

TOWNSHIP OF WANTAGE

ORDINANCE #2018-10

AN ORDINANCE OF THE TOWNSHIP OF WANTAGE, COUNTY OF SUSSEX, STATE OF NEW JERSEY, AMENDING CHAPTER 23 OF THE TOWNSHIP OF WANTAGE REVISED GENERAL ORDINANCES ENTITLED "SOIL REMOVAL" & AMENDING CHAPTER 21 OF THE TOWNSHIP OF WANTAGE REVISED GENERAL ORDINANCE TO INCLUDE SOIL FILL PERMIT FEES AND ESCROWS.

WHEREAS, the unregulated and uncontrolled dumping of fill in the Township of Wantage ("Township") may result in conditions detrimental to the health, safety and general welfare of the citizens of the Township; and

WHEREAS, there currently is no mechanism for the Township to abate and prohibit the hazards created by dumping of fill; and

WHEREAS, the Township Committee has determined that it is in the best interests of the Township to regulate the placement of fill within the Township; and

WHEREAS, procedures are needed to allow for submission of applications for the placement or removal of fill within the Township; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Wantage as follows:

SECTION 1. Title of Chapter XXIII Soil Removal shall be amended to read Soil Importing and Exporting.

SUBCHAPTER 23-1.2 Short Title shall be amended to read. This sub-chapter shall be known and may be cited as the Wantage Township Soil Importing and Exporting.

SUBCHAPTER 23-1.3 Definitions shall be amended to read: As used in this subchapter:

SUBCHAPTER 23-1.3 Definition. "Soil" shall be amended to read: "Soil" shall mean and include dirt, stone, gravel, sand, humus, clay, loam, and mixtures of any of the these but this shall not include quarry process, consolidated material, rock products, or refer to the quarrying of rocks utilized in the construction of roads, driveways or similar types of construction.

SUBCHAPTER 23-1.5 Use Variance Application shall be amended to read: No application for a permit shall be made, pursuant to this subchapter, until a use variance approval has been obtained from the land use board, or land use approval received from the land use board, except as otherwise provided in subsection 23-1.6.

SECTION 2. 23-2: Soil Importing and Exporting shall be created and added to the Municipal Code of the Township of Wantage as follows:

SUBCHAPTER 23-2: SOIL IMPORTING & EXPORTING

ARTICLE I Title; Findings; Definitions; Permit Requirements

23-2. Title

This subchapter shall be known as the "Soil Importing and Exporting Ordinance of the Township of Wantage"

23-2.1. Purpose and Findings

The Township Committee finds that the unregulated and uncontrolled placement and movement of soil and other mineral deposits may result in conditions detrimental to the public safety, health and general welfare. Such conditions substantially hamper and deter the efforts of the Township to effectuate the general purposes of municipal planning. Soil movement operations and filling operations should relate to the overall physical development of the area within which the operation is located. It is essential that all soil movement operations and filling operations be reviewed and approved by the Township Zoning Officer and/or Township Engineer. The source soil to be tested for contaminants and certified by a testing lab prior to bringing the soil to a site in the Township. All soil movement operations and filling operations must be conceived and operated in such a way that there will be no appreciable harmful effects to the environment. In order to best ensure that all soil movement operations and filling operations are an asset to the Township of Wantage, rather than a liability, all such operations shall adhere to the conditions, restrictions and provisions outlined in this chapter.

23-2.2. Definitions

The words defined in this section shall mean and include the following when used in this chapter:

APPROVED PLAN - A plan for the placement of soil importing approved by the Zoning Official and/or Township Engineer (minor permit) or by the Township Land Use Board (major permit) pursuant to the provisions of this chapter.

MAJOR SOIL IMPORTING PERMIT - A permit for the importing of more than 300 cubic yards of soil.

MINOR SOIL IMPORTING PERMIT - A permit for the importing of more than 100 cubic yards but less than 300 cubic yards of soil.

PERMIT - A soil importing permit.

PERSON - Includes an individual, a partnership, a corporation or any other legal entity.

LAND USE BOARD - The Planning Board of the Township of Wantage.

SOIL/FILL - Includes dirt, stone, gravel, sand, humus, clay, loam and mixtures of any of these, but this shall not include quarry process or rock products utilized in the construction of roads, driveways or similar types of construction.

TOPSOIL - The soil within eight inches of the surface.

TOWNSHIP - The Township of Wantage.

23-2.3. Permit Required

No person shall cause the placement of any soil/fill on any premises in the Township of Wantage whether such material be for sale, gift or otherwise, unless a permit therefore is first secured from the Township Zoning Officer and/or Township Engineer or the Township Planning Board as hereinafter provided. A permit shall not be required for the moving or placement of fill of less than 100 cubic yards of soil for any existing lot.

23-2.4. Exceptions and Exemptions

1. The provisions of this subchapter shall not apply to excavations or fill for building foundations, septic tanks or sanitary installations, provided that no excavation or construction of any kind shall take place until a site plan or permit has been approved by the Construction Official and/or Department of Health as required by law.
2. Nothing in this subchapter shall be construed to affect or apply to any person engaged in the moving of soil in and upon lands enrolled in the Soil Conservation Program of the Sussex County Soil Conservation District, Department of Agriculture Soil Conservation Service and for which lands an approved farm plan has been established by said agency, provided that all soil moving operations and fill operations in and upon such lands are performed in accordance with said approved farmland plan and provided further that a copy of said approved farmland plan is placed on file with the Township prior to any soil/fill operations.
3. A separate soil permit under this subchapter shall not be required for subdivisions and/or site plans approved pursuant to Chapter 15, Land Development Subcode of the Township of Wantage but shall be subject to any specific conditions imposed by the Land Use Board.
4. Nothing in this subchapter shall be construed to affect or apply to any person engaged in a state-mandated cleanup plan; provided that all soil moving, removal operations and fill operations are performed in accordance with said cleanup plan and provided further that notice of the state-mandated cleanup plan is placed on file with the Township Engineer prior to any soil moving, removal operations or fill operations.
5. The provisions of this subchapter shall not apply to the storage of sand, soil, stone, topsoil, mulch or other similar materials on lawfully existing landscaping and contractor yards, provided that the outdoor storage of materials on said property has previously been established or received site plan approval pursuant to Chapter 15, Land Use Procedures of the Township of Wantage.
6. This subchapter does not regulate the movement and placement of soil fill directly related to agricultural uses on farm properties within the Township of Wantage and does not supersede any rights granted under the Right to Farm Act.

23-2.5. Application for permit

1. Application for a minor soil/fill importing permit shall be filed with the Township Zoning officer who shall issue the permit based upon finding substantial compliance with the provisions of this subchapter; provided, however, the Township Zoning Officer and/or Township Engineer shall have the authority to deny a permit if he/she determines that the placement of soil/fill would be detrimental to the health, safety or welfare of the general public. The denial shall be in writing setting forth reasons for same.
2. Application for a major soil/fill importing permit shall be filed with the Township Land Use Board and shall be accompanied by a fee prescribed in Section 21-3, Fees and Escrows. Fifteen (15) copies of the application shall be submitted on forms prescribed by the Township Land Use Board and supplied by the Secretary to the Board.
3. The application for minor and major soil/fill importing permits shall set forth the following:
 1. Name and address of the applicant.
 2. Name and address of the owner, if other than the applicant.
 3. The description and location of the land in question, including the tax map block and lot numbers.
 4. The purpose or reason for placement of soil/fill.
 5. The nature and quantity, in cubic yards, of soil/fill to be imported.
 6. The source of material to be used as soil/fill and certification that the soil/fill can be considered "clean fill" as regulated by local and state regulations.
 7. Source from where the soil/fill is coming from to be shown on the plans, including tax lot and block; owner's name and municipality.
 8. The location to which the soil/fill is to be placed.
 9. The proposed date of completion of the soil/fill.
 10. Supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter.
 11. An approved soil erosion and sediment control permit (if applicable).

23-2.6. Supporting documentation for a major soil/fill importing placement application

The application for a major soil/fill importing placement permit shall be accompanied by a topographic map or maps prepared and certified by a professional engineer or land surveyor. The scale of said map shall not be more than 100 feet to the inch and shall include the following:

1. Key map.
2. Existing contour lines at five-foot intervals.
3. Proposed contour lines at five-foot intervals after the soil/fill is placed on the parcel.
4. All existing structures, all existing roads and drainage within 200 feet of the property.
5. Location of all property lines.
6. Location of any wetlands, streams, or other environmentally sensitive areas on the property.
7. Source from where the soil/fill is coming from shall be shown on the plans, including tax lot and block; owner's name and municipality.
8. Location of any topsoil or fill storage areas.
9. Soil erosion and sediment control measures.
10. Cross sections of the soil/fill areas at fifty-foot intervals.

23-2.7. Referral

Upon receipt of an application for a major soil/fill placement permit, the Land Use Board Secretary shall forthwith send a copy of same to the Zoning Officer, Construction Official, and Township Engineer, who shall review the application, and shall submit their reports, recommendations, and findings, to the Township Land Use Board within 45 days of receipt of the application.

23-2.8. Action by Land Use Board; notice of hearing on major soil/fill importing applications

1. The Township Land Use Board shall grant or deny the application within 45 days after receipt of the reports and recommendations of the Zoning Officer, Construction Official, and Township Engineer. On an application for a major soil/fill importing permit, the Land Use Board shall schedule a public hearing and shall notify the applicant of the date of such hearing. The applicant shall provide notice in accordance with Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
2. Five (5) days prior to the hearing, the applicant shall present to the Township Planning Board Secretary the following:
 1. Certification, in the form of an affidavit, signed and sworn by the applicant, affirming that he has notified all property owners, as required by law.
 2. Proof of publication of the newspaper notice as required by law.

23-2.9. Factors to be considered in approving permits

In considering and reviewing the application and arriving at a decision, the Zoning Officer and/or Township Engineer (minor permit) and the Township Land Use Board (major permit) shall be guided by and take into consideration the public health, safety and general welfare and the general purposes of municipal planning. Particular consideration shall be given to the following factors:

1. Soil erosion by water and sand.
2. Surface water drainage.
3. Soil fertility.
4. Lateral support of abutting streets and lands.
5. Public health and safety.
6. Land values and uses.
7. Existing contours and topographic character of the land prior to the placement of any soil/fill and proposed contours which will result subsequent to the placement of soil/fill in accordance with the soil fill application.
8. Whether the proposed placement of soil is necessary and incidental to the development of the property for its intended use or whether the proposed placement of soil/fill constitutes primarily a commercial activity.

23-2.10. Issuance of permit

A permit shall be issued after the approval of the application by the Zoning Official and/or Township Engineer (minor permit) or by the Township Land Use Board (major permit). The approval shall specifically list the total number of cubic yards of soil/fill authorized to be placed on the property as calculated by the Township Engineer based upon the contour maps submitted and approved.

ARTICLE II Operating Requirements

23-2.11. Method of operation

If a permit is issued for the placement of soil/fill, the owner or person in charge shall conduct the operations to ensure there are no sharp declivities, pits or depressions, and in such a manner that the area shall be properly leveled off, cleared of debris, and graded to conform with the contour lines and grades as required and shown on the approved plan.

23-2.12. Regulation of operation

No soil/fill shall be placed nor shall any operation be conducted so as to violate any of the regulations contained in this article.

23-2.13. Deposit of soil/fill on adjoining property or public roads

Soil/fill shall not be deposited or in any way placed upon adjoining property or public roads. Any soil/fill or material resulting from any such operation accumulating on any adjoining property or public road shall be removed immediately upon notice to the permittee of such accumulation.

23-2.14. Compliance with other standards and terms of permit

All operations shall be conducted in strict accordance with any state law, other ordinances of the Township, and the terms and conditions of any permit granted for such operations.

23-2.15. Nuisances and unsafe conditions

The operation shall be so conducted as not to constitute a nuisance, and in no event shall said operation create any hazardous or unsafe condition with regard to any person or persons. Natural screening is to be preserved by the applicant.

23-2.16. Restoration of area

1. Upon completion of any operation delineated on the approved plan, said area shall be properly leveled off, cleared of debris, and graded to conform to the contours and grades as approved by the Zoning Officer and/or Township Engineer. A final map for all major soil/fill permits shall be submitted containing and complying with all requirements as set forth in this chapter.
2. No trash, junk or debris may be stored in any area, and no safety hazards shall be permitted either during or after the completion of operations.

23-2.17. Storage limitations

Any soil/fill material temporary stored shall not exceed a height of 20 feet, and the maximum storage slope shall be 45 degrees.

§ 23-2.18. Enforcing officer; inspections

The Zoning Officer and/or Township Engineer are designated as the officials whose duty it shall be to enforce the provisions of this chapter. They shall, from time to time, upon their own initiative, and whenever directed by the Township, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of this chapter. The Zoning Officer and/or Township Engineer shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice.

§ 23-2.19. Use of streets for soil transportation

In the placement of soil or fill operation, the applicant shall cause streets to be kept free from dirt and debris resulting from the soil or fill operation.

ARTICLE III Fees; Bonds; Penalties and Miscellaneous Provisions

§ 23-2.20. Permit fees; inspection fees

1. The fees for a minor or major soil/fill placement permits are set forth in Chapter 21, Fees and Escrows.
2. The applicant shall be responsible for all of the inspection fees of the Township Engineer incurred in reviewing the application and making inspections.

23-2.21. Revocation of Permit; Violations and Penalties.

After notice and an opportunity to be heard before the Township Zoning Officer, the permit of any person may be revoked or suspended for such period as the Township Zoning Officer may determine for any violation of the terms hereof or the terms and conditions of any permit granted hereunder. In addition to the revocation provided for herein, any person who violates this chapter or any director or officer of a corporation who participates in a violation of this chapter shall, upon conviction thereof, be subject to a maximum fine of \$2,000, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.

§ 23-2.22. Other permits

Nothing contained in this sub chapter shall be construed to affect the owner's application for soil erosion and sediment control permits or any other state or federal regulations or permits as required.

SECTION 3. Chapter 21: Fees and Escrows of the Municipal Code of the Township of Wantage shall be amended to include fees and escrows for soil fill permits as follows:

§ 21-3 Soil/Fill Placement

1. Minor Soil/Fill Importing Placement Permit (100 to 300 cubic yards) Fee: \$100
Escrow: \$500
2. Major Soil/Fill Importing Placement Permit (greater than 300 cubic yards) Fee:
\$500 Escrow: \$2,000

SECTION 4. Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity of constitutionality of any other sections or parts thereof.

SECTION 5. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

SECTION 6. This Ordinance shall take effect immediately upon final passage, approval, and publication by law.

William Gaechter, Mayor

ATTEST:

Debra J. Millikin, Municipal Clerk

NOTICE is hereby given that the above ordinance was introduced and passed upon first reading at a meeting of the Mayor and Committee of the Township of Wantage, in the County of Sussex, New Jersey, held on the 13th day of September, 2018. It will be further considered for final passage after public hearing at a meeting of the Mayor and Committee to be held in the Municipal Building, 888 Route 23 South, in the Township of Wantage, on September 27, 2018, at 7:00 P.M., and during the preceding week copies of the ordinance will be made available at the Clerk's office in the Municipal Building to members of the general public.

Debra J. Millikin, Municipal Clerk