the EPA also requires strong penalties for violations of erosion and settlement control and post-construction operation and maintenance; and

WHEREAS, the Planning Department, working with the Law Department, has developed an amendment to Green Codified Ordinance Section 1224.09 to confront the concerns of the EPA; and

WHEREAS, the Planning and Zoning Commission, at its meeting on June 15, 2011, favorably recommended the proposed amendment by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

Section 1224.09 of Green Codified Ordinance is amended as follows:

1224.09

Land Disturbance Permit

(1) Purpose

The purpose of this section is to establish a procedure to review grading and clearing activities within the City to ensure the promotion of the public health, safety, comfort, and general welfare of the citizens of the City. This permit and review procedure also helps to eliminate the unnecessary clearing of trees and vegetation so as to maintain them as long as possible in order to preserve the benefits associated with their existence. Regulating grading and clearing activities will also assure that adequate provisions are made for the prevention of surface erosion and pollution of water resources prior to the grading of land.

(2) Applicability

No clearing and/or grading activities shall be commenced within the City without first obtaining a land disturbance permit from the Planning Department. Exemptions from permit requirements include:

- (A) Parcels of less than one acre of land;
- (B) An area of a larger parcel of land where less than one acre is to be disturbed;

(3) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a land disturbance permit.

(4) Procedure

(A) Step 1 – Application

- 1.) An application for a land disturbance permit shall comply with the provisions of Section 1224.03: Common Application Requirements.
- 2.) An application for a land disturbance permit shall be submitted a minimum of 30 days prior to commencement of the clearing and/or grading activities.
- 3.) **AN APPLICATION FOR A LAND DISTURBANCE PERMIT SHALL INCLUDE A STORM WATER POLLUTION PREVENTION PLAN (SWP3). THE APPLICANT SHALL SUBMIT TWO (2) SETS OF THE SWP3 TO THE PLANNING DEPARTMENT AND TWO (2) SETS OF THE SWP3 TO THE SUMMIT SOIL AND WATER CONSERVATION DISTRICT (SUMMIT SWCD).**

(B) Step 2 – Planning Department and Applicable Agency Review and Decision or Staff Report

- 1.) Submitted plans must be reviewed and approved by the Planning Department, the Summit Soil and Water Conservation District, and any other applicable City department.
- 2.) Within 30 days after the application (Step 1) is determined to be complete, the Planning Department shall review the application and approve, approve with conditions, or deny the land disturbance permit based on the approval criteria established in Subsection (5), below.

- 3.) All comments from the City and other review agencies shall be provided to the Planning Department for transmission of comments to the applicant. The applicant shall be required to revise all applicable plans and resubmit such revised plans to the Planning Department prior to the issuance of a land disturbance permit.

(C) **Step 3 - Notification**

The land disturbance permit holder shall agree to notify the city and, if applicable, the Summit Soil and Water Conservation District a minimum of 48 hours before commencing with permitted clearing and/or grading activities.

(5) **Approval Criteria**

In order to approve a land disturbance permit, the Planning Department shall use the following review criteria:

- (A) Compliance with applicable provisions of this Code; and
- (B) No land disturbance permit shall be issued until any and all necessary erosion and sediment control devices have been approved by the Summit Soil and Water Conservation District and appropriate City Departments.
- (C) All current best management practices (BMP's) are considered to control erosion and sediment and a plan for implementation of such practices is approved by the Summit Soil and Water Conservation District and appropriate City departments.
- (D) **A LAND DISTURBANCE PERMIT SHALL NOT BE APPROVED WITHOUT AN EXECUTED STORM WATER MANAGEMENT MAINTENANCE AGREEMENT. THE POST CONSTRUCTION WATER QUALITY PRACTICES MUST BE MAINTAINED IN PERPETUITY BY THOSE PARTIES IDENTIFIED IN THE SWP3.**
- (E) A pre-construction meeting was held with either the City of Green or, if required, the Summit Soil and Water Conservation District.

(6) **Inspections**

- (A) All permitted clearing and/or grading activities shall be inspected on a regular basis by appropriate City staff and the Summit Soil and Water Conservation District to ensure compliance with the approved plan.

- (B) Violation notices shall be issued, if necessary, as determined through the inspection process. Violations shall be rectified within the period stated **AND THE CITY OF GREEN MAY TAKE ACTION AS DETAILED IN SECTION (9) OF THIS CHAPTER.**

(7) Time Limit

- (A) Work permitted by a land disturbance permit shall commence within 90 days of the permit approval or the grading and permit shall become invalid.
- (B) The land disturbance permit shall also become invalid if the work is suspended or abandoned for a period of 120 days at any time after the work has commenced or one year after the date of issuance.
- (C) Once a project is started it shall remain the responsibility of the permit holder to maintain all elements of an approved Stormwater Pollution Prevention Plan until completion of the project, including any periods during which work has been suspended or after any abandonment of the work prior to completion.
- (D) If a permit expires, no work may commence until a new permit is issued.

(8) Burning Prohibited

Open burning shall be prohibited for the clearing of land. All clearing must be performed by generally accepted means, unless otherwise permitted as part of the land disturbance permit review procedure.

(9) VIOLATIONS

IN ADDITION TO THE PENALTIES OUTLINED IN CHAPTER 1230, THE CITY OF GREEN WILL ALSO HAVE THE ABILITY TO ENFORCE ANY OR ALL OF THE FOLLOWING PENALTIES FOR VIOLATIONS TO THIS CHAPTER:

- (A) **IF THE SWCD OR THE PLANNING DEPARTMENT DETERMINES THAT A VIOLATION OF THE RULES ADOPTED UNDER THIS SECTION EXISTS, THE MAYOR MAY AUTHORIZE THE LAW DIRECTOR TO IMMEDIATELY NOTIFY THE VIOLATOR OF THE VIOLATION(S) AND DEMAND THE VIOLATOR TO REMEDY THE VIOLATION(S) WITHIN 10 CALENDAR DAYS OF THE DATE OF THE NOTICE. THE MAYOR SHALL ALSO HAVE THE AUTHORITY TO REQUEST THE LAW DIRECTOR IMMEDIATELY INSTITUTE LEGAL ACTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION AGAINST THE VIOLATOR TO CEASE OPERATIONS UNTIL SUCH**

TIME THAT THE VIOLATOR PROVES THAT THEY ARE CONDUCTING OPERATIONS IN COMPLIANCE WITH THIS CODE AND THE APPROVED SWPPP.

- (B) THE CITY OF GREEN MAY ALSO ASSESS A FINE IN THE AMOUNT OF \$100.00 FOR EACH DAY A VIOLATION TO THIS CHAPTER EXISTS AND/OR CONTINUES UP TO A MAXIMUM FINE OF \$10,000.00.**
- (C) THE CITY OF GREEN PLANNING & ZONING COMMISSION MAY DENY THE ISSUANCE OF ANY FURTHER PLAT APPROVALS FOR THE PROPERTY IN QUESTION UNTIL THE SITE IS BROUGHT INTO COMPLIANCE WITH THIS CHAPTER.**
- (D) THE CITY OF GREEN ZONING DIVISION MAY SUSPEND THE ISSUANCE OF ZONING PERMITS AND/OR CERTIFICATES OF USE AND COMPLIANCE WITHIN DEVELOPMENTS THAT ARE NOT IN COMPLIANCE WITH THIS CHAPTER.**
- (E) THE CITY OF GREEN PLANNING DEPARTMENT MAY SUSPEND THE INSPECTION OF SITE IMPROVEMENTS AND/OR REFUSE THE RELEASE OF BONDS ON DEVELOPMENTS THAT ARE NOT IN COMPLIANCE WITH THIS CHAPTER. THE CITY WILL HAVE THE RIGHT TO PROCEED WITH THE CAPTURE OF BOND FUNDS TO BRING THE SITE INTO COMPLIANCE.**
- (F) AN ASSESSMENT MAY BE PLACED ON THE PROPERTY UPON FAILURE TO MAINTAIN THE STORM WATER MANAGEMENT MAINTENANCE AGREEMENT AS OUTLINED IN THE AGREEMENT.**

SECTION TWO:

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION THREE:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety, and welfare of the citizens of Green. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: August 23
Molly Stevens
Molly Stevens, Clerk

[Signature]
Joel Reed, Council President

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APPROVED: August 24, 2011

[Signature]
Richard G. Norton, Mayor

COPIED _____
SVCE ZONE PARK ROAD ENG
LAW FIN MAY PLAN FIRE

ENACTED EFFECTIVE: Aug. 24, 2011

ON ROLL CALL: Colopy -yea DeVitis -yea France -yea Manwaring -yea
Reed -yea Summerville -yea Smole -Absent Adopted 6-0.

Suburbanite publication on August 28 and Sept. 4, 2011

Molly Stevens
Molly Stevens, Clerk

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6/28/2011 Approved as to form and content by Stephen J. Pruneski, Law Director

[Signature] 6/28/11

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