

ORDINANCE No. 2021-15

AN ORDINANCE OF COLTS NECK TOWNSHIP IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 193, "SOIL REMOVAL" OF THE CODE OF COLTS NECK TOWNSHIP

WHEREAS; on April 23, 1997 the Colts Neck Township Committee amended in its entirety Chapter 102, Development Regulations of the Code of Colts Neck Township; and

WHEREAS, Colts Neck Township is continuously and closely involved in planning and development process in the Township, and

WHEREAS, one of the purposes of planning is to review the Township's policies and Development Regulations based on best available information and past experiences and to adopt regulations to guide the use of lands in a manner that promotes the public good and general public welfare, and

WHEREAS, soils and fill material may contain contaminants that can be a threat to the public health, safety and welfare of the public; and

WHEREAS, it is in the best interest of the residents of Colts Neck Township to manage the importation and deposition of soil and fill materials to protect the public health, safety and welfare of the community and the environment; and

WHEREAS, the Colts Neck Township Committee finds that the uncontrol removal and/or import of soil from or to lands within the Township has created in the past or will create in the future one or more of the following conditions: soil erosion by wind and water; inadequate and improper surface water drainage; decrease in soil fertility; siltation of streams; deposit on Township streets large quantities of dust, mud or dirt and creation of dangerous depressions or pits collecting stagnant water; and

WHEREAS the Township Committee of Colts Neck Township finds that it is in the best interest of the Township to amend existing ordinance regarding soil removal and to add new ordinance requirements regarding the import of fill to better manage the importation and deposition of soil and fill material; and

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Colts Neck, County of Monmouth, State of New Jersey as follows: (additions to text indicated by underline; deletions to text indicated by ~~strikeout~~).

SECTION I: That Section 193 Soil Removal is hereby retitled as Soil Removal/Fill and is amended and supplemented as follows:

CHAPTER 193, Soil Removal/Fill

ARTICLE I

Soil Removal

§193-1. Permission of Township Engineer required.

No person shall excavate or otherwise remove soil for sale or for use other than on the premises from which the soil shall be taken, except that reasonably necessary for the construction or alteration of a building, septic system or inground swimming pool on such premises and excavation or grading required therefor or reasonably incidental thereto, without first having procured permission from the Township Engineer. In the case of the development of a subdivision or a site plan considered by the Planning Board of the Township of Colts Neck, permission may be granted by the Planning Board in connection with granting such approvals.

§193-2. Application and map; approval by Township Engineer or Planning Board.

- A. The Township Engineer shall not consider any application for the removal of soil from the premises for sale or otherwise unless and until the owner of the premises shall first file with the Township Clerk an application requesting such permission, together with a map of the premises showing the contour lines and proposed contour grades resulting from such intended removal of soil in relation to the topography of the premises, and said proposed contour lines and proposed grades shall be subject to the inspection and approval of the Township Engineer of the Township of Colts Neck. No such permission for soil removal shall be issued until such map has been filed and until the proposed contour lines and grades have been approved by the Township Engineer of the Township of Colts Neck.
- B. When an application for subdivision or site plan approval is being considered, the Planning Board shall be the approving authority and permission pursuant to this section shall be granted in conjunction with such subdivision and/or site plan approval.

§193-3. Permit application fees.

- A. An application fee in the amount of \$250 shall be furnished at the time of application.
- B. An escrow fee in the amount of \$1,500 to reimburse the Township for reasonable administrative, legal and engineering work shall be furnished at the time of application.

§193-34. Hearing; Factors considered; grant of permission by Township Engineer or Planning Board.

- A. ~~Upon receipt of an application for soil removal written request for a hearing made by the applicant to the Township Engineer, an opportunity to be heard shall be granted within 30 days thereafter, and the Township Engineer, in considering and reviewing the application and in arriving at its decision, shall be guided and take into consideration the public health, safety and general welfare, and particular consideration shall be given to the following factors:~~
 - (1) Soil erosion by water and wind
 - (2) Drainage
 - (3) Soil fertility
 - (4) Lateral support slopes and grades of abutting streets and lands
 - (5) Land values and uses
 - (6) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the township.
- B. If, after examining the application and the map provided for in §193-2 of this chapter ~~and after the hearing in the event a hearing is requested by the applicant,~~ the Township Engineer shall be of the opinion that the proposed soil removal 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 or fertility problems or depressed land values nor create any drainage, sewerage problems or other conditions of danger, permission to remove the soil shall be granted.
- C. When an application for subdivision or site plan approval is being considered, the Planning Board shall be the approving authority and permission pursuant to this section shall be granted in conjunction with such subdivision and/or site plan approval.

§193-45 Conduct of operations as approved by Township Engineer or Planning Board.

- A. If permission to remove the soil shall be 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 with the contour lines and grades as approved by the Township Engineer ~~of the Township of Colts Neck~~.
- B. When an application for subdivision or site plan approval is being considered, the Planning Board shall be the approving authority and permission pursuant to this section shall be granted in conjunction with such subdivision and/or site plan approval.

§193-56 Top layer of arable soil to be retained.

The owner of the premises or the person in charge of the removal of soil, when permission has been duly granted, shall not take away the top layer of arable soil for a depth of six inches, but such top layer of arable soil to a depth of six inches shall be set aside for retention on the premises and shall be respread over the premises when the rest of the soil has been removed, pursuant to levels and contour lines approved by the Township Engineer ~~of the Township of Colts Neck~~.

§193-67. Bond

Before any permit or permission for soil removal shall be granted or issued, the owner or applicant shall file, upon the request of the Township Engineer ~~or Planning Board~~ as set forth in the within ordinance, a bond, in form and with surety acceptable to the Township ~~of Colts Neck Township~~, in such amount as, in the opinion of the Township Engineer ~~of the Township of Colts Neck~~, shall be sufficient to assure the faithful performance of the work to be undertaken pursuant to the permission granted by the Township Engineer ~~or the Planning Board~~ pursuant to the provisions of this chapter.

§193-78. Compliance required; term of permit; renewal.

No excavation shall be made and no soil shall be removed under the provisions of this chapter unless a permit therefor shall have been first obtained as provided herein, and no excavation shall be made and no soil shall be removed except in conformity with the provisions of this chapter. Said permit shall remain in effect for one year from the date of its issuance. A renewal permit shall be issued only upon application made therefore.

§193-89. Violations and penalties

A violation of any provision of this chapter shall be punishable as provided in §1-9 of this Code.

ARTICLE II

Soil Fill

§193-10. 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, unless a permit is issued by the Township Engineer as well as any other applicable county, state or federal approval(s) or permit(s) including Freehold Soil Conservation District approval.
- 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 in accordance with this Chapter; (2) the soil/fill meets the definition of acceptable soil/fill; and (3) the application otherwise conforms with the standards of this chapter.

§193-11. Permit exemption

A soil fill permit is not required under this chapter for the following:

- A. Minor filling activities at any property where up to 100 cubic yards, per year of acceptable soil/fill material is being deposited.
- B. Construction, addition or alteration of a single family dwelling.
- C. Installation of an inground swimming pool.
- D. Installation of an individual on-site disposal system (septic system).

§193-12. Responsibility for obtaining permit

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

§193-13. 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, unless otherwise extended by the Township Engineer.

§193-14. Application and map; approval by Township Engineer or Planning Board

- A. The Township Engineer shall not consider any application for fill or import of soil to a premises until the owner of the premises first file with the Township Clerk an application requesting such permission, together with a map of the premises showing contour lines and proposed contour grades resulting from such intended import or fill of soil in relation to the topography of the premises and said proposed contour lines and proposed grades shall be subject to the inspection and approval of the Township Engineer. No such permission for soil import or fill shall be issued until such map has been filed and until the proposed contour lines and grades have been approved by the Township Engineer.
- B. When an application for subdivision or site plan approval is being considered, the Planning Board shall be the approving authority and permission pursuant to this section shall be granted in conjunction with such subdivision and/or site plan approval.

§193-15. Fill material

- A. Fill shall be constructed of soil or rock or a combination of these materials. These materials shall be free from construction debris, pavement, treated and untreated wood scraps, tree parts, tree stumps, brush, plaster, wallboard, corrugated cardboard, paper, ferrous and nonferrous metals, plastic scrap, car parts and other miscellaneous materials.
- B. Prior to the start of work, data from a legally certified testing laboratory shall be submitted to the Township Engineer that the fill does not contain concentrations of one or more contaminants that exceed the New Jersey Department of Environmental Protection 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.

§193-16. Permit application fees

- A. An application fee in the amount of \$250 shall be furnished at the time of application.
- B. An escrow fee in the amount of \$1,500 to reimburse the Township for reasonable administrative, legal and engineering work shall be furnished at the time of application.

§193-17. Factors to be considered in granting permit

In reviewing a permit application under this Chapter, the Township Engineer 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.

§193-18. Bond

Before any permit or permission for soil import or fill shall be granted or issued, the owner or applicant shall file, upon the request of the Engineer as set forth in the within ordinance, a Bond, in the form and with surety acceptance to Colts Neck Township, in such amount as, in the opinion of the Township Engineer shall be sufficient to assure the faithful performance of work to be undertaken pursuant to the permission granted by the Township Engineer pursuant to the provisions of this chapter.


A violation of this chapter shall be punishable as provided in §1-9 of this code.

If any section, paragraph subsection, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this ordinance shall remain in full force and effect.

All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

I hereby certify the Ordinance foregoing to be a true copy of an Ordinance introduced by the Township Committee of the Township of Colts Neck on the 30th day of June, 2021. A public hearing will be held on July 14, 2021, 7:30 p.m. Town Hall, 124 Cedar Drive.


Trina Lindsey, Township Clerk

<u>RECORD OF VOTE</u>										
	<u>First Reading</u>					<u>Second Reading</u>				
	<u>June 30, 2021</u>					<u>July 14, 2021</u>				
	<u>M</u> <u>S</u>	<u>Yes</u>	<u>No</u>	<u>NV</u>	<u>Ab</u>	<u>M</u> <u>S</u>	<u>Yes</u>	<u>No</u>	<u>NV</u>	<u>Ab</u>
Mayor Viola		X					X			
Deputy Mayor Bartolomeo	M	X					X			
Fitzpatrick		X					X			
Torchia Buss		X				S	X			
Rizzuto	S	X				M	X			

M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent