

MANCHESTER TOWNSHIP ENVIRONMENTAL COMMISSION

Tuesday, September 22, 2020 at 5:00 PM
Manchester Township Municipal Building
1 Colonial Drive, Manchester Township, NJ

**REGULAR MEETING
AGENDA**

PLEASE TAKE NOTICE, the September 22, 2020 Regular Meeting of the Manchester Township Environmental Commission will be held virtually via Zoom at 5:00 PM.

I. CHAIRPERSON CALLS MEETING TO ORDER

“Adequate notice of this meeting has been given in accordance with Open Public Meetings Act. Public Law 1975, Chapter 231. Said notice was advertised in the Asbury Park Press and the Star Ledger.”

II. SALUTE TO FLAG

III. ROLL CALL

IV. APPROVAL OF PREVIOUS MINUTES

- August 25, 2020 Regular Meeting Minutes

V. NEW BUSINESS

- Pinelands Notices: Forest Fire Fuel Break

VI. OLD BUSINESS

- Whiting Landfill Solar Project
i. Soil Importation Ordinance
ii. Pollinator Garden Plans

VII. MEMBER REPORT

VIII. PUBLIC FORUM

IX. ADJOURNMENT

ANY OTHER GENERAL TOPIC OF CONCERN TO THE BOARD WILL BE DISCUSSED.

Posted September 18, 2020

Lauren Frazee
Environmental Commission Secretary



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

September 11, 2020

Mark Villanger
Ocean County Department of Planning
129 Hooper Avenue
Toms River, NJ 08754

Re: Application # 1985-0462.005
Block and Lots: See Attachment A
Manchester Township

Dear Mr. Villanger:

Enclosed is a copy of the Resolution adopted by the Pinelands Commission at its meeting on September 11, 2020. The Commission approved thinning of 152 acres of forest to create a forest fire fuel break subject to the conditions recommended by the Executive Director.

You may appeal the decision of the Pinelands Commission to the Appellate Division of Superior Court. Such an appeal must be filed within 45 days.

The Commission did ask that we note their concern regarding the potential use of the fuel break by off road recreational vehicles and to encourage the County to take feasible steps to address that concern.

If you have any questions, please do not hesitate to call.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enclosure: Resolution and Public Development Application Report, dated 8/21/2020

c: Secretary, Manchester Township Planning Board
Manchester Township Construction Code Official
Manchester Township Environmental Commission
Secretary, Ocean County Planning Board
Jason Hoger

Bill Brash
Raymond Clark
Dave Davis
Angel Vaccarella
V R
Kathie Smith
Colin Jaeger
Richard Silver
Kevin Kura
Tom & Susan Verneke
Dianne & Terry O'Brien
Natalie Lightbody
James & Mie Lowe
Sandra Homoski
Patricia White
Jean Montgomerie



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20-28

TITLE: Approving With Conditions an Application for Public Development (Application Number 1985-0462.005)

Commissioner Lohbauer moves and Commissioner Irick seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

1985-0462.005

Applicant:	Ocean County Department of Planning
Municipality:	Manchester Township
Management Area:	Pinelands Forest Area
	Pinelands Town
Date of Report:	August 21, 2020
Proposed Development:	Thinning of 152 acres of forest to create a forest fire fuel break

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for this application; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Number 1985-0462.005 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

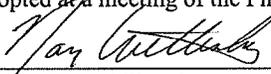
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery	X				Irick	X				Pikolycky	X			
Christy	X				Jannarone			X		Quinn			X	
Earlen	X				Lloyd	X				Rohan Green			X	
Howell	X				Lohbauer	X				Prickett	X			

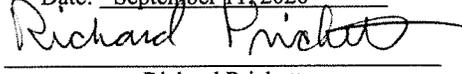
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: September 11, 2020



 Nancy Wittenberg
 Executive Director



 Richard Prickett
 Chairman



State of New Jersey
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General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

August 21, 2020

Mark Villinger (via email)
Ocean County Department of Planning
129 Hooper Avenue
Toms River, NJ 08754

Re: Application # 1985-0462.005
Blocks/Lots: See Attachment A
Manchester Township

Dear Mr. Villinger:

The Commission staff has completed its review of this application for thinning of 152 acres of forest to create a forest fire fuel break. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 11, 2020 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Manchester Township Planning Board (via email)
Manchester Township Construction Code Official (via email)
Manchester Township Environmental Commission (via email)
Secretary, Ocean County Planning Board (via email)
Jason Hoyer (via email)
Bill Brash (via email)
Raymond Clark (via email)

Dave Davis (via email)
Angel Vaccarella (via email)
V R (via email)
Kathie Smith (via email)
Colin Jaeger (via email)
Richard Silver (via email)
Kevin Kura (via email)
Tom & Susan Verneke (via email)
Dianne & Terry O'Brien (via email)
Natalie Lightbody (via email)
James & Mie Lowe (via email)
Sandra Homoski (via email)
Patricia White (via email)
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Chairman
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Executive Director

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Application Specific Information: AppInfo@pinelands.nj.gov

PUBLIC DEVELOPMENT APPLICATION REPORT

August 21, 2020

Mark Villinger (via email)
Ocean County Department of Planning
129 Hooper Avenue
Toms River, NJ 08754

Application No.: 1985-0462.005
Blocks/Lots: See Attachment A
Manchester Township

This application proposes thinning of 152 acres of forest to create a forest fire fuel break (fuel break). The fuel break will be located on the above referenced 1,207 acre parcel in Manchester Township.

The proposed fuel break will have a total length of 29,850 feet (5.7 miles) and a width of approximately 200 feet. The proposed fuel break will be created exclusively on publically owned lands. The proposed fuel break is located along the undeveloped southern and western borders of Roosevelt City, an existing residential community in Manchester Township. The proposed forest thinning is intended to help protect the existing residential development in the Roosevelt City area from forest fire.

The parcel consists of typical Pine Barrens upland vegetation dominated by Pitch Pine that are all roughly the same age. The applicant represents that the parcel contains an abnormally high density of tree and shrub layer and is classified as overstocked. This overstocking creates a very high forest fire fuel load and encourages the persistence of ladder fuels, which in turn lead to a very high risk of wildfire.

To create the fuel break, the application proposes the thinning of smaller diameter trees and shrubs while preserving larger diameter trees. The proposed thinning will reduce the fuel load and presence of forest fire ladder fuels, thereby reducing wildfire risk. The overall tree density of the area subject of the thinning will be reduced by not more than 30 to 40 percent. The smaller diameter trees subject of the thinning will be chipped and not removed from the parcel.

No herbicide use is proposed to create or maintain the fuel break.

The applicant also proposes to undertake prescribed burning on the parcel. Prescribed burning does not require application to the Commission.

STANDARDS

The Commission staff has reviewed the proposed fuel break for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.23(a)5 & 5.27(a))

The parcel is located in a Pinelands Forest Area and the Pinelands Town of Whiting. The proposed fuel break is a permitted use in a Pinelands Forest Area and a Pinelands Town.

Wetlands Standards (N.J.A.C. 7:50-6.9)

There are wetlands located on the parcel. The proposed tree thinning will not occur in or within 300 feet of wetlands.

Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

The area subject of the proposed tree thinning was evaluated for potential habitat for threatened and endangered (T&E) animal species. No tree thinning will occur in or within 300 feet of wetlands. To protect any T&E snake species that may be present, only low pressure ground equipment will be used for the proposed forest thinning. All forest thinning is proposed to occur between December 1 and April 1, when the concerned snake species will be denning. The proposed tree thinning is designed to avoid irreversible adverse impact on habitats critical to the survival of any local population of T&Es animal species.

The area subject of the proposed tree thinning was evaluated for potential habitat for T&E plant species. No tree thinning will occur in or within 300 feet of wetlands. The densely forested upland areas are too shaded to be suitable habitat for upland T&E plant species. The proposed forestry is designed to avoid irreversible adverse impact on the survival of any local populations of T&E plant species.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

No new or temporary access roads are proposed as part of this application. Minimal soil disturbance caused by tree thinning will occur. No new or temporary stream crossings are proposed. As a result, a cultural resource survey was not required for the proposed tree thinning.

PUBLIC COMMENT

This applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on July 14, 2020. Newspaper public notice was completed on July 13, 2020. The application was designated as complete on the Commission's website on July 14, 2020. The Commission's public comment period closed on August 14, 2020.

The Commission received sixteen written public comments (Attachment B) regarding the application. Attachment B will be emailed as a separate document. The Commission staff provided each commenter with a computer link access to the submitted Forest Stewardship Plan. Each commenter will receive a copy of this Report on an Application for Public Development.

Public Comment:

- Commenter One (Richard Silver): The commenter inquired as to whether the application proposed the complete clearing of vegetation, the construction of roads and how close the fuel break would be to his property line.

Staff Response: The application proposes to thin, not completely clear, the proposed forest within the 200 foot wide fuel break. No new roads are proposed. The proposed fuel break will be located on public lands, along the southern and western borders of the parcel subject of the application. The CMP does not specify or require a minimum set back from a property line for a proposed fuel break. There are approximately 90 property owners within 200 feet of the proposed fuel break. The submitted Forest Stewardship Plan depicts the location of the forest fire fuel break relative to surrounding properties.

- Comment Two (Colin Jaeger): The commenter inquired as to what the application was regarding and when it would occur.

Staff Response: The application proposes 152 acres of forest thinning to create a fire break. The CMP does not require the applicant to specify an anticipated start date for the proposed forest thinning. The commenter may wish to discuss the anticipated start date with an appropriate representative of Ocean County.

- Comment Three (Kathie Smith): The commenter asked how far the fuel break would be from her property line, the extent of the fuel break and the start date for the project.

Staff Response: The proposed 200 foot wide fuel break will be located on public lands, along the southern and western borders of the parcel subject of the application. The CMP does not specify or require a minimum set back from a property line for a proposed fuel break. There are approximately 90 property owners within 200 feet of the proposed fuel break. The submitted Forest Stewardship Plan depicts the location of the fuel break relative to surrounding properties. The CMP does require the applicant to specify an anticipated start date for the proposed forest thinning. The commenter may wish to discuss the anticipated start date with an appropriate representative of Ocean County.

- Comment Four (V.R., named not provided): The commenter inquired as to what the proposed fuel break entailed.

Staff Response: The application proposes 152 acres of forest thinning to create a fuel break. The Commission staff provided the commenter with computer link access to the Forest Stewardship Plan and the commenter will receive a copy of this Report.

- Comment Five (Angel Vaccarella): The commenter expressed concern about where the fuel break would be constructed.

Staff Response: The proposed fuel break will be located on public lands, along the southern and western borders of the parcel subject of the application. The submitted Forest Stewardship Plan depicts the location of the forest fire fuel break relative to surrounding lands.

- Comment Six (Dave David): The commenter inquired as to how close the proposed fuel break would be to his property line, the width of the fuel break, how the County would prevent use by off road vehicles and when the project would start.

Staff Response: The proposed 200 foot wide fuel break will be located on public lands, along the southern and western borders of the parcel subject of the application. There are approximately 90 property owners within 200 feet of the proposed fuel break. The submitted Forest Stewardship Plan depicts the location of the forest fire fuel break relative to surrounding properties. The Commission staff appreciates the commenters concerns regarding possible off road recreational vehicle use of the proposed fuel break. The CMP permits the creation of a fuel break. The commenter may wish to discuss this recreational vehicle concern with an appropriate representative of Ocean County. The CMP does require the applicant to specify an anticipated start date for the proposed forest thinning. The commenter may wish to discuss the anticipated start date with an appropriate representative of Ocean County.

- Comment Seven (Raymond Clark): The commenter expressed concern about the effect of controlled burning on their property and on vegetation located on public property.

Staff Response: The CMP does not regulate prescribed burning. The commenter may wish to discuss the concern with an appropriate representative of Ocean County.

- Comment Eight (Tom & Susan Varneke): The commenter inquired as to how the fuel break would affect their property and how the County would prevent use by off road vehicles.

Staff Response: The proposed fuel break will be located on public lands and will not be located on private property. There are approximately 90 property owners within 200 feet of the proposed fuel break. The submitted Forest Stewardship Plan depicts the location of the fuel break relative to surrounding properties. The Commission staff appreciates the commenters' concerns regarding possible off road recreational vehicle use of the proposed fuel break. The CMP permits the creation of a fuel break. The commenters may wish to discuss this concern with an appropriate representative of Ocean County.

- Comment Nine (Terry & Dianne O'Brien): The commenters requested a copy of the plan.

Staff Response: The Commission staff provided the commenter with computer link access to the submitted Forest Stewardship Plan.

- Comment Ten (Natalie Lightbody): The commenter inquired as to whether the fuel break would affect their property.

Staff Response: The proposed fuel break will be located exclusively on public lands. The proposed forest fire fuel break will not be located on private property. There are approximately 90 property owners within 200 feet of the proposed fuel break. The submitted Forest Stewardship Plan depicts the location of the forest fire fuel break relative to surrounding properties.

- Comments Eleven (James & Mia Lowe), Twelve (Patricia White) & Thirteen (Kevin Kura): The three commenters asked if their land was being taken for the proposed fuel break.

Staff Response: The proposed fuel break will be located exclusively on public lands. The proposed fuel break will not be located on private lands.

- Comment Fourteen (Chris): The commenter asked for a copy of the Executive Director's Report on an Application for Public Development.

Staff Response: The commenter is receiving a copy of this Report on an Application for Public Development.

- Comment Fifteen (Richard Silver): The commenter asked how the County would prevent illegal off road vehicles from accessing the site.

Staff Response: Staff Response: The proposed fuel break will be located on public lands. The Commission staff appreciates the commenters concern regarding possible off road recreational vehicle use of the proposed fuel break. The CMP permits the creation of a fuel break. The commenter may wish to discuss this concern with an appropriate representative of Ocean County.

- Comment Sixteen (Sandra Homoki): The commenter inquired as to how far the proposed fuel break was from their property line.

Staff Response: The proposed fuel break will be located on public lands, along the southern and western borders of the parcel subject of the application. There are approximately 90 property owners within 200 feet of the proposed fuel break. The submitted Forest Stewardship Plan depicts the location of the fuel break relative to surrounding properties. The CMP does not specify or require a minimum set back from a property line for a proposed forest fire fuel break.

CONDITIONS

1. The proposed forest thinning shall adhere to the Forest Stewardship Plan, prepared by Shelterwood Forest Managers, LLC, dated July 1, 2020.
2. No forest thinning shall occur after September 11, 2030 unless a new application has been completed with and approved by the Pinelands Commission.
3. To avoid impacting T&E snake species which may be denning, any proposed tree thinning that will utilize heavy equipment is limited to the time period between April 15th through November 15th, the time period when snakes are active and not denning.
4. Prior to any tree thinning, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed creation of a forest fire fuel break conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommend that the Pinelands Commission **APPROVE** the proposed fuel break subject to the above conditions.



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PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on September 8, 2020 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

ATTACHMENT A

Block 99.39, Lot 1
Block 99.74, Lot 1
Block 99.75, Lot 1
Block 99.76, Lots 1 - 3
Block 99.117, Lots 8 - 10
Block 99.120, Lots 6 - 10
Block 99.163, Lots 1 - 5, 9 & 10
Block 99.168, Lots 1 - 5
Block 99.212, Lots 1 - 10
Block 99.217, Lots 1 - 5
Block 99.220, Lots 6 - 9
Block 99.221, Lots 2 & 9
Block 99.222, Lots 2 & 9
Block 99.223, Lots 2 & 6
Block 99.224, Lot 1
Block 99.225, Lot 1
Block 99.226, Lot 1
Block 99.227, Lot 1
Block 99.228, Lot 1
Block 99.229, Lots 1 - 17 & 19 - 25
Block 99.240, Lots 1 - 32
Block 99.241, Lots 1 - 32
Block 99.244, Lots 1 - 5 & 58 - 62
Block 99.245, Lots 1 - 5 & 58 - 62
Block 99.246, Lots 1 - 31 & 58 - 62
Block 99.247, Lots 1 - 31
Block 99.248, Lots 5 - 14
Block 99.249, Lots 5 - 14
Block 99.250, Lots 5 - 14
Block 99.251, Lots 5, 6 & 9 - 14
Block 99.252, Lots 2 & 12 - 14
Block 99.253, Lots 1 - 10 & 28
Block 99.254, Lots 1 - 2 & 20 - 25
Block 99.255, Lots 1 - 4 & 7 - 18
Block 99.262, Lots 1, 2 & 18
Block 99.263, Lots 1, 2, 17 & 18
Block 99.264, Lots 1, 2, 17 & 18
Block 99.265, Lots 1, 2, 17 & 18
Block 99.280, Lots 4 - 6 & 11 - 18
Block 99.281, Lots 6 - 8 & 16 - 27
Block 99.282, Lots 8 - 16 & 22 - 24
Block 99.283, Lots 1 - 7 & 12 - 18
Block 99.347, Lots 6 - 8
Block 99.355, Lots 1 & 2
Block 99.356, Lots 1 - 4, 9 & 10
Block 99.359, Lots 1 & 2

INTRODUCTION

DOWN AND DIRTY: FIGHTING UNWANTED RESIDENTIAL SOIL DUMPING

No one wants tainted soil in their New Jersey backyard. This fill, which is sold or sometimes offered free of charge, may contain contaminants that should not be present on residential property.

The battle to keep such soil – possibly “dirty” dirt – off Garden State land starts most effectively at the municipal level, with regulations that prevent this material from being deposited on residential, construction and development sites.

The New Jersey Department of Environmental Protection encourages municipalities to be proactive by enacting a soil and fill ordinance. Such a mandate gives local government authority on what kind of soil is brought into the municipality and placed on residential and other spaces within its boundaries.

The DEP has prepared a model ordinance for local governments to consider that is based on existing soil/fill ordinances around the state. This model was created as a template only and should be modified and adapted by the implementing municipality as necessary and appropriate to its needs.

If there are any questions on the issue or additional information is needed, contact the DEP’s Bureau of Solid Waste Enforcement at (609) 292-6305.



guardyourbackyard.nj.gov

SAMPLE LEGISLATION

Chapter XXXXX – SOIL/FILL IMPORTATION

- I. Purpose
- II. Definitions
- III. Permit required for acceptable soil/fill materials
- IV. Permit exemptions
- V. Responsibility for obtaining permit
- VI. Duration of permit
- VII. Permit application requirements
- VIII. Review of application
- IX. Factors to be considered in granting permit
- X. Appeals
- XI. Violations and Penalties
- XII. Permit suspension or revocation

GENERAL REFERENCES

(Town/municipality to reference pertinent ordinances here)

I. Purpose

The purpose of this chapter 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 chapter 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.

This chapter 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.

guardyourbackyard.nj.gov

II. Definitions

For purposes of this chapter, 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 chapter.

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 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.

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.

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.

[ADDITIONAL DEFINITIONS (3) THAT MAY BE INCORPORATED]

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.

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.

REMEDICATION

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.

III. Permit required for deposit of acceptable soil/fill material

- A. No person shall deposit or place soil/fill material, or cause, allow, or permit soil/fill to be placed on any property in the Township of unless a permit is issued by the Township and any other applicable county, state or federal approval(s) or permit(s).
- B. Unless otherwise exempt under this chapter, no permit shall be issued unless: (1) the applicant submits proof that the soil/fill material has been tested consistent with Municipality's requirements; (2) the soil/fill meets the definition of acceptable soil/fill; and (3) the application otherwise conforms with the standards of this chapter.

(Note: requirement for testing is ultimately at discretion of the governing body.)

IV. Permit Exemptions

A person is not required to obtain a permit under this chapter for the following:

- A. Minor filling associated with landscaping activities at any property where up to ____ cubic yards, per year of acceptable soil/fill material is being deposited.
- B. Fill for septic installation and/or repair certified to be such by a licensed New Jersey engineer; or approved by the local health agency.
- C. Virgin quarry products including, but not limited to, rock, stone, gravel, sand, clay and other mined natural products.
- D. Acceptable soil/fill material being moved from one section of an owner's property to another section of the same property.

V. Responsibility for obtaining permit

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

VI. Duration of permit

Each permit issued under the terms of this chapter shall be valid only for the location(s) and soil/fill material described therein and shall be valid for one year from the date of issuance.

VII. Permit Application Requirements

The procedure to apply for a Soil/Fill Importation Permit shall be as follows:

- A. All applications for Soil/Fill Importation Permits shall be filed with (*township office/representative*) who shall administer the applications and permits.
- B. A fee, in the amount of \$_____ as established by....., shall be remitted at the time of application. The fee shall address the costs associated with the review of the application and for any field monitoring inspections, as applicable.
- C. The application shall include FORM SI-1 ACCEPTABLE SOIL/FILL MATERIAL CERTIFICATION FORM to be completed as follows:

By the soil/fill material supplier

Part 1: The date the form is completed, the soil/fill supplier's name, title, company name, address, telephone number, and email contact information.

Part 2: The site name(s), address(es), and block/lot of the property(ies) supplying the soil/fill material.

Brief history of the source property(ies), including current or past use of the property.

Answers to questions 1 through 3.

A date soil/fill material was subject to analytical testing.

Analytical data shall include documentation consistent with Municipality's requirements.

Certification (signature) from the soil/fill supplier that the soil/fill being imported meets the definition of acceptable soil/fill.

By the person receiving or placing acceptable soil/fill material

Part 3: The date the form is completed, the name, title, company name, address, telephone number, and email contact information.

The address of the location where soil/fill placement will be.

Answers to questions 1 through 5.

Certification (signature) from the person receiving or placing the soil/fill material.

VIII. Review of Application

Within _____ days after receipt of a complete application, the Township shall review the application and either approve, conditionally approve or deny the application.

IX. Factors to be considered in granting permit

(This section, and resulting permit application, should be modified to include/exclude the list or specific factors as applicable for the municipality.)

In addition to the testing requirements otherwise set forth in this chapter, in reviewing a permit application under this chapter, the [governing body] shall be guided by and take into consideration the public health, safety and general welfare together with the general purposes of municipal planning. Particular consideration may include, but is not limited 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. Impact on quality of groundwater and/or surface water
8. Impact on local streets, utilities and services
9. Existing contours and topographic character of the land prior to the placement of any soil/fill and proposed contours which will result after the placement of soil/fill in accordance with the application
10. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the municipality
11. Comments and recommendations of the [municipal engineer]

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X. Appeals

Whenever an application for a permit is denied, the applicant may appeal the denial to the municipal governing body by filing a written notice of appeal with the Township Clerk within _____ days after receiving written notice of the denial of such application. The municipal governing body shall thereafter hold a public hearing within _____ days on the matter in accordance with rules or procedures to be established by the municipal governing authority and may modify, affirm or reverse the decision.

XI. Violations and penalties

Any person who violates any provision of this Chapter shall be liable to a fine of not more than \$_____ or to imprisonment for a term not to exceed _____ days or both such fine and imprisonment, at the direction of the Municipal Court. Every day in which such violation continues after due notice has been served shall constitute a separate violation or offense. Upon order of the Court, the violator shall pay all costs associated with analytical testing, remediation, removal and proper disposal of soil/fill material determined to not to comply with the definition of acceptable soil/fill.

XII. Permit suspension or revocation

The person receiving a permit pursuant to this Chapter shall comply with all conditions set forth in the permit. Submitting false information or noncompliance with a permit may subject the person receiving a permit to a penalty pursuant to section XI above and/or suspension or revocation of such a permit.

FORM SI-1 ACCEPTABLE SOIL/FILL MATERIAL CERTIFICATION FORM

Instructions: The supplier shall make the acceptability determination at the site of soil/fill origin and will complete Parts 1 and 2 of this form. Part 3 will be completed by the person receiving the material to be used as acceptable soil/fill material.

Part 1: Supplier of soil/fill material information

Date: _____

Name (print): _____ Title: _____

Company Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ Email Address: _____

Part 2: Source of acceptable soil/fill material site information

Source Site Name: _____

Past Site Name(s) if known: _____

Street Address: _____

Block _____ Lot(s) _____

City: _____ State: _____ Zip: _____

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Brief history of the source property, including all property uses:

1. Has the source property ever been known or suspected to be contaminated? _____
2. Do historical operations at the property reflect or suggest the potential for radiological contaminants? _____
3. Are there naturally occurring radiological materials known or suspected at the source property? _____

Date soil/fill material was subject to analytical testing (provide copies): _____

Justification for not providing testing results: _____

Certification

I, the undersigned, certify under penalty of law, that the information provided in Parts 1 and 2 of this form is true and correct to the best of my knowledge and that the soil/fill material meets the definition of acceptable soil/fill as identified in Chapter xxxxx. I also certify, based upon visual inspection, that the soil material does not contain solid waste, any free liquid other than water, obvious signs of staining or discoloration, and that it will not create a public nuisance such as, but not limited to, odors.

Signature: _____

Part 3: Person receiving or placing acceptable soil/fill material

Date: _____

Name (print): _____ Title: _____

Company Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ Email Address: _____

Physical address of soil/fill placement: _____

Block _____ Lot(s) _____

City: _____ State: _____ Zip: _____

1. Purpose for importing soil/fill:

2. Quantity, in cubic yards, of acceptable soil/fill material to be imported or placed: _____
3. Anticipated date of placement: _____
4. Anticipated date of final grading: _____
5. Anticipated date of securing the deposited fill (seeding, macadam, etc.): _____

Certification

I, the undersigned, certify under penalty of law that the information provided is true and correct to the best of my knowledge, information and belief. I also certify, based upon visual inspection, that the soil material does not contain solid waste, any free liquid other than water, obvious signs of staining or discoloration, and that it will not create a public nuisance such as, but not limited to, odors.

Signature: _____

ORDINANCE NO. 04-20

AN ORDINANCE OF THE TOWNSHIP OF JACKSON, COUNTY OF OCEAN, STATE OF NEW JERSEY ESTABLISHING NEW CHAPTER 364 ENTITLED “ SOIL/FILL IMPORTATION PERMIT”

WHEREAS, the Municipal Code does not provide for the regulation and permitting of Soils and or Fill being imported to the Township; and

WHEREAS, in accord with the New Jersey Department of Environmental Protection, the Governing Body desires to be proactive by enacting reasonable regulations of soils and fill, particularly soils and fill to be utilized for fill; and

WHEREAS, the Governing Body of the Township of Jackson finds that the general public, health, safety, and welfare is preserved and sustained by the provision of such reasonable regulation; and

WHEREAS, the Governing Body of the Township of Jackson recognizes that establishing a procedure to be followed regarding the importation of soil provides for a framework of understanding for the betterment of public health, safety, and general welfare of our citizens; and

WHEREAS, it is a further purpose of the article to exercise the municipal police power implicit in the New Jersey Constitution and granted pursuant to N.J.S.A. 40:48-2 and, inter alia, to promote the welfare of the municipality and its inhabitants; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Jackson, County of Ocean, and State of New Jersey, that Chapter 364 “Soil/Fill Importation Permit is hereby added to the Township of Jackson Township Code as follows:

Chapter 364– SOIL/FILL IMPORTATION PERMIT

- I. Title
- II. Purpose and Findings
- III. Definitions
- IV. Permit required for acceptable soil/fill materials
- V. Exceptions and Exemptions
- VI. Application for Permit
- VII. Supporting Documentation
- VIII. Fees and Escrow
- IX. Review of Application
- X. Action by Land Use Board
- XI. Factors to be considered in granting permit
- XII. Issuance of Permit
- XIII. Duration of Permit
- XIV. Method of Operation
- XV. Regulation of Operation
- XVI. Deposit of Soil/Fill
- XVII. Compliance
- XVIII. Nuisances and Unsafe Conditions

- XIX. Restoration of Area
- XX. Storage Limitations
- XXI. Enforcement and Inspections
- XXII. Use of Streets
- XXIII. Permit and Inspection Fees
- XXIV. Revocation of Permit; Violations and Penalties
- XXV. Appendix: Form S-1

ARTICLE I Title; Findings; Definitions; Permit Requirements

364-I. Title

This chapter shall be known as the “Soil/Fill Ordinance of the Township of Jackson”

364-II. Purpose and Findings

Whereas the Township of Jackson has an environment unique to The State of New Jersey, the County of Ocean, and its surrounding municipalities, the Township finds that the unregulated and uncontrolled placement and movement of soil, fill and other mineral deposits can 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 and fill 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 and fill movement operations and filling operations be reviewed and approved by the Township Zoning Officer and/or Township Engineer. All soil and fill 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 Jackson, rather than a liability, all such operations shall adhere to the conditions, restrictions and provisions outlined in this chapter.

The purpose of this chapter 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 chapter 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.

This chapter 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.

364-III Definitions

For purposes of this chapter, the terms used herein are defined as follows:

ACCEPTABLE SOIL/FILL

Non-water-soluble, non-decomposable, inert solids such as soil, fill, 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 / developer requesting a soil/fill importation permit as provided for in this chapter.

APPROVED PLAN

A plan for the placement of soil/fill approved by the Township Engineer (minor permit) or by the Township Zoning Board of Adjustment (major permit) pursuant to the provisions of this chapter.

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 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.

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.

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 or otherwise 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, and/or clay or any combination thereof.

PERMIT

The official document issued by the Zoning Officer, Township Engineer, Zoning Board of Adjustment, or Planning Board approving the Soil Importation Application.

MAJOR SOIL/FILLIMPORTATION PERMIT

A permit for the fill of more than 500 cubic yards or more of soil/fill.

MINOR SOIL/FILLIMPORTATION PERMIT

A permit for the fill of more than 100 cubic yards but less than 500 cubic yards or more of soil/fill.

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 New Jersey Department of Environmental Protection ("NJDEP"), 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.

364-IV Permit Required

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

364-V Exceptions and Exemptions

- A. The provisions of this chapter shall not apply to excavations or fill for 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.
- B. Nothing in this chapter 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 Ocean County, 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 farm plan and provided further that a copy of said approved farm plan is placed on file with the Township prior to any soil moving operations or fill operations.

- C. Nothing in this chapter 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.
- D. The provisions of this chapter 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 and does not require site plan approval pursuant to Land Development Code of the Township of Jackson.
- E. This chapter does not regulate the movement and placement of soil fill directly related to agricultural uses on farm properties within the Township of Jackson and does not supersede any rights granted under the Right to Farm Act.

364-VI Application for Permit

- A. Application for a Minor Soil/Fill Importation Permit including application and escrow fees shall be filed with the Township Zoning Officer who shall issue the permit based upon compliance with the provisions of this chapter; provided, however, that the Township Zoning Officer shall have the authority to deny a permit if he/she determines that the placement of fill would be detrimental to the health, welfare or safety of the general public. The denial shall be in writing setting forth reasons for same. Any party denied a Permit shall have the right to an Appeal as set forth in N.J.S.A. 40:55D-70(a).
- B. Application for Major Soil/Fill Importation Permit shall be filed with the Township Zoning Board of Adjustment and shall be accompanied by such fees prescribed in **Section 364, Fees and Escrows**. Copies of the application shall be submitted on forms prescribed by the Township Zoning Board of Adjustment and supplied by the Secretary to the Board.
- C. The Township Planning Board, and its professionals, shall have jurisdiction to review and approve, to the same extent as the Township Zoning Board of Adjustment, any Application for a Major Soil Importation Permit that is included with or required as a consequence of, a land use development application properly before the Township Planning Board.
- D. The application for minor and major soil fill permits 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. The description and location of the land in question, including the tax map block and lot numbers.
 - d. The purpose or reason for placement of soil/fill.
 - e. The nature and quantity, in cubic yards, of soil to be filled.

- f. The source of material to be used as fill and certification that the fill can be considered “acceptable soil/fill” as regulated by local and state regulations.
- g. The location to which the soil/fill is to be placed.
- h. The proposed date of completion of the soil and/or fill.
- i. Supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter.
- j. An approved soil erosion and sediment control permit (if applicable).

E. Any approval of a Board of relevant jurisdiction shall be memorialized by that Board.

F. The application shall include FORM SI-1 ACCEPTABLE SOIL/FILL MATERIAL CERTIFICATION FORM to be completed as follows:

By the soil/fill material supplier

Part 1: The date the form is completed, the soil/fill supplier's name, title, company name, address, telephone number, and email contact information.

Part 2: The site name(s), address(es), and block/lot of the property(ies) supplying the soil/fill material.

Brief history of the source property(ies), including current or past use of the property.

Answers to questions 1 through 3.

A date soil/fill material was subject to analytical testing.

Analytical data shall include documentation consistent with Municipality's requirements.

Certification (signature) from the soil/fill supplier that the soil/fill being imported meets the definition of acceptable soil/fill.

By the person receiving or placing acceptable soil/fill material

Part 3: The date the form is completed, the name, title, company name, address, telephone number, and email contact information.

The address of the location where soil/fill placement will be.

Answers to questions 1 through 5.

Certification (signature) from the person receiving or placing the soil/fill material.

364-VII Supporting documentation for a major soil fill application

The application for a major soil fill 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 one-foot intervals.
3. Proposed contour lines at one-foot intervals after fill of the soil.

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. Location of any topsoil storage areas.
8. Soil erosion and sediment control measures.
9. Cross sections of the fill areas at fifty-foot intervals.
10. Supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter, which may include but not be limited to hours of operation, haul routes for transporting material and interim traffic and safety measures.

364-VIII Soil/Fill Placement

1. Minor Soil/Fill Permit (100 to 500 cubic yards) Fee: \$1000 Escrow: \$2000.
2. Major Soil/Fill Permit (greater than 500 cubic yards) Fee: \$2,000 for every 1,000 cubic yards up to a maximum fee of \$10,000. Escrow: \$2,500 for the first 1,000 cubic yards; \$1000 for every additional 1,000 cubic yards up to a maximum escrow of \$25,000.

364-IX Review of Major Soil/Fill Importation Permit Application

- 1) A Major Soil/Fill Importation Permit Application shall be deemed an Application for Development as defined in the Township's Land Use Development Code Regulations. A Major Soil/Fill Importation Permit Application, submitted as part of a separate land use development application, shall not require separate notices and the Major Soil/Fill Importation Permit Application shall be deemed a part of the land use development application for purposes of compliance with the notice and other requirements of an Application for Development. As part of a separate land use development application, a Major Soil/Fill Importation Permit Application shall only, require submission of separate permit applications fees and additional permit escrow deposits as required herein.
- 2) Upon receipt of an application for a Major Soil/Fill Importation Permit, the Zoning Board of Adjustment Secretary shall forthwith send a copy of same to the Zoning Officer, Zoning Board of Adjustment Professionals, Township Engineer and the Environmental Commission who shall review the application, and submit their professional reports and recommendations, to the Zoning Board of Adjustment.
- 3) Pursuant to NJAC 40:55D-1 et seq and this code, the Zoning Board of Adjustment shall, within 120 days after an Application is deemed administratively complete, (or such later date as consented to by the applicant) review the application and either approve, conditionally approve or deny the application. If the application for Major Soil/Fill Importation Permit is submitted with or as a part of a land use development application, then the date on which that land use application is deemed administratively complete shall control for the purposes of this section.

364-X Factors to be considered in approving permits

In considering and reviewing the application and arriving at a decision, the Township Engineer in consultation

with the Township Zoning Officer (minor permit) and the Zoning Board of Adjustment (or Planning Board if submitted with a Land Use Application (major permit) be guided by and take into consideration the public health, safety and general welfare and the general purposes of municipal planning, and particular consideration shall be given to the following factors:

- A. Soil erosion by water and sand.
- B. Surface water drainage.
- C. Soil fertility.
- D. Lateral support of abutting streets and lands.
- E. Public health and safety.
- F. Land values and uses.
- G. Contours, both existing and proposed.
- H. Existing contours and topographic character of the land prior to the placement of any soil and proposed contours which will result subsequent to the placement of soil in accordance with the soil fill application.
- I. 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 fill constitutes primarily a commercial activity.

364-XI Issuance of permit

A permit shall be issued after the approval of the application by the Zoning Officer (minor permit) or by the Township Zoning Board of Adjustment or Planning Board (major permit). The approval shall specifically list the total number of cubic yards of soil authorized to be filled as calculated by the Township Professionals based upon the maps and exhibits submitted and approved. The Township Engineer shall be empowered to determine the necessity of requesting a bond related to the issuance of the permit.

364-XIIDuration of permit

Each permit issued under the terms of this chapter shall be valid only for the location(s) and soil/fill material described therein and shall be valid for one year from the date of issuance. No more than one (1) minor soil/fill importation permit per lot and block may be issued within a calendar year from the date of the initial permit unless the cumulative volume is less than or equal to 500 cubic yards.

364-XIII Method of operation

If a permit is issued for the placement of soil/fill as provided herein, the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits or depressions, and in such 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.

364-XIV 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 after a permit is granted.

364-XV Deposit of soil on adjoining property or public roads

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

364-XVI Compliance with other standards and terms of permit

All operations shall be conducted in strict accordance with any federal law including but not limited to the Pinelands Comprehensive Management Plan (if applicable), or state law, other ordinances of the Township, and the terms and conditions of any permit granted for such operations.

364-XVII 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.

364-XVIII Restoration of area

- A. 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.
- B. No trash, junk or debris may be stored in any area, and no safety hazards will be permitted, either during or after the completion of operations.

364-XIX Storage limitations

The material stored shall not exceed a height of 20 feet, and the maximum storage slope shall be 45 degrees.

364-XX Enforcement and Inspections

The Zoning Officer is hereby designated as the officer whose duty it shall be to enforce the provisions of this chapter. He/she shall, from time to time, upon his/her 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 shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice.

364-XXI Use of Streets for soil transportation

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

364-XXII Permit and Inspection Fees

- A. The fees for a minor or major soil placement permits are set forth in Chapter 364 (see below), Fees and Escrows.
- B. The obligor shall be responsible for all of the inspection fees of the Township Engineer incurred in making the inspections.

364-XXIII Revocation of Permit; Violations and Penalties.

- A) 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.

- B) 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 \$2,500, or imprisonment for a period not to exceed 90 days, or both, at the direction of the municipal court. Every day in which such violation continues after due notice has been served shall constitute a separate violation or offense. Upon order of the Court, the violator shall pay all costs associated with analytical testing, remediation, removal and proper disposal of soil/fill material determined to not to comply with the definition of acceptable soil/fill.

- C) In addition to the remedies provided herein, if any person, firm or corporation violates any of the provisions of this chapter or fails to comply with the provisions of a Soil Fill Permit, the Township of Jackson may institute a civil action in the Superior Court for injunctive relief and damages to prohibit and prevent such violation or violations

- D) The Superior Court and Municipal Court shall have jurisdiction to enforce this chapter. If the violation hereof is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

364-XXIV Other permits

Nothing contained in this 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.

364-XXV Appendix Form S-1

FORM SL-1 ACCEPTABLE SOIL/FILL MATERIAL CERTIFICATION FORM

Instructions: The supplier shall make the acceptability determination at the site of soil/fill origin and will complete Parts 1 and 2 of this form. Part 3 will be completed by the person receiving the material to be used as acceptable soil/fill material.

Part 1: Supplier of soil/fill material information

Date: _____

Name (print): _____ Title: _____

CompanyName: _____

StreetAddress: _____

City: _____ State: _____ Zip: _____

Phone #: _____ EmailAddress: _____

Part 2: Source of acceptable soil/fill material site information

Source SiteName: _____

Past Site Name(s) if known: _____

StreetAddress: _____

Block _____ Lot(s) _____

City: _____ State: _____ Zip: _____

Brief history of the source property, including all property uses:

1. Has the source property ever been known or suspected to be contaminated? _____
2. Do historical operations at the property reflect or suggest the potential for radiological contaminants?

3. Are there naturally occurring radiological materials known or suspected at the source property?

Date soil/fill material was subject to analytical testing (provide copies): _____

Justification for not providing testing results: _____

Certification

I, the undersigned, certify under penalty of law, that the information provided in Parts 1 and 2 of this form is true and correct to the best of my knowledge and that the soil/fill material meets the definition of acceptable soil/fill as identified in Chapter 364xx. I also certify, based upon visual inspection, that the soil material does not contain solid waste, any free liquid other than water, obvious signs of staining or discoloration, and that it will not create a public nuisance such as, but not limited to, odors.

Signature: _____

Part 3: Person receiving or placing acceptable soil/fill material

Date: _____

Name (print): _____ Title: _____

CompanyName: _____

StreetAddress: _____

City: _____ State: _____ Zip: _____

Phone #: _____ EmailAddress: _____

Physical address of soil/fill placement: _____

Block _____ Lot(s) _____

City: _____ State: _____ Zip: _____

1. Purpose for importing soil/fill: _____

2. _____
Quantity, in cubic yards, of acceptable soil/fill material to be imported or placed: _____

Qu

3. Anticipated date of placement: _____

4. Anticipated date of final grading: _____

5. Anticipated date of securing the deposited fill (seeding, macadam, etc.): _____

Certification

I, the undersigned, certify under penalty of law that the information provided is true and correct to the best of my knowledge, information and belief. I also certify, based upon visual inspection, that the soil material does not contain solid waste, any free liquid other than water, obvious signs of staining or discoloration, and that it will not create a public nuisance such as, but not limited to, odors.

Signature: _____

Section II.

Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section III

This Ordinance shall take effect immediately upon its final passage and publication as required by law.

NOTICE

TAKE NOTICE that the ordinance entitled as of above was introduced and passed on first reading at a regular meeting of the governing body of the Township of Jackson held on the 14th day of April, 2020 and will be further considered upon second reading for final passage at a regular meeting of the said Mayor and Council of the Township of Jackson to be held on the 28th day of April, 2020 at the Municipal Complex, 95 West Veterans Highway, Jackson, New Jersey, at 6:30 p.m. or as soon thereafter as the matter may be reached, at which time and place any person desiring to be heard thereon will be given such opportunity.

Janice Kisty, RMC/CPM
Municipal Clerk