

**FRANKFORD TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE #2019-03

AMENDING CHAPTER XXVI ENTITLED “SOIL AND SOIL REMOVAL”

BE IT ORDAINED by the Mayor and Committee of the Township of Frankford, County of Sussex, State of New Jersey, that Chapter XXVI of the Code of the Township of Frankford entitled, “Soil and Soil Removal” is hereby amended, including the establishment of a new Section 26-3 entitled “Soil Importation” as follows:

Section 1.

26-3. Soil Importation

26-3-1. Permit Required.

No person shall cause the placement of any soil as defined in Section 26-1.3 on any premises in the Township of Frankford whether such material be for sale, gift or otherwise, unless a permit therefore is first secured from the Township Engineer or the Township Land Use Board as hereinafter provided.

26-3-1. Exceptions and Exemptions.

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

- a. Soil moved from any property located within the Township of Frankford to another property also located within the Township.
- b. Soil imported from any licensed quarry.

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

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

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

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

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

h. Soil imported from any non-commercial, non-industrial, residential or agricultural property within the County of Sussex.

i. Soil imported for recreational facilities, including but not limited to, ball parks, recreational and sports fields, bathing beaches, and equestrian facilities.

j. The Township and any of its commissions/boards are exempt from the terms of this Ordinance.

k. The Mayor and Township Committee shall have the right, upon written request to grant partial or complete waivers from the requirements of this chapter for any volunteer or non-profit group or charitable/religious organization.

26-3-2. Application for Minor Permit.

a. Application for a soil importing permit up to but not exceeding 500 cubic yards shall be filed with the Township Engineer who shall issue the permit based upon finding substantial compliance with the provisions of this subchapter; 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 ten (10) 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 application shall be deemed denied.

b. Application for a soil importing permit shall be accompanied by a fee calculated in accordance with Section 26-1.6.

c. The application shall set forth the following:

1. Name and address of the applicant.
2. Name and address of the owner, if other than the applicant.
3. The description and location of the land in question, including the tax map block and lot numbers.
4. The purpose or reason for placement of soil/fill.
5. The nature and quantity, in cubic yards, of soil/fill to be imported.
6. The source of material to be used as soil/fill and certification that the soil/fill can be considered "clean fill" as regulated by local and state regulations.
7. Source from where the soil/fill is coming from to be shown on the plans, including tax lot and block; owner's name and municipality.

8. The location to which the soil/fill is to be placed.
9. The proposed date of completion of the soil/fill.
10. Other supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter.
11. An approved soil erosion and sediment control permit (if applicable).

26-3-3. Major Soil Importing Application Referral to Land Use Board.

a. The application for a major soil/fill importing placement permit, defined as any application to import in excess of 500 cubic yards, shall be referred to the Land Use Board for site plan approval. In addition to complying with the requirements of Section 26-3.2, and any such application shall also be accompanied by a topographic map or maps prepared and certified by a professional engineer or land surveyor. The scale of said map shall not be more than 100 feet to the inch and shall include the following:

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

8. Location of any topsoil or fill storage areas.
9. Soil erosion and sediment control measures.
10. Cross sections of the soil/fill areas at fifty-foot intervals.

b. The Land Use Board shall schedule a public hearing and shall notify the applicant of the date of such hearing. The applicant shall provide notice in accordance with Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. 2. Five (5) days prior to the hearing, the applicant shall present to the Township Planning Board Secretary the following:

1. Certification, in the form of an affidavit, signed and sworn by the applicant, affirming that he has notified all property owners within 200 feet, including certified notice receipts.
2. Proof of publication in the official newspaper of the Township at least ten (10) days prior to the hearing.

c. The Land Use Board shall require an applicant to post the application and escrow fees set forth in Section 30-805d3(c).

26-3-4. Factors to Be Considered in Approving Permits.

The Township Engineer (minor permit) and the Township Land Use Board (major permit) shall be guided by and take into consideration the public health, safety and general welfare and the general purposes of municipal planning. Particular consideration shall be given to the following factors:

1. Soil erosion by water and sand.
2. Surface water drainage.
3. Soil fertility.
4. Lateral support of abutting streets and lands.

5. Public health and safety.
6. Land values and uses.
7. Existing contours and topographic character of the land prior to the placement of any soil/fill and proposed contours which will result subsequent to the placement of soil/fill in accordance with the soil fill application.
8. Whether the proposed placement of soil is necessary and incidental to the development of the property for its intended use or whether the proposed placement of soil/fill constitutes primarily a commercial activity.

26-3-5. Issuance of Permit and Operating Requirements.

- a. A permit shall be issued after the approval of the application by the Township Engineer (minor permit) or by the Township Land Use Board (major permit). The approval shall specifically list the total number of cubic yards of soil/fill authorized to be placed on the property.
- b. 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.
- c. 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.
- d. 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. A final map for all major soil/fill permits shall be submitted containing and complying with all requirements as set forth in this chapter.

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

26-3-6. Enforcement.

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

b. The Township Engineer is designated as the official whose duty it shall be to enforce the provisions of this chapter with respect to persons importing soil with a permit. The Township Engineer shall, from time to time, upon their own initiative, and whenever directed by the Township, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of this chapter. The Township Engineer shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice.

c. 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 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 minimum fine of \$2,000.00, 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.

d. In addition to the penalties set forth in paragraph b. above, the Township shall have the right, but not the obligation, to pursue injunctive relief in the Superior Court of New Jersey, Sussex 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.

26-3-7. Permit and Inspection Fees.

a. The permit fee for a minor soil permit shall be \$150.00 and an escrow deposit for Township Engineer review of \$500.00.

b. The permit fee for a major soil permit of shall be \$150.00 and an escrow deposit with the Land Use Board of \$3,000.00.

c. 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.

Section 2.

Should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

Section 3.

All ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

Effective Date. This Ordinance shall take effect after final passage, adoption and publication according to law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Frankford held on March 12, 2019, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on April 9, 2019 at 7:00 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 151 US Highway 206, Augusta, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Patricia L. Bussow, RMC
Municipal Clerk

**FRANKFORD TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

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NOTICE OF ADOPTION

Notice is hereby given that the foregoing Ordinance was adopted on second reading after a public hearing at a meeting of the Mayor and Committee of the Township of Frankford, County of Sussex, State of New Jersey, held on the 9th day of April 2019.

Patricia L. Bussow, RMC
Municipal Clerk