TOWNSHIP OF MANSFIELD
COUNTY OF WARREN

ORDINANCE 009-2024

AN ORDINANCE OF THE TOWNSHIP OF MANSFIELD, COUNTY OF WARREN, STATE OF NEW JERSEY, SUPPLEMENTING AND AMENDING THE TOWNSHIP CODE TO ADD NEW CHAPTER 285, "SOIL/ FILL IMPORTATION"

STATEMENT OF PURPOSE

The purpose of this Ordinance is to add a new Chapter to the Township Code, Chapter 285, "Soil/ Fill Importation" and to provide regulations for soil and fill importation

WHEREAS, the New Jersey Department of Environmental Protection encourages municipalities to adopt an ordinance to proactively regulate imported soil in an effort to keep contaminants from being deposited on residential, construction, and development sites; and

WHEREAS, the Township Committee deem it in the best interest of the health, safety, and welfare of the Township to adopt such ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Mansfield, County of Warren, State of New Jersey, as follows:

§ 285. Soil Importation.

A. Purpose.

1. The purpose of this section is to manage the importation and deposition of soil/fill to protect the safety, public health, and general welfare of the community and the environment. The adoption and enforcement of this section does not exempt an applicant from other required local, state, or federal approvals or local Soil Conservation District requirements and is meant to act in conjunction with all Soil Conservation District requirements and other applicable requirements with regards to acceptability and placement of soil/fill materials.

2. This section does not apply to soil/fill imported for the purposes of remediation pursuant to the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS, N.J.A.C. 7:26C) and Technical Requirements for Site Remediation (N.J.A.C. 7:26E), operation and/or closure of sanitary landfills (N.J.A.C. 7:26) or dredge repository sites approved by state or federal agencies.

B. Definitions.

1. For purposes of this section, the terms used herein are defined as follows:

ACCEPTABLE SOIL/FILL — Non-water-soluble, non-decomposable, inert solids such as soil, subsoil, topsoil, sand, clay, loam, gravel, humus, rock, concrete, brick, glass, and/or clay or ceramic products, free of construction/demolition debris, garbage, refuse, or sludge and not containing concentrations of one or more contaminants that exceed the New Jersey Department of Environmental Protection (NJDEP) Residential Direct Contact Soil Remediation Standards or Non-Residential Direct Contact Soil Remediation Standards, whichever is more stringent, as set forth in N.J.A.C. 7:26D, Remediation Standards.

APPLICANT — The property owner requesting a soil importation permit as provided for in this section.

CONSTRUCTION/DEMOLITION DEBRIS — Mixed-waste building material and rubble resulting from construction, remodeling, repair, and demolition operations on houses,

commercial buildings, pavements and other structures that includes, but is not limited to, treated and untreated wood scrap; tree parts, tree stumps and brush; plaster and wallboard; roofing materials; corrugated cardboard and miscellaneous paper; ferrous and nonferrous metal; non-asbestos building insulation; plastic scrap; carpets and padding; and other miscellaneous materials.

CONTAMINATED PROPERTY — Any property, including but not limited to structures, sediment, soil, and water, that contains a contaminant which is present at such levels or concentration as to require action pursuant to any federal or state statutes or regulations.

CONTAMINATED SOIL/FILL — Any soil/fill containing contaminants exceeding the current requirements for the most stringent concentrations between the Non-residential and Residential Direct Contact Soil Remediation Standards pursuant to N.J.A.C. 7:26D, Remediation Standards.

DREDGED MATERIAL — Sediments removed from under a body of water such as, but not limited to, a bay, harbor, lake, stream, and river, removed during a dredging operation that are displaced or removed to another location.

FILL — Material placed at a location for the purpose of filling low areas, changing the contours of an area, stabilizing existing grades and/or raising the grade of an area. "Fill" usually consists of soil, but may also include non-water-soluble, non-decomposable, inert solids, such as rock, gravel, brick, block, concrete, glass, and/or clay or ceramic products or any combination thereof.

PERMIT — The official document issued by the Municipality approving the soil importation application.

PERSON — Includes an individual, firm, corporation, association, society or partnership, or other business entity and their agents or employees.

REMEDIAL ACTION — As defined in the Technical Requirements for Site Remediation (Technical Requirements) at N.J.A.C. 7:26E-1.8, those actions taken at a contaminated site as may be required by the Department, including, without limitation, removal, treatment measures, containment, transportation, securing, or other engineering or institutional controls, whether to an unrestricted use or otherwise, designed to ensure that any contaminant is remediated in compliance with the applicable remediation standards. A remedial action continues as long as an engineering control or an institutional control is needed to protect the public health and safety and the environment, and until all unrestricted use remediation standards are met.

REMEDIATION — As defined in the Technical Requirements at N.J.A.C. 7:26E-1.8, all necessary actions to investigate and cleanup or respond to any known, suspected, or threatened discharge, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action; provided, however, that "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources.

C. Permit required. No person shall cause the placement of any soil, as defined in § 54-4, on any premises in the Township of Mansfield whether such material be for sale or gift, unless a permit therefor is first secured from the Township Engineer, Township Land Use Board or Township Committee as hereinafter provided.

D. Issuing authorities.

1. The Township Engineer shall be the issuing authority as to soil filling permits for 100 to 500 cubic yards

2. The Land Use Board shall be the issuing authority as to soil filling and removal permits involving from 501 to 2,000 cubic yards of soil.

3. The Township Committee shall be the issuing authority as to soil filling and removal permits

involving 2,001 or greater cubic yards of soil, to be known as large bulk permits. The applicant shall prepare a report which justifies the proposed activity in relation to the Master Plan and Ordinances of the Township.

E. Exceptions and exemptions. A permit shall not be required when any of the following exceptions/exemptions are applicable:

1. Virgin quarry products including, but not limited to, rock, stone, gravel, sand, clay, and other mined natural products.

2. Fill for septic tanks or sanitary installations provided a permit has been issued by the Construction Official and/or Warren County Department of Health as required by law.

3. The placement of soil in and upon lands enrolled in the Soil Conservation Program of the Upper Delaware Soil Conservation District, Department of Agriculture Soil Conservation Service and for which lands an approved farm plan has been established by said agency.

4. The placement of any soil undertaken in furtherance of a subdivision or site plan approval issued by the Township of Mansfield Land Use Board.

5. The placement of any soil in furtherance of an environmental site remediation that is supervised by a licensed site remediation professional.

6. The storage of sand, soil, stone, topsoil, mulch or other similar materials on lawfully existing landscaping and contractor yards.

7. Minor filling associated with landscaping activities at any property where less than 100 cubic yards, per year, of acceptable soil/fill material is being deposited.

8. Acceptable soil/fill material being moved from one section of an owner's property to another section of the same property.

9. The Township and any of its commissions/boards are exempt from any fees associated with this ordinance.

F. Application for minor permit. The property owner receiving the soil/fill material is responsible for obtaining the permit.

1. Application for a soil importing permit is required for 100 to 500 cubic yards. It shall be filed with the Township Engineer who shall issue the permit based upon finding substantial compliance with the provisions of this section; provided, however, the Township Engineer shall have the authority to deny a permit if it is determined that the placement of soil would be detrimental to the health, safety, or welfare of the general public. The approval or denial shall be provided to the applicant within 30 business days of the Township Engineer's receipt of the application. In the event the Township Engineer has not responded within that time frame, the applicant shall be notified via regular mail or email that additional time is required.

2. Application for a soil importing permit shall be accompanied by a fee calculated in accordance with Subsection j.

3. The application shall set forth the following:

   (a) Name and address of the applicant.

   (b) Name and address of the owner, if other than the applicant.

   (c) Executed authorization/permission from the property owner to conduct any and all activities that are set forth in the permit.

   (d) The description and location of the land in question, including the tax map block and lot

numbers.

(e) The purpose or reason for placement of soil/fill.

(f) The nature and quantity, in cubic yards, of soil/fill to be imported.

(g) 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, as per DEP standards for residential clean fill.

(h) Source from where the soil/fill is coming to be shown on the plans, including tax lot and block; owner's name and municipality.

(i) The location to which the soil/fill is to be placed.

(j) The proposed date of completion of the soil/fill (no permit shall be issued for a period greater than one year from the date of issue).

(k) Other supporting documentation as required to adequately address and comply with the purpose and the provisions of this section.

(l) An approved soil erosion and sediment control permit (if applicable).

G. Major soil importing application referral to Land Use Board.

1. The application for a major soil/fill importing placement permit, defined as any application to import from 501 to 2,000 cubic yards of soil, shall be referred to the Land Use Board for site plan approval. In addition to complying with the requirements of Subsection F3, any such application shall also be accompanied by a topographic map or maps prepared and certified by a professional engineer licensed in the State of New Jersey. The scale of said map shall not be more than 100 feet to the inch and shall include the following:

   (a) Key map.

   (b) Existing contour lines at five-foot intervals.

   (c) Proposed contour lines at five-foot intervals after the soil/fill is placed on the parcel.

   (d) All existing structures, all existing roads and drainage within 200 feet of the property.

   (e) Location of all property lines.

   (f) Location of any wetlands, streams, or other environmentally sensitive areas on the property.

   (g) 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.

   (h) Location of any topsoil or fill storage areas.

   (i) Soil erosion and sediment control measures.

   (j) Cross sections of the soil/fill areas at fifty-foot intervals.

2. 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. Five days prior to the hearing, the applicant shall present to the Township Land Use Board Secretary the following:

   (a) Certification, in the form of an affidavit, signed and sworn by the applicant, affirming

that he has notified all property owners within 200 feet, including certified notice receipts.

(b) Proof of publication in the official newspaper of the Township at least 10 days prior to the hearing.

3. The Land Use Board shall require an applicant to post the application and escrow fees as may be required pursuant to site plan review.

4. 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. Five days prior to the hearing, the applicant shall present to the Township Land Use Board Secretary the following:

(a) Certification, in the form of an affidavit, signed and sworn by the applicant, affirming that he has notified all property owners within 200 feet, including certified notice receipts.

(b) Proof of publication in the official newspaper of the Township at least 10 days prior to the hearing.

5. The Land Use Board shall require an applicant to post the application and escrow fees as may be required pursuant to site plan review.

H. Large bulk importing application referral to Township Committee.

1. The application for a large bulk soil/fill importing placement permit, defined as any application to import in excess of 2,001 cubic yards, shall be referred to the Township Committee. In addition to complying with the requirements of Subsection F3, any such application shall also be accompanied by a topographic map or maps prepared and certified by a professional engineer licensed in the State of New Jersey. The scale of said map shall not be more than 100 feet to the inch and shall include the following:

(a) Key map.

(b) Existing contour lines at five-foot intervals.

(c) Proposed contour lines at five-foot intervals after the soil/fill is placed on the parcel.

(d) All existing structures, all existing roads and drainage within 200 feet of the property.

(e) Location of all property lines.

(f) Location of any wetlands, streams, or other environmentally sensitive areas on the property.

(g) 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.

(h) Location of any topsoil or fill storage areas.

(i) Soil erosion and sediment control measures.

(j) Cross sections of the soil/fill areas at fifty-foot intervals.

I. Factors to be considered in approving permits. The Township Engineer (minor permit), Township Land Use Board (major permit) or Township Committee (bulk 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 wind.
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.
9. Such other factors as may bear upon or relate to the coordinated, adjusted, and harmonious physical development of the municipality.
10. Comments and recommendations of the Township Engineer.

J. Issuance of permit and operating requirements.

1. A permit shall be issued after the approval of the application by the Township Engineer (minor permit), the Township Land Use Board (major permit) or by Township Committee (bulk permit). The approval shall specifically list the total number of cubic yards of soil/fill authorized to be placed on the property.
2. 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.
3. 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.
4. 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 Township Engineer, Land Use Board or Township Committee. A final as-built map for all major soil/fill permits shall be submitted containing and complying with all requirements as set forth in this section.
5. Any soil/fill material temporarily stored shall not exceed a height of 20 feet, and the maximum storage slope shall be 45°.
6. When the placement of the imported fill disturbs one or more a acres of land application must comply with § 293 – Stormwater Management Article III Stormwater Control.

K. Enforcement.

1. The Zoning Officer or other official designated by the Township Committee shall have the authority to enforce the provisions of this section and to issue summonses to any person importing soil without a permit.

2. The Township Engineer is designated as the official whose duty it shall be to enforce the provisions of this section with respect to persons importing soil with a permit. The Township Engineer shall inspect the premises, at a minimum quarterly, for which permits have been granted to ensure compliance with the terms of the permit and of this section. As part of the application process the applicant will acknowledge that the Township Engineer shall have the right to enter upon the property in question for the purpose of examination and inspection of the operation without advance notice.

3. After notice and an opportunity to be heard before the Township Engineer the permit of any person may be revoked or suspended for such period as may be determined 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 section or any director or officer of a corporation who participates in a violation of this section shall, upon conviction thereof, be subject to a minimum 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.

4. In addition to the penalties set forth above, the Township shall have the right, but not the obligation, to pursue injunctive relief in the Superior Court of New Jersey, Warren County, including but not limited to, requiring the removal of any soil imported without a permit, testing to ensure no presence of contaminated soil, and site restoration.

5. Any person violating or failing to comply with any of the provisions of this section shall, upon conviction thereof, be punishable by a fine of not less than $100 nor more than $1,000, by imprisonment for a term not to exceed 90 days or by community service of not more than 90 days, or any combination of fine, imprisonment and community service as determined in the discretion of the Court. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

L. Permit and inspection fees.

1. The permit fee for a minor soil permit shall be $150 and an escrow deposit with the Township Clerk for Township Engineer review of $700.

2. The permit fee for a major soil permit of shall be $150 and an escrow deposit with the Land Use Board of $3,000.

3. The permit fee for a large bulk permit of shall be $150 and an escrow deposit with the Township Clerk of $3,500.

4. The applicant shall be responsible for all fees of the Township Engineer incurred in reviewing applications and making inspections prior or subsequent to the issuance of a permit of any kind.

ATTEST:

Wendy Barras, Township Municipal Clerk

TOWNSHIP OF MANSFIELD:

Joseph Watters, Mayor

Motion: Introduce Ordinance Moved by: Hayes; Seconded by: Mc Guinness
Vote: Motion carried by roll call vote (Summary: Yes=3)
Yes: Hayes, Mc Guinness, Watters
No:
Abstain:
Absent: Farino, Mora Dillon

Introduced: May 22, 2024
Published: May 30, 2024
Public Hearing: June 12, 2024

Motion: Adopt Ordinance Moved by: Hayes; Seconded by: Mc Guinness
Vote: Motion carried by roll call vote (Summary: Yes=5)
Yes: Farino, Hayes, Mc Guinness, Mora Dillon, Watters
No:
Abstain:
Absent:

Adopted: June 12, 2024
Published: June 20, 2024

CERTIFICATION

I, Wendy Barras, Township Municipal Clerk of the Township of Mansfield, do hereby certify that the foregoing Ordinance was duly adopted by the Township of Mansfield Committee on the 12th day of June, 2024.

Wendy Barras, Township Municipal Clerk