

ORDINANCE # 2022-07

ORDINANCE ADOPTING A NEW ARTICLE II TO CHAPTER 253 OF THE ALLAMUCHY TOWNSHIP CODE, CONCERNING IMPORTATION OF SOIL AND FILL MATERIALS

WHEREAS, the unregulated and uncontrolled importation of soil and fill materials into the boundaries of the Township of Allamuchy poses a threat to the safety, public health, and general welfare of the Township's residents; and

WHEREAS, the Mayor and Township Council have determined that it is necessary and appropriate to revise the procedures governing the importation of soil and fill materials within the boundaries of the Township of Allamuchy.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Allamuchy, County of Warren, State of New Jersey, as follows:

Section I

Chapter 253 of the Allamuchy Township Code is amended by adding thereto a new Article II, Section 253-17, to read as follows:

§ 253-17. IMPORTATION OF SOIL AND FILL MATERIALS.

§ 253-17.1. Purpose. The placement of contaminated soil within the boundaries of the Township of Allamuchy poses a threat to the safety, public health, and general welfare of the Township's residents. The adoption and enforcement of this Section does not exempt an applicant from required approvals of the local Soil Conservation District and is meant to act in conjunction with all Soil Conservation District requirements with respect to soil importation.

§ 253-17.2. Definitions. As used in this section:

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 nonresidential direct contact soil remediation standards, whichever is more stringent, as

set forth in N.J.A.C. 7:26D, Remediation Standards.

APPLICANT

Shall mean any person or entity who has filed an application with the Township Clerk pursuant to the provisions of § 253-17.4 herein.

CONTAMINATED

Shall mean soil or fill material containing one or more contaminants from an unintentional or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a hazardous substance, hazardous waste, pollutant, or naturally occurring contaminant at a concentration which fails to satisfy any applicable remediation standard as defined by the New Jersey Department of Environmental Protection.

HAZARDOUS

Shall mean the presence of one or more contaminants at levels generally considered to pose a threat to human health, whether from short-term or long-term direct exposure, or from consequent degradation of surface or groundwater resources.

FILL MATERIAL

Shall mean, all forms of reclaimed materials, whether organic or inorganic, including by way of example, but not by way of limitation, quarry process, crushed masonry, recycled concrete aggregate, brick or brick fragments, asphalt millings, dredging materials, and any mixtures thereof or in mixtures with soil.

IMPORTATION and IMPORT

Shall mean the movement of soil or fill materials onto properties located within the boundaries of the Township of Allamuchy from one or more locations outside the Township's boundaries.

PROPERTY

Shall mean all contiguous lands owned by the same person or entity.

SOIL

Shall mean and include all forms of earth, whether organic or inorganic, including by way of example, but not by way of limitation, surface or subsurface dirt, stone, rock, gravel, crushed stone, sand, humus, clay, loam, minerals, topsoil, and any mixtures thereof.

§ 253-17.3. Importation of Contaminated Soil Prohibited. Importation of contaminated soil or fill materials into the Township of Allamuchy is prohibited.

§ 253-17.4. Permit Requirements; Fees.

(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 and any other applicable county, state or federal approvals or permits have been obtained. Unless otherwise exempt under this Article, no permit shall be issued unless (1) the applicant submits proof that the soil/fill material has been tested in accordance with the Township's requirements; (2) the soil/fill meets the definition of "acceptable soil/fill," and (3) the application otherwise conforms with the standards of this Article. The property owner receiving the soil/fill is responsible for obtaining the permit. The Application shall be filed with the Township Clerk for action by the Township Engineer, and shall be accompanied by a filing fee of two hundred fifty (\$250.00) dollars. The Applicant shall also deposit an escrow with the Township Clerk in the amount of one thousand five hundred (\$1500.00) dollars at the time of application, to reimburse the Township for reasonable administrative, legal and engineering work associated with the review of the soil/fill importation permit application. The Township Engineer may require additional escrow provided that the Township Engineer's initial review results in a determination that there is a need for additional engineering review or retention of professional services as described in § 253-17.7 herein.

(b) The Application shall be made on forms supplied by the Township, and shall disclose the following:

(1) Soil/fill material supplier:

A. The name, title, company name, address, telephone number, email address, and other contact information for the soil/fill supplier.

B. The site name(s), address(es), and lot and block number(s) of the property(ies) that is/are the source of the soil/fill.

C. A brief history of the source property(ies), including current and past uses of the property(ies).

D. An indication as to whether the source property(ies) has been known or suspected to be contaminated.

E. Certification from the soil/fill supplier indicating the soil/fill being imported meets the definition of "acceptable soil/fill." The material certification must include the following: (i) Method of conformance with NJDEP's "Fill Material Guidance

for SRP Sites," current version; (ii) Map of sample(s) location(s), and (iii) Laboratory testing results of the sample(s).

(2) Person receiving or placing soil/fill material.

A. The name, title, company name, address, telephone number, email address, and other contact information.

B. The site name(s), address(es), and lot and block number(s) of the property(ies) where the soil/fill material will be placed.

C. The purpose of the imported soil/fill.

D. The quantity in cubic yards of acceptable soil/fill material to be imported and placed.

E. A map depicting the area where the acceptable soil/fill material shall be placed and the proposed grades.

F. The anticipated dates of placement and grading.

G. The anticipated date of permanent stabilization of all site areas disturbed as a result of the placement and grading of the acceptable soil/fill materials.

H. Copies of permits from review agencies other than the Township that are required prior to the start of work.

§253-17.5 Permit Expiration. Each permit issued under the terms of this Article shall be valid only for the locations(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. Expired permits may be renewed one time upon the filing of a Renewal Application with the Township Engineer. The Renewal Application shall be accompanied by a minimum fee of one hundred (\$100.00) dollars. Application for renewals shall be approved provided that there are no changes to the scope of the project or to the previously approved source(s) of imported soil and fill materials as described pursuant to § 253-17.4. Material changes to the project, including but not limited to, changes in scope of project or source(s) of imported soil and fill materials, shall result in denial of the Renewal Application. Denials of Renewal Applications shall not prejudice the refile of an Application for a Permit pursuant to § 253-17.4.

§253-17.6. 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 150 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.

§253-17.7. Township Engineer Review; Violations.

(a) The Township Engineer shall review all applications required hereunder, and shall, within 15 days of receipt of a completed application, either approve, conditionally approve or deny the application.

(b) In reviewing a permit application under this chapter, the Township 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.

(c) If the Township Engineer, in the course of review, determines that Township roads may sustain meaningful "wear and tear" damage due to the passage of trucks carrying the imported materials, the Township's Road Department shall review the application. If meaningful damage is determined to be likely, the Road Department shall provide a reasonable estimate of excess costs attributable to truck traffic associated with the importation activity. Such estimates shall fairly apportion and distinguish between costs associated with the importation activity and those associated with normal usage of the Township's roadways including occasional passage of heavy trucks. The applicant shall be solely responsible for costs attributable to the importation activity and shall establish an escrow fund in the Township Clerk's office sufficient to refund the Township for this expense.

(d) If, during the course of soil or fill material importation, the Township Engineer shall determine that a physical examination of the material involved is required to ensure protection of public health and safety, the Township may retain, at its discretion, a soil consultant to examine the imported material. Such examination shall be at the sole expense of the applicant who shall establish an escrow account to cover the possibility that this cost may be incurred.

(e) If the Township Engineer, in the course of review, determines the need for site plan review, the Application shall be referred to the Land Use Board for review, and approval of the importation permit shall be stayed pending review of the Application by the Land Use Board.

§253-17.8 Truck Traffic Limitations on Permitted Importation. During the school year, which for the purposes of this Ordinance will be September 1 to June 30, truck traffic for the permitted importation of soil or fill materials shall be limited to the hours of 9AM to 3PM Mondays through Fridays inclusive. From July 1 to August 31, truck traffic for the permitted importation of soil or fill materials shall be limited to the hours of 7AM to 6PM Mondays through Fridays inclusive. Traffic for permitted importation of materials is prohibited on Saturdays and Sundays.

§253-17.9 Violations and Penalties.

(a) 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 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."

(b) If it is determined that contaminated soil or fill materials have been imported into the Township, whether unintentionally or intentionally, any ongoing importation

activities shall cease immediately and the property owner shall, at the Township's discretion, be responsible for remediation or removal of the material. If the imported material is determined to be hazardous, remediation and/or removal shall be required. Any such remediation or removal shall be conducted under the supervision of the Township Engineer at the sole expense of the property owner.

Section II

1. The title of Chapter 253 of the Allamuchy Township Code is hereby changed to "Soil Removal and Importation."

2. Sections 253-1 through and including 253-16 of the Allamuchy Township Code shall be designated as "Chapter 253, Article I, Soil Removal."

Section III

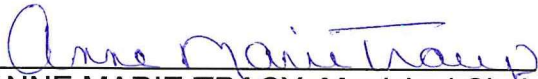
1. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

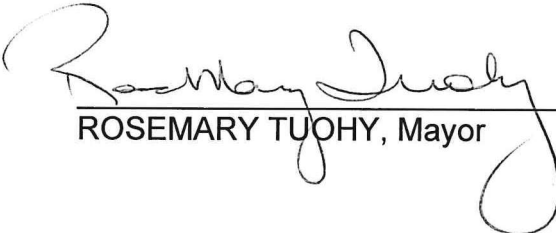
2. If any word, phrase, clause, section or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

3. This ordinance shall take effect immediately upon final passage and publication as required by law.

ATTEST:

TOWNSHIP OF ALLAMUCHY


ANNE MARIE TRACY, Municipal Clerk


ROSEMARY TUOHY, Mayor

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Allamuchy Township Mayor and Council held on September 28, 2022 and will be considered for final reading and adoption at the meeting of the Allamuchy Township Mayor and Council to be held on October 26, 2022 at the Allamuchy Township Municipal Building, 292 Alphano Road, Allamuchy, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance.

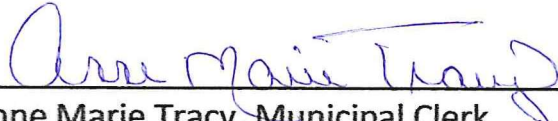


ANNE MARIE TRACY, Clerk

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**ORDINANCE ADOPTING A NEW ARTICLE II TO CHAPTER
253 OF THE ALLAMUCHY TOWNSHIP CODE,
CONCERNING IMPORTATION OF SOIL AND FILL
MATERIALS.**

Take notice, the foregoing Ordinance was introduced and passed on first reading by the Township Council of the Township of Allamuchy on September 28, 2022 at the reorganization meeting of said Council held at Allamuchy Town Hall, Allamuchy, New Jersey and was given further consideration and finally passed at a regular meeting of the Allamuchy Township Council held October 26, 2022 at Allamuchy Town Hall, Allamuchy, N.J.



Anne Marie Tracy, Municipal Clerk
Township of Allamuchy