

**BOROUGH OF PEAPACK AND GLADSTONE
COUNTY OF SOMERSET, STATE OF NEW JERSEY**

ORDINANCE NO. 1147-2024

AN ORDINANCE OF THE BOROUGH OF PEAPACK & GLADSTONE AMENDING AND SUPPLEMENTING CHAPTER XXIII, LAND DEVELOPMENT, ARTICLES III AND IV, REGULATING LAND DISTURBANCE AND LOT GRADING

BE IT HEREBY ORDAINED by the Borough Council of the Borough of the Peapack & Gladstone, Somerset County, state of New Jersey that it does hereby amend and supplement the Land Development Chapter of the Borough as follows:

SECTION 1. Article III, Chapter 23, §23-33, Checklists, is hereby amended to add new section §23-33.6 Grading Plan Checklist for Minor/Major Developments as follows:

§23-33.6 Grading Plan (for Minor/Major Developments)

SUBMISSION REQUIREMENTS	Submitted (check off)	N/A	Waiver Requested (1)
A. General			
1. Grading plan is signed and sealed by a professional engineer licensed in the State of New Jersey.			
2. Boundary & Topographic Survey reference is shown on plan including Tax map sheet, block and lot reference.			
3. Grading plan is drawn at a scale of not less than 1-inch equals 30 feet.			
4. The grading plan includes the following:			
a. North Arrow			
b. Graphic Scale			
c. Key Map, at a scale of between 1" - 100' and 1" - 1"-400'			
d. Soil Types per the Somerset County Soil Survey			
e. Property Lines			
f. Setback Lines			
g. Existing and proposed structures, including setback measurements			
h. Existing and propose 2-foot contours in the area of proposed disturbance.			
i. Slope Analysis demonstrating compliance with Zoning Ordinance			

j. Streams and other natural features.			
k. Location of wells and septic systems on adjoining lots within 100 feet of the property lines.			
l. Existing and proposed impervious coverage over the entire property (percentage and square footage). Note that gravel driveways are considered impervious coverage per Borough Code. A table should be provided showing existing and proposed coverage by square footage for each of the following features: buildings, driveways, walkways, patios, recreation courts, and similar features.			
m. Soil Erosion and Sediment Control features, including construction details			
n. All trees (greater than or equal to 6 inches in diameter) fully within the limits of soil disturbance and extending at least 25 feet beyond the limits of disturbance.			
o. Standard Soil Erosion and Sediment Control Notes as promulgated by the Somerset County Soil Conservation District.			
p. A Construction Sequence must be provided to include: i) Anticipated starting and completion dates of each step in the land disturbance and development sequence; ii) Time of exposure of each land area prior to the completion of effective erosion and sediment control sequence; iii) The sequence of installation of planned erosion and sediment control measures as related to the disturbance and development sequence referred to o(i) above;			

5. A Zoning Data table must be provided. This table must identify the subject zone and must provide required, existing, and proposed information in a tabular format for each of the following (as applicable):			
a. Lot Size			
b. Frontage			
c. Front Setback			
d. Rear Setback			
e. Side Setback			
f. Building Height (primary structure and accessory structure)			
g. Building Coverage (in percentage and square feet for each structure)			
h. Lot Coverage (in percentage and square feet)			

B. Building Height			
1. The building ridge elevation, first floor elevation, garage floor and finished grade elevation			
2. Grades at building corners are shown on the plan			
C. Stormwater Management			
1. The location of any existing streams, water courses, ponds, storm sewers or drainage facilities which relate to drainage of surface waters to and from the subject property are shown on the plan.			
2. All proposed storm sewers, ditches, swales or other drainage facilities which will receive surface waters from the subject property are shown on the plan.			
3. Projects that meet the definition of "major development" under the Borough stormwater ordinance shall have stormwater management systems designed to meet the standards for major development. The plan shall show the location of all permeability testing as required by Appendix E of the NJDEP's Best Management Practices (BMP) manual.			
D. Walls (if applicable)			
1. Top and bottom of wall elevations must be provided.			
3. Design calculations must be provided for all retaining walls over four feet in height. All calculations must be signed and sealed by a licensed professional engineer. A separate design report must be submitted.			
E. Wetlands and Waterways			
1. A letter of interpretation (LOI – file number shown on the plan) provided by the New Jersey Department of Environmental Protection (NJDEP) is required for all grading permit projects with on-site wetlands or wetlands transition areas.			
2. The grading plan must shall all wetlands, wetland transition areas, waterways, and riparian buffers.			
3. If there are no waterways or riparian buffers within the project limit of disturbance, a note must be provided certifying that there are no waterways within 300 feet of the limit of disturbance.			

4. If there are no wetlands or wetland buffers within the project limit of disturbance, a note must be provided certifying that there are no wetlands or transition areas within 150 feet of the limit of disturbance.			
5. The plan shall depict any state regulated areas including, but not limited to, freshwater wetlands transition areas, riparian zones, within 25 feet of the limit of disturbance. All watercourses, streams, and State Open Waters within 300 feet of the land disturbance shall be shown on the map. The type of outside agency approval and status of any/all required outside agency approvals shall be noted on the plan.			
F. Miscellaneous			
1. The location and elevation of the datum used to set elevations on the site is shown on the plan.			

Footnote (1): Whereby reason of exceptional narrowness, shallowness, or shape of a specific piece of property , or by reason of exceptional topographic conditions, or by reason of other extraordinary or other exceptional situation or condition, the strict application of this section would result in peculiar and exceptional practical difficulties the Borough Engineer may grant a waiver from the design or construction standard provided no waiver or other relief that is granted would create any substantial public danger or substantial public inconvenience. The Borough Engineer reserves the right to remand jurisdictional determination of any waiver requests to the Borough Council if he or she deems it necessary.

SECTION 2. Article IV, Zoning, Chapter 23, §23-40 Supplemental Regulations, is hereby amended to add new section §23-42.20 Land Disturbance and Lot Grading as follows:

§23-42.20 LAND DISTURBANCE AND LOT GRADING

a. Lot Grading Plan Permit Definitions

APPLICANT – A person requesting permissions to engage in lot grading activity.

CRITICAL ROOT RADIUS (CRR) – The soil area surrounding a tree that is critical to the health of the tree calculated as 1.5 x DBH, expressed in feet (i.e., 10” tree x 1.5 = 15 ft. radius).

DIAMETER AT BREAST HEIGHT (DBH) – Tree diameter measured at 4.5 feet above the ground surface.

EXEMPT DEVELOPMENT — Any development that results in the creation of less than 500 square feet of new impervious area and disturbs less than 5,000 square feet of area. Further, an exempt development shall not meet the definition of "minor development".

EXISTING GRADE — The vertical location of the existing ground surface prior to cutting or filling.

FILL — A man-made deposit of soil, rock or other materials.

FINISHED GRADE — The final grade or elevation of the ground surface.

FLOODPLAIN — The land bordering or adjacent to a river, stream, lake, pond, swamp or other waterway which is subject to flooding as evidenced by: A. Observed or recorded flood events; B. Floodplains as delineated by the NJDEP; C. Alluvial soil as shown on soil maps; or D. As determined by other soil or hydraulic studies.

GRADING — Any stripping, cutting, filling, stockpiling or any combination thereof, and shall include the land in its cut or filled condition.

IMPAIRED TREE – Trees that have root damage (soil compaction, grading, cutting, etc.) resulting from construction activities, equal to or greater than 40% of the CRR.

IMPERVIOUS SURFACE — That portion of a lot which is improved or is proposed to be improved with principal and accessory buildings or structures, driveways, parking lots, pedestrian walkways, pools, retaining walls, decks or patios or any man-made improvements of the ground surface that reduces the ability for the soil to accept runoff as compared to natural conditions.

LAND DISTURBANCE — The stripping, filling or removal of soil or the removal of vegetation. The cutting of trees, with or without stump removal, is disturbance.

LIMIT OF GRADING — The boundary line formed between those areas of a site which are to be graded and the existing natural topography of the property. The limit of grading shall be synonymous with a no cut-no fill line.

LOT GRADING — Any activity involving the clearing, grading, transporting, filling or excavation of land, stump removal or any other activity which causes land to be exposed to danger of erosion, but not including normal cultivation practices incident to customary farming activity. "LOT GRADING" shall be synonymous with "LAND DISTURBANCE".

LOT GRADING PLAN – A plan to control soil erosion and sedimentation which meets or exceeds the Standard for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee and has been reviewed and approved by the proper Borough authority. (hereinafter referred to as the “plan” and or “lot grading plan”).

MAN MADE – Lands which can be shown to have been previously graded as part of a prior approved development of the property.

MAJOR DEVELOPMENT — Any development that results in the creation of more than 10,890 square feet of new impervious area and or one that disturbs more than 43,560 square feet. Major Developments shall be designed in accordance with N.J.A.C. 7:8.

MINOR DEVELOPMENT — Any development that results in the creation of more than 500 square feet of new impervious area and or one that disturbs more than 5,000 square feet area. Further, a "minor development" shall not meet the definition of "major development" as defined in N.J.A.C. 7:8.

RIPARIAN BUFFER/RIPARIAN ZONE — The riparian buffer or zone is the land and vegetation within a State regulated water and extending either 50 feet, 150 feet or 300 feet from the top of bank along both sides of the regulated water, depending on the environmental sensitivity of the water as determined by the NJDEP.

SOIL CONSERVATION DISTRICT — The Somerset/Union Soil Conservation District, which is a governmental subdivision of the state organized in accordance with the provisions of N.J.S.A. 4:24-1 et seq.

STEEP SLOPES — Any natural lands which have a slope of over fifteen (15%) percent, as measured between two-foot contour intervals and having a contiguous area of at least 500 square feet. This does not include lands which can be shown to have been previously graded as part of a prior development of the property in question (i.e., defined as “MAN MADE”)

WATERCOURSE — Any natural or artificial watercourse, stream, river, creek, ditch, channel, canal, conduit, culvert, or other waterway in which water flows in a defined direction or course, either continuously or intermittently, within a definite channel including any area adjacent to inundation by reason of overflow of floodwater.

WETLANDS — Areas regulated by the NJDEP under the Freshwater Wetlands Protection Act Rules and defined therein.

b. No land within the Borough shall be cleared, brush hogged, disturbed, graded, excavated, except as follows:

1. Basic Requirements:

- (a) It shall be unlawful for any person to perform land disturbance of any portion of land in excess of 5,000 square feet, create an increase in new, proposed impervious surfaces in excess of 500 square feet or remove/impair ten trees having a DBH of 10" or greater unless and until a plan has been submitted to and approved by the Land Use Board or Borough Engineer as provided for herein.
- (b) A Lot Grading Plan, application and checklist grading plan (for Minor/Major Developments) shall be filed with and become part of any application for a construction permit or zoning permit if the limits of proposed land disturbance, impervious surface, and/or tree removal meet the threshold limits identified herein. Such plan shall be prepared by a Professional Engineer licensed in the State of New Jersey in accordance with State law and accompanied by the required fees.
- (c) No land area in excess of 5,000 square feet within the Borough shall be cleared, brush hogged, disturbed, graded, excavated or filled by a person for purposes including, but not limited to, the construction of roads or driveways, the filling of land, the excavation of land, the removal of natural resources, the mining of minerals or the development of recreational or educational facilities unless and until a plan has been submitted to, and approved or waived by the Land Use Board or Borough Engineer and the Borough Zoning Officer have issued a valid Lot Grading Permit.
- (d) The Land Use Board or Borough Engineer, in approving a plan, exemption, waiver or building permit may impose reasonable conditions or requirements designated or specified on, or in connection therewith.
- (e) Projects which have primary jurisdiction vested in the Land Use Board shall have the plan approved by the Land Use Board. Projects that do not require Land Use Board approval shall have the plan approved by the Borough Engineer. Projects that require relief from any provisions of the Borough zoning standards or this section may have the plan approved by the Land Use Board, unless it is determined that a separate Lot Grading Permit is required as a condition of approval. Any Board approval shall consider the recommendations and conditions outlined by the Borough Engineer.
- (f) Surface Disturbance. Disturbance of lands containing slopes over fifteen (15%) per cent shall be limited as per the following table, based on two (2) foot contour intervals as shown on a grading plan.

Maximum Surface Disturbance per Lot Shall Not Exceed the Greater of:

Slope Category	Percent of Category	Square Feet
0 – 15%	Unlimited	Unlimited
15 – 25%	20%	1,500

25 – 30%	10%	1,000
>30%	5%	500

2. Issuance of Permit. The Borough Zoning Officer shall issue a Lot Grading Permit upon receipt of a letter of approval from the Borough Engineer.
3. Minor Amendments to Plan. Amendments, changes or modifications of a minor nature to a plan required as a result of conditions arising in the field during construction may be ordered or approved by the Borough Engineer. Additional escrow fees may be required if determined by the Borough Engineer.
4. Contents of Plan. Plans contents shall conform to the submittal requirements of §23-33.6, Grading Plan (for Minor/Major Developments).
5. Responsibility of Applicant.
 - (a) Maintain or repair any of the above or any drainage facilities damaged or otherwise adversely affected by reason of the applicant's project. Such maintenance or repair work shall be promptly performed.
 - (b) Promptly remove sediment from any stream or watercourse, pond, lake, or drainage facility resulting from the applicant's project.
 - (c) No person shall block, impede the flow of, alter or construct any material thing or commit any act which will affect normal or flood flow in any stream or watercourse without having obtained a Lot Grading Permit from the borough and, where required from the County of Somerset and the State of New Jersey.
6. An objective of the plan shall be to maximize groundwater recharge and to minimize runoff.
7. Soil erosion and sediment control measures shall, at a minimum, conform to the Standards for Soil Erosion and Sediment Control in New Jersey, as amended, or supplemented. All soil erosion control measures designed for the project must be maintained in working order for the entirety of the project.
8. A permit shall be obtained, when necessary, from the Somerset/Union Soil Conservation District.
9. The applicant shall retain a copy of the approved plan on the site and shall provide a copy of the approved plan to the site contractor.

10. The applicant shall be responsible for any damage to public improvements caused during the course of the work or installation of the improvement.

11. Additional Plan Requirements. In addition to the above, to the extent feasible in particular situations, the following measure or considerations shall be incorporated in the plan:
 - (a) The smallest practical area of land shall be disturbed at any one-time during development and the duration of such disturbance shall be kept to a practical minimum.
 - (b) Whenever feasible, natural vegetation and the natural ground surface shall be retained and protected.
 - (c) Temporary vegetative cover and/or mulching shall be used to protect areas from erosion during construction of the development.
 - (d) Diversion and outlets, both temporary and permanent, shall be constructed and/or installed to accommodate the runoff caused by the changed soil and surface conditions during and after development.
 - (e) Disturbed soil shall be stabilized as quickly as practicable.
 - (f) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped and removed by the use of debris basins, sediment basins or other approved measures.
 - (g) To the greatest extent practicable, the applicant shall preserve natural features and existing grades, thereby keeping grading, stripping and excavation to a minimum.
 - (h) Adequate provisions shall be made to minimize surface water from damaging slopes and embankments. Diversion may be used for this purpose.
 - (i) Fill shall be placed and stabilized so as to minimize erosion and shall not encroach on watercourses closer than 100 feet, unless specifically approved.
 - (j) During grading operations, approved methods of dust control will be exercised.
 - (k) During grading, excavation and other construction activities, slopes and embankments shall be stabilized by mulching with straw with a binder, or jute or other geotextile fabric staked in position and/or seeded with annual rye grass or other acceptable method.

- (l) During grading, excavation and other construction activities, the soil of remaining trees, at a distance of the CRR (Critical Root Radius), shall be protected from compaction caused by vehicles, machinery, and soil storage/movement. Protection shall be provided in the form of snow fencing, geotextile fabric staked in position, or other suitable barrier that prevents soil disturbance in the protected area.
 - (m) Permanent vegetative protection, plant cover, lawn or ground cover and mechanical erosion control devices and measures shall be installed or constructed, and completed, as soon as practically possible.
 - (n) Permanent improvements, such as pavement, catch basins, curbs, etc., shall be installed or constructed, and completed as soon as practically possible in the construction sequence.
 - (o) Permanent stormwater management facilities shall be constructed whenever feasible to temporarily retain the increased runoff from modifications to the land. Such facilities shall conform with standards and criteria established or approved by the Borough Engineer in accordance with the Borough stormwater control ordinance.
 - (p) Maintain existing drainage patterns and natural land cover to the extent possible and minimize any negative impacts to surrounding property owners or natural resources.
12. Approval of Lot Grading Plan; Conditions. In considering and approving a plan, the Land Use Board or Borough Engineer as the case may be:
- (a) Shall have the right, among other things, to fix the time schedule for exposure of land areas and for the construction and installation of improvements or the taking of other measures to prevent soil erosion and sedimentation, and may require that such work or measures be completed prior to any site development work.
 - (b) Shall provide for the posting of performance and maintenance guarantees where appropriate.
 - (c) May refer the plan to the Borough Environmental Commission, the Soil Conservation District, and/or any other qualified governmental agency or agencies.
 - (d) 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.
13. Notice of decision; time. Written notice shall be provided to the applicant indicating the decision on the plan. Such decision shall be made within a period of 30 days of submission of the complete application, unless, by mutual agreement, this period

is extended for an additional 30 days. Failure to make a decision within such period, or any extension thereof, shall constitute approval.

14. Deviations from approved 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, change, amend or modify the plan, except in accordance with §23-42.20. b.13(d).
15. Performance Guaranty. In cases where the scope of the project warrants, the applicant shall post a performance guaranty in an amount to be established by the Borough Engineer to guarantee the construction or installation of the measures included in the plan. The guaranty may be in the form of a performance bond issued by a surety in a form approved by the Borough Attorney, a certified check returnable after full compliance, or other type of surety as may be approved by the Borough Attorney. At least 10% of the surety shall be posted by certified check. The guaranty shall be released after all work has been completed in accordance with the approved plan. No guaranty shall be released until all construction and re-vegetation measures have been fully established and approved and all inspection fees have been paid to the Borough as provided for herein.
16. Enforcement; Inspection
 - (a) The requirements of this article shall be enforced by the Borough 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 establishment of measures, to discuss the details of location, changes due to field conditions, etc.
 - (2) Intermittently during the establishment of vegetative and structural measures.
 - (3) After completion of all construction and establishment of vegetation.
 - (4) At other times as may be necessitated because of unsatisfactory conditions.
 - (c) If the Borough 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 may refuse to inspect and/or 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 Borough Engineer, such are necessary to properly control soil erosion, sediment and stormwater runoff. The Borough Engineer may also issue stop-work orders and seek other penalties as necessary.

- (d) The applicant and contractor shall have a copy of the approved plan on site during construction.
 - (e) In the event of failure to comply with the requirements of this section, the Zoning Officer and/or Construction Official shall refuse to issue building permits and/or certificates of occupancy and may revoke building permits which may have been previously issued.
17. Fees. Fee - Fixed application fees for Minor or Major Development must be paid (see checklist). Minor Development projects (see checklist) will incur a \$500 non-refundable flat fee and no escrow fee. Major Development projects (see checklist) will have a \$1000 non-refundable fee and an escrow must be set up with an initial deposit of \$1000. Any unused escrow will be returned to the applicant after the final inspection for the project has been performed and all invoices with regard to review and inspection have been paid.
18. Exemptions
- (a) Land Disturbance for yards, gardens, swimming pools or other minor improvements where the total area of land disturbance is less than 5,000 square feet and the duration of the land disturbance does not exceed 6 months are specifically exempt from the requirements of this article.
 - (b) Land Disturbance associated with the construction of an alteration to a failing individual subsurface sewage disposal system is exempt from the requirements of this article.
 - (c) Land Disturbance in connection with Woodland Management Plans that have been approved by the Borough.
19. Appeals. Appeals from decisions under this article shall be made in writing to the Borough Council. Such appeal shall be filed with the Borough Zoning Officer within 10 days of the date of such decision, the appellant shall be entitled to a hearing before the Borough Council within 45 days from the date of appeal.
20. Violations and Penalties
- (a) If any person violates the provisions of this article, the Borough may institute a civil action in Superior Court for injunctive relief to prohibit and prevent such violation and such court may proceed in a summary manner.
 - (b) The Borough Engineer and the Borough Zoning officer are authorized to issue notices of violation pursuant to this Chapter.

(c) Any person convicted of a violation of this Chapter shall be subject to the fines and penalties set forth in Chapter 23, Article XII §23-96 of the Peapack & Gladstone Borough Land Development Ordinance. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

SECTION THREE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION FOUR. All ordinances of the Borough are inconsistent with the provisions of this of Peapack & Gladstone which ordinance are hereby repealed to the extent of such inconsistency.

SECTION FIVE. This ordinance shall take effect upon final passage and publication thereof as provided by law.

Introduced:

Introduced	Seconded	Borough Council	Aye	Nay	Abstain	Absent
		Jamie Murphy				
		Eric L. Quartello				
		Sergio Silva				
		Julie Sueta				
		John Sweeney				
		Jill Weible				

Adopted:

Introduced	Seconded	Borough Council	Aye	Nay	Abstain	Absent
		Jamie Murphy				
		Eric L. Quartello				
		Sergio Silva				
		Julie Sueta				
		John Sweeney				
		Jill Weible				

Attest:

 NANCY A. BRETZGER
 CLERK

 MARK A. CORIGLIANO
 MAYOR