

**O:26-01**

**ORDINANCE OF THE TOWNSHIP OF HARMONY, COUNTY OF WARREN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 351 – QUARRYING – AND CHAPTER 381 – SOIL AND FILL IMPORTATION – TO ESTABLISH CERTAIN REQUIREMENTS FOR THE IMPORTATION OF SOIL AND QUARRYING-RELATED OPERATIONS**

**WHEREAS**, the Township Committee of the Township of Harmony recently adopted Ordinance No. 2025-13, which established and created certain requirements and regulations related to the importation of soil into the Township; and

**WHEREAS**, Ordinance No. 2025-13 was adopted on December 8, 2025; and

**WHEREAS**, the Township Committee, in consultation with its professionals, now seeks to further amend Chapters 351 – Quarrying – and 381 – Importation of Soil and Fill – to impose additional requirements related to soil importation and quarrying operations in the Township; and

**WHEREAS**, the Township believes that these amendments are in the best interest of the Township and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Harmony, County of Warren, State of New Jersey that Chapters 351 – Quarrying – and 381 – Soil and Fill Importation – are further amended and supplemented and that the amendments made by Ordinance No. 2025-13 are hereby repealed and replaced as follows:

**SECTION I:**

Any and all amendments made via Ordinance No. 2025-13 are hereby repealed.

**SECTION II:**

Deletions to this Section shall be delineated by strikethrough text, ~~thusly~~.

Additions to this Section shall be delineated by underlined text, thusly.

Chapter 351 – Quarrying – is hereby amended and supplemented as follows:

**§ 351-3. Hours of Operation.**

- A. Hours of operation shall be from 6:00 a.m. to 8:00 p.m. on all weekdays, Mondays through Saturdays. On all Sundays, there shall be no operation other than such operation as may be necessary for maintenance of equipment. No machinery or motor vehicles shall be operated upon the sand and gravel pit and/or industrial excavation site prior or subsequent to the permitted hours of operation hereinbefore mentioned.
- B. If, in conjunction with the requirements of Chapter 381 – Soil and Fill Importation – the permit holder seeks to import soil/fill to the quarrying site, the hours of operations of such soil importation shall be from 7:00 a.m. to 5:00 p.m. Monday through Friday, and 7:00 a.m. to 12:00 p.m. on Saturday. No soil importation shall be performed on Sundays and all

major State- and Federally observed holidays. Work may be performed on minor State- and Federally observed holidays, which are delineated as follows:

- a. The following holidays shall be considered *major holidays* for purposes of this Section:
  - i. New Year's Day;
  - ii. Memorial Day;
  - iii. Independence Day;
  - iv. Labor Day;
  - v. Thanksgiving Day; and
  - vi. Christmas Day
  
- b. The following holidays shall be considered *minor holidays* for purposes of this Section:
  - i. Martin Luther King Day;
  - ii. Presidents' Day;
  - iii. Good Friday;
  - iv. Juneteenth;
  - v. Columbus Day;
  - vi. Election Day; and
  - vii. Veterans' Day.

**§ 351-9. Criteria for Determination.**

The governing body ~~shall~~ may, in determining whether to grant or deny the application for the permit, in addition to the matters hereinbefore mentioned, consider the suitability of the reclaimed site for a use permitted in the zone or district pursuant to the terms and conditions of the Zoning Ordinance. In addition to the matters hereinbefore described, the governing body ~~shall~~ may give consideration to the adverse residual effects of unregulated businesses of this nature upon the public safety, health and general welfare, the devaluation of real estate resulting from ultimate abandonment of excavations, pits and declivities below the level of surrounding lands causing surface waters to collect in inordinate quantities, providing breeding places for mosquitoes, problems of waste due to erosion by wind and water, unusual practical difficulties created in surface water drainage, soil fertility, the necessity for slopes and grades and the ultimate detrimental effect that a repetition of stripping and excavating parcel after parcel of land might have upon the taxable wealth and normal development of the Township.

The Township, with consultation with the Township Engineer, may permit the permit-holder to import soil for reclamation-related purposes. Such reclamation shall be subject to the regulations

prescribed by Chapter 381 of the Township Code. The application for importation shall not be unreasonably denied. If the application is denied, the Township shall adopt a written resolution outlining the basis for such denial.

**§ 351-12. Permit Fees Duration; Assignability; Escrow.**

A permit fee of \$1,500.00 shall be payable to the Township for the issuance of a permit, which shall expire on January 31, three years following the issuance thereof. No permit fee shall be prorated for a portion of the three years' term during which it might be issued. A permit, upon its expiration on January 31, shall be renewed for an additional three years' term, during which the operation is in effect, for which an additional \$1,500.00 fee shall be due and owing and payable to the Township. No permit shall be assignable.

Applicant(s), in addition to the permit fees required by this Chapter, shall also post an escrow in the amount of \$10,000.00 that shall be replenished if/when the amount thereof falls below the \$5,000.00 threshold.

When an applicant applies for both a Quarrying Permit under this Chapter and a Soil Importation Permit pursuant to Chapter 381 of the Harmony Township Code, only one escrow shall be posted by the applicant, so long as the applicant is the same for both applications.

**§ 351-17. Quarrying in Conjunction with Soil Importation**

Applicant(s), seeking to obtain a quarrying permit in conjunction with a proposed soil importation operation, shall be subject to the rules and regulations prescribed by Chapter 381 – Soil and Fill Importation – of the Harmony Township Code.

**SECTION III:**

Deletions to this Section shall be delineated by strikethrough text, ~~thusly~~.

Additions to this Section shall be delineated by underlined text, thusly.

Chapter 381 – Soil and Fill Importation – is hereby amended and supplemented as follows:

**§ 381-2. Definitions.**

[ . . . ]

**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.

Dredged material shall not be considered ACCEPTABLE SOIL/FILL for purposes of this Chapter.

## **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.

Dredged material shall not be considered ACCEPTABLE SOIL/FILL for purposes of this Chapter due to the odorous, inconsistent, and/or lacking compactability nature thereof.

### **§ 381-7. Permit Application Requirements and Continued Obligation(s) of the Permit Holder.**

The procedure to apply for a soil/fill importation permit shall be as follows:

A. [ . . . ]

B. For all applications seeking to import less than two thousand metric tons (2,000 MT) of soil and/or fill material during one calendar year period, an application fee in the amount of \$250.00 shall be furnished at the time of such application.

For all applications seeking to import more than two thousand metric tons (2,000 MT) of soil and/or fill material during one calendar year period, the application fee in the amount of \$1,500.00 shall be furnished at the time of such application.

C. Escrow.

(1) For all applicants seeking to import more than two thousand metric tons (2,000 MT) of soil and/or fill material during a one calendar year period, an escrow fee in the amount of \$1,500 \$10,000.00 shall be required to reimburse the Township for reasonable administrative, legal, and engineering work associated with the review of the soil/fill importation permit application shall be furnished at the time of application. Should the escrow balance, due to the nature and extent of the application, fall below the \$5,000.000 threshold, the applicant may shall be required to post additional moneys into escrow to replenish the original \$10,000.00 balance. due to the nature and extent of review of the application.

(2) For applicants seeking to import less than two thousand metric tons (2,000 MT) of soil/fill material during a one calendar year period, an escrow fee in the amount of \$1,500.00 shall be posted by the applicant.

When an applicant applies for both a Soil Importation Permit under this Chapter and a Quarrying Permit pursuant to Chapter 351 of the Harmony Township Code, only one escrow shall be posted by the applicant, so long as the applicant is the same for both applications.

D. The application shall be made on forms to be supplied by the Township and include the following information:

(1) [ . . . ]

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

(a) [ . . . ]

(e) Certification from the soil/fill supplier indicating the soil/fill being imported meets the definition of acceptable soil/fill. The material certification ~~must~~ shall include the following:

[1] Method of conformance with NJDEP’s “Fill Material Guidance for SRP Sites,” current version;

[2] Map of sample(s) location(s). Such map shall include all affected property boundaries, environmental features, existing grades, access roads, and soil-erosion prevention measures;

[3] Laboratory testing results of the sample(s);

[4] Evidence of an approved soil erosion and sediment control plan and all relevant NJDEP permits (if same are required).

a. If the proposed disturbance exceeds 1.0 acre, Applicant shall demonstrate compliance with the applicable Stormwater Management Rules.

(f) The anticipated dates of placement and grading, including the number of loads anticipated to be received by the person receiving or placing soil/fill materials.

[1] This shall include all relevant A-901 or transport licenses.

E. As additional source sites are identified during the duration of the soil importation permit, the applicant shall provide the Township with all information required by Section 381-7 hereof.

(1) The applicant shall notify the Township when an additional source site(s)/location(s) of origin of soil sought to be imported have been selected within seven (7) days of such selection, or – if not practical – as soon as possible.

F. Should the applicant seek to obtain a soil importation permit in conjunction with a quarrying operation, as required by the rules and regulations prescribed by Chapter 351 – Quarrying – the applicant shall submit both applications for the proposed/combined soil importation and quarrying operation.

(1) Such combined applications shall demonstrate all sources of soil/fill material sought to be imported.

All soil and fill importation applications shall contain a certification, signed by the applicant and the property owner (if different than the applicant) as to the truth and accuracy of the application's contents. An omission of the applicant's and the owner's (if different than the applicant) signatures shall be a reason for denial of the application.

**§ 381-13. Additional requirements.**

It shall be the obligation of a permit holder, obtained pursuant to the requirements established herein, to perform the following:

- A. Permit-holder shall provide all necessary soil testing information required by the New Jersey Department of Environmental Protection (NJDEP) when requested by the Township Committee, who – in its sole discretion – may require such testing.

The Township Engineer shall be permitted to periodically, and as necessary, inspect the soil importation site to ensure that the proposed soil importation operation(s) are consistent with the approved plan(s). Such inspection(s) shall be conducted after timely notice being provided to the permit-holder/property owner.

The Township is hereby authorized to conduct independent testing if, in its sole discretion, the Township believes that relevant provisions of Chapter 351 – Quarrying – and/or Chapter 381 – Soil and Fill Importation – are being violated or the approved reclamation plan is not being adhered to. Additionally, should the provided soil testing information substantially differ from the submitted documentation, the Township is authorized to conduct independent testing of the proposed soil/fill material. If such testing confirms contamination beyond the permitted remediation standards established and pronounced by the NJDEP, the permit-holder shall reimburse the Township for all relevant sampling, laboratory, and professional costs and expenses.

- B. Permit-holder shall be responsible for providing the Township with sufficient advanced – minimum of seven (7) days' – notice of the proposed soil and/or fill importation(s). Such advanced notice shall include the type of soil and/or fill contemplated for importation, the location of origin for the soil and/or fill sought to be imported, as well as the location of receipt of such soil and/or fill.
- a. If the source of the soil sought to be imported changes, the requirements of § 381-7(E) shall apply.
- C. Permit-holder's importation of soil and/or fill shall not exceed fifty (50) vehicular loads of imported material per any given day.
- C. Permit-holder shall import soil and/or fill only during the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and 7:00 a.m. to 12:00 p.m on Saturday. No soil importation shall occur on Sundays, and all major State- and Federally-recognized holidays. Work may be performed on minor State- and Federally observed holidays, which are delineated as follows:

- a. The following holidays shall be considered *major holidays* for purposes of this Section:
    - i. New Year's Day;
    - ii. Memorial Day;
    - iii. Independence Day;
    - iv. Labor Day;
    - v. Thanksgiving Day; and
    - vi. Christmas Day
  - b. The following holidays shall be considered *minor holidays* for purposes of this Section:
    - i. Martin Luther King Day;
    - ii. Presidents' Day;
    - iii. Good Friday;
    - iv. Juneteenth;
    - v. Columbus Day;
    - vi. Election Day;
    - vii. Veterans' Day.
- D. Permit-holder shall provide the Township with a plan that ensures the proposed soil and/or fill importation operation does not adversely affect nearby property owners and debris does not impact public roads or rights-of-way.
- a. Should the nearby property owners be adversely affected (whether by virtue of spreading of debris, sediment, or otherwise excessive vehicular traffic), the permit-holder shall have five (5) days to provide a modified plan that cures and otherwise remedies the adverse impact on the neighborhood.
  - b. Should the permit-holder fail to provide the Township with a modified neighborhood-impact plan or otherwise to reasonably cure the adverse impact on affected property owners within the five-day window prescribed by this Section, the Township shall be entitled to immediately revoke the permit granted pursuant to this Chapter, following timely notice to the permit-holder.
- E. Permit-holder shall be required to furnish upon the Township Engineer evidence of all relevant information related to each vehicular load of soil and/or fill, so to ensure that the soil and/or fill being imported into the Township aligns with the relevant documentation and/or authorization. This shall include, but not be limited to, manifests for each vehicular

load uploaded to the portal and/or dropbox, as well as other documentation necessary for the contemplated importation operation.

- a. The requirement of this Paragraph shall be satisfied by uploading the required documents to the portal and/or dropbox, with advanced notice to the Township Engineer of such upload. The Township Engineer shall then provide confirmation of receipt. Failure of the Engineer to provide confirmation of receipt within 48 hours of the notification shall deem such notification as received.
- F. For all soil/fill importation operations performed in conjunction with a quarrying permit, a map of the final locations and elevation of the placed soil and/or fill shall be provided along with the final quantities of the source.

**§ 381-14. Waiver.**

Should the material, soil and/or fill contemplated to be imported into the Township not meet the definition of “Acceptable Soil/Fill” as defined in Section 381-2 of this Chapter, the Applicant shall be permitted to apply for a waiver of the ban on such material on a source-by-source basis. The request for a waiver shall be submitted by the Applicant to the Township Engineer for consideration and recommendation, as set forth below.

- A. The request for a waiver must include the following information:
  - i. All of the information required to be submitted, pursuant to the Township’s Soil Importation Application for acceptance material, soil and/or fill;
  - ii. A detailed explanation of the reasons for the waiver;
  - iii. An explanation of the Applicant’s inability to import acceptable soil/fill;
  - iv. A statement of the duration for which the Applicant seeks the waiver; and
  - v. An explanation of the Applicant’s plan to limit the importation of banned material going forward.
- B. The request for a waiver shall not be considered unless the following prerequisites are met:
  - i. The Applicant must be in full compliance with the terms of all existing mining, soil importation, and/or any other permit(s) or license(s) issued by the Municipality;
  - ii. For the ninety (90) days preceding the waiver request, the Applicant must not have been deemed in violation of any previous or existing mining, soil importation, and/or any other permit(s) or license(s) issued by the Municipality;
  - iii. The property taxes on the property where the activities are taking place must not be past due;
  - iv. The Applicant’s escrow account with the Township must not be deficient;
  - v. The Applicant has completed the Township’s waiver form, if any; and

- vi. The Applicant has paid the waiver request fee, if any.
- C. In considering the waiver application, the Township shall consider the following factors:
  - i. The Applicant's stated reasons for the waiver request;
  - ii. The recommendation of the Township Engineer and/or other Professionals;
  - iii. Demonstration of odor mitigation during transportation and placement of the provided material(s);
  - iv. Information regarding the subject material, which shall include, but not be limited to: PH level of the subject material(s); organic content thereof; shear strength and permeability of the material(s); information concerning mitigation of erosion and lack of stability/compactability of the material(s); and whether the proposed material(s) importation would support vegetation growth if the material(s) is/are used/deposited on surface level.
  - v. The health, safety, and welfare of the community; and
  - vi. Evidentiary proof that the Applicant has exhausted other permitted sources of soil importation to satisfy its reclamation plan.
- D. The request for a waiver shall not be unreasonably withheld.
- E. The Township Committee shall decide whether to grant or deny the waiver request solely in accordance with the procedures set forth in this Chapter.
- F. The application fee for a waiver shall be determined by the Township, but shall not exceed one hundred dollars (\$100.00) per application.
  - i. Should the waiver application necessitate review/inspection to be performed by the Township Engineer and/or other Township professional(s), the costs of such review and/or inspection shall be deducted from the Escrow funds, deposited pursuant to Section 381-7.
- G. A separate application, but not a separate escrow deposit, shall be required for each new source of proposed banned material.
- H. The Applicant shall furnish the waiver application upon the Township Engineer at least fourteen (14) days prior to the regular meeting of the Harmony Township Committee. Such application shall be decided at the next convenient meeting of the Township Committee.
- I. The applicant, submitting a waiver request, shall have the right to be heard at a public meeting.
- J. Should the waiver application be denied, the Township Committee shall state the reasons for such denial at a public meeting.

K. A denial of a waiver request made pursuant to the provisions of this Section shall not preclude the Applicant from seeking a review of the Township's denial in accordance with the New Jersey Rules of Civil Procedure for Complaints in Lieu of Prerogative Writs, or controlling law, if any.

**SECTION IV: Severability.**

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

**SECTION V: Repealer.**

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict.

**SECTION VI: Effective Date:**

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

**NOTICE**

**NOTICE** is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Township Committee of the Township of Harmony held on March 3, 2026, 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 7, 2026, at 6:00 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, located at 3003 Belvidere Road, Phillipsburg, New Jersey 08865, at which time all persons interested may appear for or against the passage of said Ordinance.

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Kelley Smith  
Municipal Clerk/Administrator