

## CHAPTER XX

### SOIL PROTECTION

#### 20-1 DEFINITIONS.

*Person* shall mean any developer, organization, individual, company, corporation, partnership, limited liability company, limited liability partnership, or any other form of business entity.

*Site* shall mean the Block(s) and Lot(s) that is named on the application form and is the location of a project.

*Soil Disturbance* shall mean any movement of soil including, movement of soil within one (1) site or movement of soil from one site to another site regardless of its destination. This also includes movement of soil on land disturbed previously as a result of a previous project or development.

*Soil exportation* shall mean removing soil from one (1) site to any location off-site.

*Soil importation* shall mean the bringing soil to the site from any location off-site.

*Soil movement* shall mean the transfer of soil within a site.

*Topsoil* shall mean soil that, in its natural state, constitutes the top layer of earth, and is composed of two (2%) percent or more, by weight, of organic matter and has the ability to support vegetation.  
(Ord. #05-11 § 1)

#### 20-2 GRADING PLANS REQUIRED.

Any soil disturbance that results in a change in grade or elevation of two (2') feet or more but does not fall within the limits set forth below in § 20-3, shall require approval from the Township Engineer. A grading plan shall be prepared and submitted to the Township Engineer for approval. There is no permit or fee associated with the approval of grading plans.  
(Ord. #05-11 § 1)

#### 20-3 SOIL DISTURBANCE PERMIT REQUIRED.

- a. Any soil disturbance within the Township of Rockaway of fifty thousand (50,000) square feet surface area or more on one (1) site or involving one hundred (100) cubic yards volume of soil or more on one (1) site shall comply with the provisions of this Soil Protection Chapter. Any soil disturbance within the Township of Rockaway of fifty thousand (50,000) square feet surface area or more one one (1) site or involving one hundred (100) cubic yards volume of soil or more on one (1) site requires first obtaining a soil disturbance permit, as provided herein, to be approved by the Township Council.
- b. This section shall not apply to soil disturbance incident under a permit issued by the Construction Official for the construction of a single family dwelling and its accessory structures (such as garbage, shed, driveway, etc.) nor to soil disturbance by the Township or its contractors.
- c. The soil disturbance permit shall expire after one (1) year form the date it is issued. In the event the soil disturbance activity for which the permit was issued is not completed within one (1) year, the applicant may apply to the Township Council for an extension of said permit. Approval of said extension shall not be unreasonably withheld.

(Ord. #05-11 § 1)

#### **20-4 APPLICATION AND CONTOUR MAP.**

- a. *Application.* Any disturbance of soil within the Township of Rockaway of fifty thousand (50,000) square feet surface or more on one (1) site or one hundred (100) cubic yards volume of soil or more on one (1) site requires the submission to the Township Clerk of an application for a soil disturbance permit. In addition, an application fee in the amount of one hundred fifty (\$150.00) dollars must be submitted with the application if the applicant proposes to disturb one hundred (100) to five hundred (500) cubic yards of soil. An application fee in the amount of five hundred (\$500.00) dollars must be submitted with the application if the applicant proposes to disturb five hundred one (501) or more cubic yards of soil. In the event soil is being exported from one (1) site within the Township of Rockaway and imported to another site within the Township of Rockaway, then two (2) soil disturbance permits must be obtained, one (1) permit for the exportation and one (1) permit for the importation. Applications can be obtained by the Township Clerk's office and shall be signed by the person intending to perform the soil disturbance and by the owner of the site where the soil is to be disturbed. In addition, the application must include a contour map of the site where the soil is to be disturbed, the appropriate fee and when the application involves the importation or

exportation of soil, a traffic plan. Twenty-five (25) copies of the application shall be submitted if the application will be reviewed by the Township Engineer and the Planning Board or Board of Adjustment, as set forth below. Four (4) copies of the application shall be submitted if only the Township Engineer will review the application.

b. *Contour Map.* Accompanying the application shall be contour map of the site where the soil is to be disturbed showing the proposed grades resulting from the intended soil disturbance in relation to the existing topography of the site. Twenty-five (25) copies of the map and earth work calculations shall be submitted if the application will be reviewed by the Township Engineer and the Planning Board or Board of Adjustment, as set forth below. Four (4) copies of the map and earth work calculations shall be submitted if only the Township Engineer will review the application. The map and earth work calculations must include not only the site where the soil is to be disturbed, but also the all surrounding lands within two hundred (200') feet of the perimeter of the site. The map and earth work calculations shall be prepared and certified by a licensed professional engineer of the State of New Jersey. The map must be prepared using a scale of not less than one (1") inch to one hundred (100') feet showing the site and its relation to all of the surrounding lands in the following manner:

1. The dimensions of the site and the lot and block number of the site and of each lot in the surrounding lands as shown on the Tax Assessment Map of the Township.
2. The existing elevations of all lands on a one hundred (100') foot grid layout with two (2') foot contour lines.
3. The existing elevations of all buildings, structures, streets, streams, bodies of water and watercourses, natural or artificial.
4. All wood areas.
5. The limits of the area(s) within the lot(s) in question within which the soil disturbance operations are to be conducted and the existing elevations of the limits at intervals of more more than one hundred (100') feet with two (2') foot contour lines.
6. The proposed final elevations where existing elevations shown on the map are to be changed as a result of completion of the proposed work.

7. Proposed slopes and lateral supports at the limits of the area upon completion of the soil disturbance operations.
  8. Proposed provisions and facilities for surface water drainage and, where applicable, channels of natural or artificial, including cross sections showing proposed channel widths, bank slopes and method of erosion and control thereof.
  9. Accurate cross sections at intervals of not more than one hundred (100') feet showing the locations and quantities, in cubic yards, of soil to be disturbed.
  10. All proposed elevations in enclosed rectangular boxes, and all existing elevations to be indicated without any kind of enclosure.
  11. If the application is before the Planning Board or Board of Adjustment, such other pertinent data as the Planning Board or Board of Adjustment may require.
- c. *Traffic Plan.* Accompanying all applications, which include the importation or exportation of soil, shall be a traffic plan which will indicate the following:
1. The specific trucking ingress and egress into the subject site.
  2. The proposed truck routes that will be used to service the site.
  3. The specific hours of operation.
  4. The maximum number of cubic yards that will be moved to or from the subject site during any twenty-four (24) hour period.
  5. The required traffic plan shall comply with the following requirements:
    - (a) Except for emergencies, all soil shall be imported or exported from the subject site during the hours of 7:00 a.m. through 6:00 p.m. eastern standard time on weekdays and 9:00 a.m. through 6:00 p.m. eastern standard time on weekends and holidays.
    - (b) The scheduling of trucks used to move soil to and from the subject site shall be done in such a way as to minimize truck traffic within school zones during the morning and afternoon school hours.

Twenty-five (25) copies of the traffic plan shall be submitted if the application will be reviewed by the Township Engineer and the Planning Board of Board of Adjustment. Four (4) copies of the traffic plan shall be submitted if only the Township Engineer will review the application.  
(Ord. #05-11 § 1)

## **20-5 REVIEW AND EXAMINATION OF APPLICATION.**

- a. Upon receipt of an application for a soil disturbance permit in conjunction with an application before the Planning Board or Board of Adjustment, the Township Clerk shall send a copy of the same to the Planning Board of Board of Adjustment, as appropriate and the Township Engineer, who shall review the application and submit their report and recommendations to the Township Council. In the event a soil disturbance permit application is submitted in conjunction with soil disturbance on property that is not before the Planning Board or Board of Adjustment, the permit application shall be submitted to the Township Clerk for distribution to the Township Engineer. The Township Engineer shall review the application and submit a report and recommendations to the Township Council.
- b. The applicant has the right to be heard by the Township Council at such time as the soil permit application is being considered by the Township Council.
- c. The Township Council shall grant or deny the application within forty-five (45) days after receipt of the reports and recommendations of the Planning Board or Board of Adjustment and/or Township Engineer. The Planning Board or Board of Adjustment and/or Township Engineer, in considering and reviewing the application and the contour map, shall take into consideration the public health, safety and general welfare, and shall give particular consideration to the following factors:
  1. The potential for soil erosion by water and wind.
  2. The prevention of silt and sediment from entering brooks, streams, ponds, lakes, rivers and other bodies of water.
  3. The existing drainage of the site involved and any changes in drainage patterns that may result from the establishment of new contours.
  4. Types and fertility of the soil to be removed and the use to which it will be put.

5. Lateral support slopes and grades of abutting streets and lands.
  6. Land values and uses of those properties affected directly or indirectly by the proposed disturbance of soil.
  7. Such other factors as may bear upon or relate to a coordinated, adjusted and harmonious physical development of the site in connection with the surrounding lands in accordance with the master plan for the development of the Township.
- d. If after examining the application, the map provided, and the reports of the Planning Board or Board of Adjustment and/or Township Engineer, the Township Council shall be of the opinion that the proposed soil disturbance will not create conditions inimical to the public health, welfare and safety and will not result in the creation of any sharp declivities, pits or depressions, soil erosion, fertility problems or depressed land values, nor create any drainage or sewerage problems or other conditions of danger, permission to remove the soil shall be granted with any condition or demand deemed necessary by the Township Council.

(Ord. #05-11 § 1)

**20-6 FEES.**

An application fee of one hundred fifty (\$150.00) dollars must be submitted with the application if the applicant proposes to disturb one hundred (100) to five hundred (500) cubic yards of soil. An application fee in the amount of five hundred (\$500.00) dollars must be submitted with the application if the applicant proposes to disturb five hundred one (501) or more cubic yards of soil.

Prior to issuance of a soil disturbance permit and approval of the same by the Township Council, the permit applicant shall pay to the Township a permit fee as per the following schedule:

Movement of soil within the same site.	\$0.10 per cubic yard
Exportation of soil from the site irrespective of the destination of the soil	\$0.25 per cubic yard (\$0.10 for movement and \$0.15 for exportation)
Importation of soil from a location outside the site	\$0.25 per cubic yard (\$0.10 for movement and \$0.15 for importation)

If soil is imported and the applicant is charged twenty-five (\$0.25) cents per cubic yard and that soil is later moved within the site in connection with the same soil movement activity or construction of the same development, a further fee shall not be charged. In addition, if soil is moved within the site and the applicant is charged ten (\$0.10) cents per cubic yard and that soil is later exported from the site in connection with the same soil movement activity or construction of the same development, an additional charge of fifteen (\$0.15) cents shall be charged.

All soil volume calculations for the purposes of determining fees shall be initially calculated by the applicant and submitted to the Township Engineer for approval.

(Ord. #05-11 § 1)

#### **20-7 PERFORMANCE GUARANTEE.**

Before any permit or permission for soil disturbance is granted or issued, the owner or applicant shall file with the Township Clerk, in such amount as in the opinion of the Township Engineer shall be sufficient, a performance guarantee, in a form satisfactory to the Township Attorney, consistent with the guarantee form permitted under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. to insure the faithful performance of the work to be undertaken, pursuant to the permission granted by the Council, pursuant to the provisions of this section. For those soil permit applications submitted in connection with an application before the Planning Board or Board of Adjustment, said performance guarantee may be included in the guarantee required by the developer's agreement. As constructed contour map shall be filed and approved by the Township Engineer prior to the release of any bond required.

(Ord. #05-11 § 1)

#### **20-8 SOIL PERMIT EFFECTIVE ONLY WHERE USE PERMITTED BY ZONING ORDINANCE.**

Notwithstanding anything herein to the contrary, a soil disturbance permit shall not be granted pursuant to this chapter in conjunction or related to a use not permitted for or on the relevant property by the Zoning Ordinance.

(Ord. #05-11 § 1)

#### **20-9 CONDUCT OF OPERATION; INSPECTION.**

- a. If permission to remove the soil is granted, the owner or person in charge shall so conduct the operations that there shall be 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

to the contour lines and grades as approved by the Township Engineer.

- b. For the purpose of administering and enforcing the provisions of this chapter any duly authorized officer, agent or employee of the Township shall have the right to enter into and upon any lands in or upon which such soil disturbance operations are being conducted, in order to examine and inspect such lands and the operations thereon.

(Ord. #05-11 § 1)

**20-10        REMOVAL OF TOP LAYER OR ARABLE SOIL PROHIBITED.**

The owner of the site or the per son in charge of the disturbance of soil, when permission has been duly granted, shall not take away the top layer of arable soil to a depth of six (6”) inches, but such top layer of arable soil to a depth of six (6”) inches shall be set aside for retention on the site, and shall be respreads over the site when the rest of the soil has been removed pursuant to levels and contour lines approved by the Township Engineer.

(Ord. #05-11 § 1)

**20-11        ENFORCEMENT.**

The Township Engineer is hereby designated as the officer whose duty it shall be to enforce the provisions of this chapter. The Township Engineer shall from time to time, upon the Township Engineer’s own initiative and whenever directed by the Mayor or Council, inspect the site for which permits have been granted to ensure compliance with the terms of the permit of this section. In addition, once all soil disturbance is complete, the Township Engineer shall inspect the site to determine whether the actual soil disturbed is consistent with the soil disturbance permit issued. In the event more soil is disturbed than authorized by the soil disturbance permit, the applicant shall submit the additional fees due. The additional fees due shall be calculated using the fee for the total soil disturbed minus the fees already paid. In no event shall fees paid for soil disturbance permit be refunded by the Township.

(Ord. #05-11 § 1)

**20-12        VIOLATIONS AND PENALTIES.**

Any person violating any of the provisions of this chapter shall be subject, upon conviction, to the penalties stated in Chapter I, Section 1-5.

(Ord. #05-11 §1)

**20-13        SOIL IMPORTED FOR USE AS FILL.**

- a. *Soil to be Used as Fill.* No person shall raise the level of any land or portion thereof within the Township by adding any material or

substance other than fill. This section is not applicable to the addition to the land of any material or substance in the ordinary course of farming, horticulture, gardening, quarrying and mining.

- b. *Applicable Substances; Exceptions.* Fill shall consist solely of topsoil, earth, rock, gravel, quarry process, or sand. Concrete and asphalt cannot be used as fill. Topsoil is the exposed layer of the earth's surface, and earth is the layer of soil immediately beneath the topsoil and above rock. Rock excludes boulders, boulders being detached and rounded or worn pieces of rock, the greatest side of which is no less than twelve (12") inches. All other materials are excluded. Excluded materials include, but are not limited to, soil containing contaminates, muck, peat, timber, debris, stumps and roots of trees, demolished structures, construction materials or of any other refuse; provided, however that these excluded items shall not have been reprocessed so as to conform with the definition of "fill" herein provided. Muck is soft silt or clay, very high in organic content, which is usually found in swampy areas. Peat is soil composed principally or partially decomposed vegetative matter.

(Ord. #05-11 §1)