

**ORD.#2-2021**

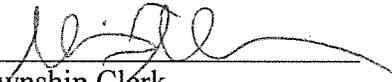
Ordinance of the Township of Mount Olive, in the County of Morris and State of New Jersey, Amending the Township Code to Add New Chapter 334, Soil/Fill Importation, to Adopt the NJDEP Model Ordinance.

**CLERK:**

Delivered to Mayor:

Date: 2/24/2021

Time: 9:00 am

Signed:   
Township Clerk  
Michelle Masser

**MAYOR:**

Action by Mayor:

Approved:

Date: 2/24/21

Vetoed:

Date: \_\_\_\_\_

(Reasons for which Mayor has withheld approval of Ordinance, item or part Thereof.)

Signed:   
Mayor

**CLERK:**

Returned:

Date: 2/24/21

Time: 9:03 am

Not returned with in (10) days

Date: \_\_\_\_\_

Signed:   
Township Clerk

**ORD.#2-2021**

**ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, AMENDING THE TOWNSHIP CODE TO ADD NEW CHAPTER 334, SOIL/FILL IMPORTATION, TO ADOPT THE NJDEP MODEL ORDINANCE**

**WHEREAS**, the New Jersey Department of Environmental Protection (“NJDEP”) encourages municipalities to adopt an ordinance to proactively regulate imported soil in an effort to keep contaminants from being deposited on residential, construction and development sites; and

**WHEREAS**, the Township of Mount Olive Administration, Engineer and Planner have reviewed an NJDEP model ordinance regarding soil and fill importation and have recommended adopting same; and

**WHEREAS**, the Mayor and Township Council find it in the best interest of the health, safety and welfare of the Township make this change.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mount Olive, in the County of Morris and State of New Jersey, as follows:

**SECTION 1.** Part II, General Legislation, of the Township Code is hereby amended to add new Chapter 334, Soil and Fill Importation, to read as follows:

**§ 334-1 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 regarding the 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.

**§ 334-2 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 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 Nonresidential 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 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, 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.

**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.

### **REMEDIATION**

“Remediation” or “remediate” means all actions to investigate, clean up, or respond to any known, suspected, or threatened discharge of contaminants, including the preliminary assessment, site investigation, remedial investigation, and remedial action, or any portion thereof, provided, however, that “remediation” or “remediate” shall not include the payment of compensation for damage to, or loss of, natural resources.

#### **§ 329-3 Permit Required**

- 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 Mount Olive 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, no permit shall be issued unless: (1) the applicant submits proof that the soil/fill material has been tested consistent with any applicable requirements set forth herein; (2) the soil/fill meets the definition of acceptable soil/fill; and (3) the application otherwise conforms with the standards of this chapter.

#### **§ 329-4 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 15 cubic yards, or as otherwise allowed by the New Jersey Department of Environmental Protection under applicable regulations, 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.
- E. Soil/fill imported to or moved within a properly licensed Class B Recycling facility.
- F. Acceptable soil/fill moved from a properly licensed Class B recycling facility.
- G. Public works projects conducted or contracted for 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

**§ 329-5 Responsibility for obtaining permit**

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

**§ 329-6 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 the duration of the project specified in the permit application.

**§ 329-7 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 the Township Department of Public Works, which shall administer the applications and permits.
- B. A fee, in the amount of \$150 as established by this ordinance, shall be remitted at the time of application. The fee shall address the costs associated with the review of the application. Any field monitoring inspections and/or analytical testing may require additional escrow, as applicable

**§ 329-8 Review of Application**

Within 30 days after receipt of a complete application, the Township Engineer shall review the application and either approve or deny the application.

**§ 329-9 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 30 days after receiving written notice of the denial of such application. The municipal governing body shall thereafter hold a public hearing within 60 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.

**§ 329-10 Violations and penalties**

Any person who violates any provision of this chapter shall be liable to a fine of not more than \$1,000 or to imprisonment for a term not to exceed 90 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 spate 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/fil.

**§ 329-11 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 § 329-10 above and/or suspension or revocation of such a permit.

**SECTION 2.** If any section, subsection, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

**SECTION 3.** All ordinances or parts of ordinances of the Township of Mount Olive that are inconsistent herewith are repealed to the extent of such inconsistency.

**SECTION 4.** This ordinance may be renumbered for purposes of codification.

**SECTION 5.** This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

Introduced: 2/9/2021

Adopted: 2/23/2021

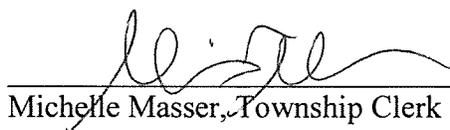
Effective Date: 3/19/2021

TOWNSHIP OF MOUNT OLIVE



Joe Nicastro, Township Council President

ATTEST: 2/23/2021

  
Michelle Masser, Township Clerk