

TOWNSHIP OF BYRAM

ORDINANCE NO. 011-2022

AN ORDINANCE OF THE TOWNSHIP OF BYRAM, COUNTY OF SUSSEX, STATE OF NEW JERSEY, CREATING CHAPTER 210 OF THE MUNICIPAL CODE OF THE TOWNSHIP OF BYRAM ENTITLED “SOIL/FILL PLACEMENT” AND AMENDING CHAPTER A287 OF THE CODE OF THE MUNICIPAL CODE OF THE TOWNSHIP OF BYRAM TO INCLUDE SOIL/FILL PERMIT FEES AND ESCROWS

Purpose Statement: The purpose of this ordinance is to regulate the uncontrolled and improper filling of property in the Township of Byram with fill that may result in conditions detrimental to the health, safety and general welfare of the citizens of Byram Township.

WHEREAS, the unregulated and uncontrolled dumping of fill in the Township of Byram (“Township”) may result in conditions detrimental to the health, safety and general welfare of the citizens of the Township; and

WHEREAS, there currently is no mechanism for the Township to abate and prohibit the hazards created by dumping of fill; and

WHEREAS, the Mayor and Township Council have determined that it is in the best interests of the Township to regulate the placement of fill within the Township; and

WHEREAS, procedures are needed to allow for submission of applications for the placement of fill within the Township; and

WHEREAS, the Township Code must be amended to include permit fees for the placement of fill; and

NOW, THEREFORE, BE IT ORDAINED by the by the Township Council of the Township of Byram as follows:

SECTION 1. Chapter 210: Soil/fill Replacement shall be created and added to the Municipal Code of the Township of Byram as follows:

CHAPTER 210: SOIL/FILL PLACEMENT

ARTICLE I Title; Findings; Definitions; Permit Requirements

§ 210-1. Title

This chapter shall be known as the “Soil/fill Ordinance of the Township of Byram”

§ 210-2. Purpose and Findings

The Township Council finds that the unregulated and uncontrolled placement and movement of soil and other mineral deposits can result in conditions detrimental to the health, safety, and general welfare of the public. Such conditions substantially hamper and deter the efforts of the Township to effectuate the general purposes of municipal planning. Soil 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 soil movement operations and filling operations be reviewed and approved by the Township Zoning Officer and/or Township Engineer. All soil 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 Byram, rather than a liability, all such operations shall adhere to the conditions, restrictions and provisions outlined in this chapter.

§ 210-3. Definitions

The words defined in this section shall mean and include the following when used in this chapter:

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.

APPROVED PLAN — A plan for the placement of soil/fill approved by the Zoning Official and/or Township Engineer (minor permit) or by the Township Engineer (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.

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.

SOIL/FILL PERMIT — A permit for any volume of soil/fill placed on a non-residential property or a permit for a volume of soil/fill that exceeds the maximum cubic yards permitted per residential zoning district.

PERMIT — A soil/fill permit.

PERSON — Includes an individual, a partnership, a corporation, or any other legal entity.

TOPSOIL — The arable soil within eight inches of the surface.

TOWNSHIP — The Township of Byram.

§ 210-4. Permit Required

- A. No person shall fill or cause the placement of any soil on any premises in the Township of Byram in excess of the amounts set forth in Section 210-5A whether such fill be for sale, gift or otherwise, unless a permit therefore is first secured from the Township Zoning Officer and/or Township Engineer as hereinafter provided.
- 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 State of New Jersey requirements; (2) the soil/fill meets the definition of acceptable soil/fill; and (3) the application conforms with the standards of this chapter.

§ 210-5. Exceptions and Exemptions

- A. The provisions of this chapter shall not apply to de minimis filling associated with landscaping activities on any property that does not exceed the allowable volume of fill as defined in the table below during any twelve-month period. However, any person conducting such filling shall, upon request of Byram Township, provide written proof that the soil or fill meets the NJDEP requirements of N.J.A.C. 7:26D Site Remediation Standards and this ordinance.

Maximum cubic yards permitted per residential zoning district permitted in any twelve-month period.

<u>Zone</u>	<u>Maximum Volume</u>
R-1	500
R-2	250
R-3	100
R-4	50
R-5	50

- B. The provisions of this chapter shall not apply to excavations or fill for building foundations, septic tanks, or sanitary installations, provided that no excavation or construction of any kind shall take place until a permit has been approved by the Construction Official and/or Department of Health as required by law. Any soil/fill material used in conjunction with these activities, however, must be acceptable soil/fill which meets the requirements of Chapter 210, Section 6.C.(16). However, any person conducting such filling shall, upon request of Byram Township, provide written proof that the soil or fill meets the NJDEP requirements of N.J.A.C. 7:26D Site Remediation Standards and this ordinance.
- C. 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 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, 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. However, any person conducting such filling shall, upon request of Byram Township, provide written proof that the soil or fill meets the NJDEP requirements of N.J.A.C. 7:26D Site Remediation Standards and this ordinance.
- D. A separate soil permit under this chapter shall not be required for improvements to non-residential properties which have been approved by the Byram Township Planning Board as part of a subdivision or site plan application pursuant to Chapter 215, Subdivision and Site Plan Review. However, any soil/fill material used as part of a subdivision and/or site plan must be in conformance with the requirements of Chapter 210, Section 6.C.(16) and NJDEP regulation in N.J.A.C. 7:26D. Any person conducting such filling shall, upon request of Byram Township, provide written proof that the soil or fill meets the NJDEP requirements of N.J.A.C. 7:26D Site Remediation Standards and this ordinance.
- E. 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 under the direction of a Licensed Site Remediation Professional and 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.
- F. 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 from the Byram Township Planning Board pursuant to Chapter 215, Subdivision and Site Plan Review. However, any person conducting such filling shall, upon request of Byram Township, provide written proof that the soil or fill meets the NJDEP requirements of N.J.A.C. 7:26D Site Remediation Standards and this ordinance.

- G. The provisions of this chapter shall not apply to the replenishment of sand on lake community beach areas. Any sand material used in conjunction with these activities, however, must be considered acceptable fill which meets the requirements of Chapter 210, Section 6.C.(16).
- H. The provisions of this chapter shall not apply to the placement of stone, gravel, or other quarried materials on a property in Byram Township for the purpose of driveway construction. However, any person conducting such filling shall, upon request of Byram Township, provide written proof that the soil or fill meets the NJDEP requirements of N.J.A.C. 7:26D Site Remediation Standards and this ordinance.
- I. The provision of this chapter shall not apply to soil/fill imported to or moved within a properly licensed Class B Recycling Facility.
- J. The provision of the chapter shall not apply to acceptable soil/fill materials being moved from one section of an owner's property to another section of the same property.
- K. The provision of the chapter shall not apply to public works projects conducted or contracted by a public entity or utility regulated by the Board of Public Utilities provided the soil/fill material meets the definition of acceptable soil/fill.

§ 210-6. Application for permit

- A. The property owner receiving the soil/fill material is responsible for obtaining a permit.
- B. An application for a soil/fill permit shall be filed with the Township Zoning officer who may issue the permit upon the Township Engineer finding the permit application being in substantial compliance with the provisions of this subchapter; provided the Township Engineer 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, may be a violation of Township Code or require approval of other regulatory agencies. The denial shall be in writing setting forth reasons for same. Action on an application for a soil/fill permit shall be taken within 10 business days of receipt of all required items. No fill or soil movement shall occur until the soil fill permit is approved and until all other governmental approvals necessary for the work have been obtained and provided to the Zoning Officer.
- C. The application for a soil/fill permit shall set forth the following and 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. Name and address of the applicant.
2. Name and address of the owner, if other than the applicant.
3. Key map.
4. Existing contour lines at two-foot intervals.
5. Proposed contour lines at two-foot intervals after fill of the soil.
6. All existing structures, all existing roads and drainage within 200 feet of the property.
7. Location of all property lines.
8. Location of any wetlands, streams, or other environmentally sensitive areas on the property.
9. Location of any topsoil storage areas.
10. Soil erosion and sediment control measures.
11. Cross sections of the fill areas at fifty-foot intervals.
12. The description and location of the land in question, including the tax map block and lot numbers.
13. The purpose or reason for placement of soil.
14. The nature and quantity, in cubic yards, of soil to be filled.
15. Proof of an A-901 License from the NJDEP for all persons involved in the collection, transportation, processing, brokerage, storage, purchase, sale, or disposition of any soil or fill in accordance with any New Jersey or Federal statutes and regulations.
16. The source of material to be used as fill and proof that the soil/fill materials to be used have been tested and found to be in conformance with the Soil Ranking Criteria found in N.J.A.C. 7:26D, Appendix 1, Table 1A.
 - a. Proof under this section shall include a letter from a laboratory certified by the State to perform soil analysis, stating that results meet or exceed the standards set forth in N.J.A.C. 7:26D, Appendix 1, Table 1A, and such other State, county or municipal standards in effect at the time of testing, along with the actual test results.
 - b. A minimum of two (2) samples are to be extracted from the source for laboratory analysis for each one thousand (1,000) cubic yard lot, or fraction thereof. Samples are to be extracted, tested, and evaluated by a State certified laboratory. Samples must be based to the location of the highest suspected contaminated concentrations, as determined by the laboratory professional or his duly assigned representative.
 - c. Natural material obtained from a quarry shall be exempt from the testing criteria. Testing of quarried material will not be required, however, a receipt from the quarry with the material amount being delivered to a site is required.
 - d. Proof shall include copies of trucking records stating the location of where the soil/fill material was picked up and the location of where the soil/fill material was delivered.
 - e. The source from where the soil is coming from shall be provided with the permit application and shown on the plans, including tax lot and block, owner's name municipality.
17. The location to which the soil is to be placed.

18. The proposed date of completion of the soil/fill.
19. Supporting documentation as required to adequately address and comply with the purpose and the provisions of this chapter.
20. An approved soil erosion and sediment control permit (if applicable).
21. Permit application fee as established in Chapter A287.

D. The application shall include FORM SI-1 ACCEPTABLE SOIL/FILL MATERIAL CERTIFICATION FORM ATTACHED HERETO AS APPENDIX A 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.

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 placed.

Answers to questions 1 through 5.

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

§ 210-7. Factors to be considered in approving permits

In considering and reviewing the application and arriving at a decision, the Zoning Officer and the Township Engineer must 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.
- J. Proof of licensing of the soil or fill involved persons by the NJDEP pursuant to A-901 and any New Jersey or Federal laws or regulations.

§ 210-8. Issuance of permit

A permit shall be issued after the approval of the application by the Zoning Official or by the Township Engineer. The approval shall specifically list the total number of cubic yards of soil authorized to be filled as calculated by the Zoning Officer or the Township Engineer based upon the contour maps submitted and approved. The Zoning Officer or the Township Engineer has the authority to waive any of the requirements of this ordinance.

ARTICLE II Operating Requirements

§ 210-9. Method of operation

If a permit is issued for the placement of soil 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.

§ 210-10. Regulation of operation

No soil 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.

§ 210-11. Deposit of soil on adjoining property or public roads

Soil/fill shall not be deposited or in any way thrown or placed within 10 feet of an adjoining property line and/or an abutting public roadway right-of-way. No adverse impact due to the runoff of stormwater shall occur on any adjacent property or public right-of-way.

Any silt, 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.

§ 210-12. Compliance with other standards and terms of permit

All operations shall be conducted in strict accordance with any state law, other ordinances of the Township, and the terms and conditions of any permit granted for such operations.

§ 210-13. 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.

§ 210-14. Restoration of area

Upon completion of any operation delineated on the approved plan, said area shall be properly leveled off, cleared of debris, graded to conform to the contours and grades as approved by the Zoning Officer and/ or Township Engineer and final stabilized with topsoil and seeding, landscape mulch, stone or other methods in accordance with New Jersey standards for soil erosion and sediment control.

Any soil/fill deposited on a property and not under active construction within 60 days shall be temporarily stabilized in accordance with New Jersey standards for soil erosion and sediment control.

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.

§ 210-15. Storage limitations

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

§ 210-16. Enforcing officer

The Zoning Officer and/or Township Engineer are 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 and/or Township Engineer shall have the right to enter upon any lands for the purpose of examination and inspection of the operation without advance notice. All permittees shall be required to obtain a final inspection by the zoning officer to determine whether the permittee has complied with the permit and this ordinance.

§ 210-17. 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.

ARTICLE III Fees; Bonds; Penalties and Miscellaneous Provisions

§ 210-18. Permit fees; inspection fees

The fees for a Soil Fill Permit are set forth in Chapter A287, Fees and Escrows.

The obligor shall be responsible for all of the inspection fees of the Township Engineer incurred in making the inspections.

§ 210-19. Revocation of Permit; Violations and Penalties.

After notice and an opportunity to be heard before the Township Zoning Officer, 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. 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 \$2,000, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.

It is a violation of this chapter to engage in soil and fill collection, transportation, processing, brokerage, storage, purchase, sale or disposition, or any combination thereof, of soil and fill materials in Byram Township without a license from NJDEP pursuant to A-901 and any New Jersey or Federal statutes and regulation.

§ 210-20. 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 municipal, county, state or federal regulations or permits as required.

§ 210-21. Appeals

Whenever an application for a permit is denied, the applicant may appeal the denial to the Byram Township Planning Board by filing a written notice of appeal with the Planning Board Secretary and Zoning Officer within 20 days after receiving written notice of the denial of such application. The Planning Board shall thereafter hold a public hearing within 120 days on the matter in accordance with rules or procedures to be established by the Planning Board and may modify, affirm, or reverse the decision.

SECTION 2. Chapter A287: Construction Department Fees to be amended to include fees and escrows for soil/fill permits as follows:

§ A287-6B(7) Other Construction Department Fees

Soil/fill:

Soil/Fill Permit Fee: \$50

Escrow: Minimum Initial Escrow \$500.00

SECTION 3. SEPARABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION 4. REPEALER.

All existing Ordinances and/or parts thereof which are inconsistent with the terms of this Ordinance are, to the extent of such inconsistency, repealed.


SECTION 5. EFFECT. This Ordinance shall take effect twenty (20) days after passage and publication as provided by law.

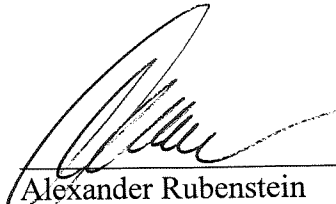
BYRAM TOWNSHIP COUNCIL

Introduced: November 14, 2022

Adopted: December 6, 2022

Attest:


Cynthia Church, RMC
Township Clerk

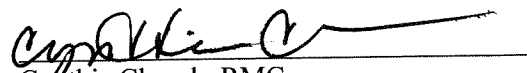

Alexander Rubenstein
Mayor

BYRAM TOWNSHIP COUNCIL

	Councilman Bonker	Councilwoman Franco	Councilman Gallagher	Councilman Roseff	Mayor Rubenstein
Motion		✓			
2nd	✓				
Yes	✓	✓	✓	✓	✓
No					
Abstain					
Absent					

NOTICE OF ADOPTION

NOTICE is hereby given that Ordinance 011-2022 was introduced and passed first reading at a meeting of the Township Council of the Township of Byram, held at the Byram Township Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 14th day of November 2022. The said ordinance was further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township, New Jersey, on the 6th day of December at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.


Cynthia Church, RMC
Byram Township Clerk

APPENDIX A

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: _____

Attach a proof the soil material/fill is considered acceptable fill which meets the requirements of Chapter 210, Section 6.C.(16).

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? _____

If applicable, the date soil/fill material was subject to analytical testing (provide copies):

If analytical results are not provided, justification for determining the soil/fill is acceptable without the need for analytical 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 210. 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.

Signature: _____