

# SOIL REMOVAL, EXCAV. & MINING

## Chapter 65A

### SOIL REMOVAL, EXCAVATION AND MINING

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**[HISTORY: Adopted by the Township Committee of the Township of Barnegat 12-4-78 as Ord. No. 1978-43.' Amendments noted where applicable.]**

<sup>1</sup> Editor's Note: The time limit for compliance with this ordinance was extended by Ord. No. 1979.37, adopted 11-15-79. A copy of the ordinance is on file with the Township Clerk.

Be it ordained by the Township Committee of the Township of Barnegat, in the County of Ocean and State of New Jersey:

**ARTICLE I**  
**Title; Findings; Purpose**

**§ 65A-1. Title.**

This ordinance shall be known as the "Township of Barnegat, County of Ocean, Soil Removal, Excavation and Mining Ordinance."

**§ 65A-2. Findings.**

- A. The unregulated and uncontrolled removal, relocation, filling and excavation of soil by the owners of property within the township are likely to result and have resulted in conditions detrimental to the public health, safety and general welfare of the citizens of the township. The unregulated and uncontrolled removal, relocation, filling and excavation of soil in, on or from lands within the boundaries of the township will create one (1) or more of the following conditions:
- (1) A serious erosion by wind and water.
  - (2) Inadequate and improper or complete lack of surface water drainage.
  - (3) A decrease in or destruction of the fertility of the soil.
  - (4) The removal of lateral support of abutting streets, lands and premises.
  - (5) The creation of excessive amounts of dust and the deposit of such dust and siltation on adjoining property.

- (6) The deposit on the streets of the township of large quantities of mud, dirt or dust.
  - (7) The deterioration of adjoining property values.
  - (8) The rendering of lands unfit or unsuitable for their most appropriate uses.
  - (9) Other conditions hampering and interfering with the coordinated and harmonious physical development of the township.
- B. Such stripping and removal operations are denuding the areas involved of all trees, underbrush, natural vegetation and topsoil and are creating problems of erosion siltation, dust and drainage, all of which are detrimental to adjoining lands, as well as to the health of the citizenry.

**§ 65A-3. Purpose.**

- A. Soil removal operations are for the most part largely of a commercial nature and are not essential to the development of the property or properties involved for a use which is permitted by the Zoning Ordinance of the township' and shall be subject to the provisions of this ordinance.
- B. In the event that the applicant wishes to remove less than five thousand (5,000) cubic yards of soil when peculiar topographic conditions exist on a property, making it unusable for the purpose for which it is zoned, the removal of soil, when properly regulated, may inure to the benefit of the township in the reclamation of the property for its zoned use and purpose. The above criterion is and shall be the only basis for which a soil removal permit is not required. However, if the applicant wishes to remove more than five thousand (5,000) cubic yards of soil for the above stated purpose, this ordinance and the requirements herein shall fully apply.
- C. Soil removal projects that involve major land disturbance shall be planned and designed with soil erosion and

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<sup>1</sup> Editor's Note: So Ch. 14, Zoning.

## § 65A-3 SOIL REMOVAL, EXCAV. & MINING § 65A-4

**sediment control in mind. The subsequent reduction of soil, losses on soil removal sites and the reduction of associated damages from sedimentation will result in substantial savings to the community and to developer, as well as providing for the enhancement of the environment. The contractor who controls soil erosion in the process of soil removal will also promote goodwill in the community.**

- D. While erosion and sedimentation controls are important on all sites, particular attention should be given to areas of steep topography and highly erodible soils. The larger the disturbed area and the longer it is left unstabilized, the more serious the problem becomes.**
- E. Natural vegetation covers and protects most of our lands from erosion. Its removal necessitates application of alternative protective measures. Establishment of mechanical structures engineered to control water runoff, the application of artificial protective cover or the rapid reestablishment of vegetation are among the methods which are suitable to \_control erosion and sedimentation.**

### **ARTICLE II Definitions**

#### **§ 65A-4. Terms defined.**

**As used in this ordinance, the following terms shall have the meanings indicated:**

**APPLICANT** — An individual, partnership or corporate entity who applies for a soil removal permit in the Township of Barnegat. The "applicant" will, if a soil removal permit is issued, be solely responsible for the terms and conditions of the permit and the applicable bonding, standards and requirements of this ordinance.

**DEVELOPER** — Any person who directly or through an independent contractor engages or intends to engage in land subdivision or development or in the construction of two (2) or more dwelling houses, businesses or industrial buildings in any subdivision for the purpose of sale to or

occupancy by another person. If the development of any subdivision or site plan requires removal of excess material from the site in excess of five thousand (5,000) cubic yards, a soil removal permit will be required. Movement, cut, fill, excavation and placement of soil materials on or within a site for subdivision or site plan shall not require a soil removal permit. [Amended 7.279 by Ord. No. 197917]

**EXCAVATOR** — Any person engaged in the moving, removal or excavation of soil or topsoil from, in or upon any land in the township. The "excavator" may be an independent contractor or firm engaged by the applicant. However, he shall be governed by all terms and conditions of the permit and all standards and requirements of this ordinance. All correspondence, enforcement, bonding and control of the soil removal permit will be with and under the control and responsibility of the applicant.

**MOVE** — To dig, excavate, remove; to deposit; to place and to fill; to grade, regrade, level or otherwise alter or change the location or contour; to transport and to supply earthen material or soil from one parcel or premises to another. On-site or on-premises excavation, depositing, placing, filling, grading and regrading do not require a soil removal permit. However, all standards relative to erosion and sediment control, dust, siltation, vegetative cover and the like shall apply.

**OWNER** — Any person seized in fee simple of any land or having such other interest or estate as will permit the exercise of effective possession, dominion or control. Only the owner may apply for a soil removal permit, and a permit, if issued, will only be issued to the owner.

**PREMISES** — One (1) or more contiguous parcels of land in single ownership or control. Parcels shall not be deemed to be contiguous if separated by a road, railroad, right-of-way, brook, stream or other natural division.

**SOIL** — Any earth, sand, gravel, clay, loam gravel, humus, rock or dirt. irrespective of the presence or absence of organic matter.

## **§ 65A-4 SOIL REMOVAL, EXCAV. & MINING § 65A-6**

**TOPSOIL — Soil which is capable of sustaining vegetation. [Amended 7-2-79 by Ord. No. 1979-17; 4-7-80 by Ord. No. 1980-91**

### **ARTICLE III Soil Removal Permit**

#### **§ 65A-5. Permit required.**

- A . No owner, applicant, developer, excavator, subdivider or other person shall dig, excavate, scrape or otherwise disturb, move or cause, allow or permit to be moved the soil on any premises in the township for use other than on the premises from which it is being taken, until after application to and a public hearing by the Planning Board, and a permit has been issued as prescribed herein.**
- B. No mining shall be permitted on any premises unless said property is located in a zone where same is permitted by the current Zoning Ordinance<sup>2</sup> or specified in § 65A-3B herein.**

#### **§ 65A-6. Application for permit; action by municipality.**

- A . The Planning Board shall not consider any application for removal of soil from any premises in the township until the owner, applicant and any persons interested in the premises shall first file with the Secretary of the Planning Board, at least two (2) weeks prior to the regular Planning Board meeting, an application for a permit, application fees and all necessary documents as prescribed herein.**
- B. If at the regular meeting the application is deemed complete by the Planning Board, the Planning Board shall then schedule a public hearing within forty-five (45) days on the application. The applicant shall give**

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<sup>2</sup>Editor's Note: See VoL U, Land Use.

notice of public hearing to all property owners within two hundred (200) feet of the premises in accordance with the applicable provisions of the Municipal Planning Act of date.

- C. The Planning Board shall refer the application, if in order, to the Township Engineer for review. The Township Engineer shall make a study and report in writing to the Planning Board within thirty-one (31) days of the date of referral and shall forward a copy to the applicant. [Amended 7-2-79 by Ord. No. 1979-17]
- D . After reviewing the report and the public hearing, the Planning Board shall take appropriate action by resolution no later than sixty (60) days following the public hearing.
- E. After said resolution for soil removal is adopted, a permit will be issued by the Township Clerk upon payment of all fees and the posting of bond and other requirements. [Amended 4-7-80 by Ord. No. 1980-9]
- F . For the purpose of issuance, renewal, bonding and the like, the date of the soil removal permit shall be the date that same has been approved by resolution of the Planning Board. However, no work shall begin on the premises until the Township Clerk and Township Engineer have signed the permit.
- G. All permits shall be for a period of three (3) years from the date of issue. No permits shall extend beyond said three (3) year period without submission and approval of a new application with two (2) copies of the application form and two (2) copies of all other materials required shall be submitted to the Township Clerk no later than thirty (30) days prior to the date of expiration of the permit. Upon receipt of a report from the Township Engineer indicating that the soil removal operation is being conducted in accordance with the requirements of this ordinance and the applicant is posting a performance bond in the amount determined by the Township Engineer, the Township Clerk shall issue a permit. Permits for soil removal, excavation and mining activities in the Pinelands area shall be



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**issued for three (3) year periods only in accordance with Section 233.D of Chapter 55B (Land Use - West of the Parkway Pinelands) of this Code. [Amended 4780 by Ord. No. 1980-9; 11-18-91 by Ord. No. 1991-42; 8-293 by Ord. No. 1993-30]**

**H . No permit shall be issued for any mining operation exceeding one hundred (100) acres. No permit shall be**

**(Cont'd on page 65A09)**



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renewed as to any area other than that which is or has been the subject of the permit for which renewal is sought, nor shall any permit be renewed authorizing removal of soils in amounts in excess of that authorized by the permit for which renewal is sought. [Added 7-2-79 by Ord. No. 197917]

**§ 65A-7. Filing of application; contents.**

A. The applicant shall file ten (10) copies of the application form and ten (10) copies of other materials required with the Planning Board Secretary. The following information shall be provided on said application form or on other documents filed with the Planning Board Secretary:

- (1) The identity and address of the applicant and owner of the land.
- (2) The name of the individual who represents and will be responsible for conformance with permit and ordinance requirements. The proper mailing address for said individual and a twenty-four-hour-a-day telephone number or numbers where he may be reached.
- (3) The name, address and telephone number of the excavator or contractor who will be doing the actual work on the premises.
- (4) A description of the land and premises in question.
- (5) An estimate in cubic yards of the quantity of soil to be moved written down into two (2) figures, topsoil and other soil. [Amended 7-2-79 by Ord. No. 1979-17]
- (6) The proposed dates of commencement and completion of the work.
- (7) An estimate of the type and number of machines and other equipment to be used in the operation, the daily

starting and finishing time during which the machines are to be operated and the protection to be provided to keep children and others having no business on the land from gaining access.

**B. [Amended 7-2-79 by Ord. No. 1979-17]** Map of the area for soil removal. With the application there shall be filed ten (10) copies of a topographical map, with a contour interval of two (2) feet, of the land upon which the proposed soil-moving operations are to be conducted and a reasonable engineering estimate of surrounding lands within two hundred (200) feet of the perimeter of land which is the subject matter of the application, including topography, prepared and certified by a licensed professional civil engineer and land surveyor of the State of New Jersey, on the scale on not less than one (1) inch to one hundred (100) feet, and referred to in the United States Coast and Geodetic Survey Data showing:

- (1) A key map showing the entire premises and its relation to surrounding areas at a scale of not less than one (1) inch equals one thousand (1,000) feet.
- (2) The dimensions of the land and the lot and block number of the land and of each lot surrounding the land within two hundred (200) feet as shown on the last Tax Assessment Map of the township, Tax Map sheet numbers, date, reference, meridian and graphic scale.
- (3) The appropriate zone districts applicable to all lands shown on the plat shall be clearly indicated.
- (4) **[Amended 4-7-80 by Ord. No. 1980-9]** An approval certification for signatures of the Planning Board Chairman, Secretary and Township Engineer as follows:

Approval for a soil removal permit for a period of one (1) year which shall expire on .....

.....	.....
<b>Chairman</b>	<b>Date</b>
.....	.....
<b>Secretary</b>	<b>Date</b>
.....	.....
<b>Township Engineer</b>	<b>Date</b>

.....  
Date of resolution for approval

- (5) The existing and proposed grade on a fifty-foot grid layout, with contour lines at two-foot intervals, up to and including five (5) acres; or, for more than five (5) acres, one-hundred-foot grids. [Amended 7-2-79 by Ord. No. 1979-17]
- (6) The existing elevations of all buildings, structures, streets, streams, bodies of water and watercourses, natural or artificial.
- (7) All existing surface and subsurface water drainage conditions and provisions therefor, including but not limited to both on-site and off-site, as required by the Township Engineer.
- (8) All wooded areas.
- (9) The proposed grades at points in Subsection B(2) above when the work has been completed with the requirements as contained therein and proposed contour lines.
- (10) Existing and proposed cross sections at one-hundred-foot intervals.
- (11) Soil borings, one (1) for every five (5) acres. Soil borings shall be taken to a minimum depth of five (5) feet below the proposed excavation and shall indicate depth to water table if encountered during the course of such boring. [Amended 7-1-79 by Ord. No. 1979-17]

- (12) The quantity, in cubic yards, of the soil involved in the work.
- (13) The average depth of topsoil.
- (14) The grades of all abutting streets and lands.
- (15) Proposed slopes and lateral supports at the limits of the area upon completion of the proposed work.
- (16) The proposed detail of surface water drainage and of any streams, bodies of water and watercourses, natural or artificial
- (17) Location and description of one (1) bench mark elevation for each twenty (20) acres.
- (18) Boundary survey map prepared by a New Jersey licensed land surveyor showing location of all property corners with concrete monuments set at each point.
- (19) A sediment and erosion control plan for the soil removal operation which must conform to the standards of this ordinance in § 65A-19.
- (20) The sectioning of land and sequence schedule as prescribed in § 65A-10 herein.
- (21) Upon the recommendation of the Planning Board Engineer, the Planning Board may waive any of the requirements established by this section. [Added 7-2-79 by Ord. No. 1979-17]

C. Pursuant to N.J.S.A. 40:55D-39e of the Municipal Land Use Law, prior to an approval by the Planning Board for a soil removal permit, the applicant must submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which the site plan application is made. A certificate from the tax collector stating that all taxes are paid to date shall satisfy such proof. [Amended 5-20-85 by Ord. No. 1985-17]

- (1) Any other pertinent data the Township Engineer may require after he has examined the proposed

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**project, including means and methods for site restoration.**

- (2) A notarized certification stating that the applicant is the owner of the land, or its authorized agent, giving names and addresses of both and that the owner consents to the application for a soil removal permit.**

**§ 65A-8. Fees. [Amended in entirety 10-16-89 by Ord. No. 1989-32; 11-18-91 by Ord. No. 1991-42]**

**A . Application fees. The applicant shall, at the time of filing an application for a new or renewal mining permit, pay a nonrefundable administration fee of one thousand five hundred dollars (\$1,500.) to the Township of Barnegat by certified check or bank money order. In addition, the applicant shall upon filing an application, pay an escrow fee to the township by certified check or money order based upon the schedule set forth below.**

**(1) New application fee.**

**( a ) 0 to 30 acres - \$2,500. plus \$50. per acre.**

**(b) 31 to 60 acres - \$4,000. plus \$35. per acre over 30 acres.**

**(c) 61 acres and greater - \$5,000. plus \$20. per acre over 60 acres.**

**(2) Renewal fee - \$1,500. plus \$10. per acre.**

**(3) The fees set forth herein are promulgated on the basis of the applicant submitting completed application and plans in conformance with the applicable ordinance provisions. These fees are based upon an initial review by the township or Planning Board professionals together with one (1) subsequent review to verify that the applicant has complied with the various items stated in the report of the professionals. Any further submissions required on the behalf of the applicant shall**

be required to post additional fees totaling twenty-five percent (25%) of the original fee for each plan submitted after the first revision. The applicant shall also sign a consent form agreeing to pay any additional costs involved with respect to the review of the application over and above the fees previously submitted with the original application. Any unexpended escrow fees shall be returned to the applicant.

65A-9. Considerations prior to grant of permit.

A . The Planning Board and Township Engineer shall take into consideration the public health, safety and general welfare and shall give particular consideration to the following factors:

- (1) Zoning Ordinance.<sup>3</sup>
- (2) Soil erosion and sediment control.
- (3) Drainage.
- (4) Soil fertility.
- (5) Grades and elevation of adjoining streets and lands.
- (6) Lateral support slopes and grades abutting streets and lands.
- (7) Effect of excavation and removal upon nearby lands and values and uses of other lands as affected by such excavation and removal; and land values and uses of the lands to be excavated from which materials are to be removed therefrom.
- (8) Provisions for restoration and vegetative cover.
- (9) Other factors that may bear upon or relate to the coordinated, adjusted and harmonious physical development of the township.

<sup>3</sup>Editor's Note: See Volume II, Land Use.



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**B . If, after examining the application, public hearing, reports of the Township Engineer and others, the Planning Board is of the opinion that the proposed soil removal will not create conditions inimical to the public health, welfare and safety; will not result in the creation of any sharp declivities, pits or depressions, soil erosion, sedimentation or fertility problems or depressed land values; nor create any drainage or sewerage problems or other conditions of danger, permission to remove the soil and a special use permit may be granted, subject to all other provisions of this ordinance.**

**§ 65A-10. Conduct of operations under permit.**

**A . Operations under a soil removal permit are to be conducted in such a manner as to minimize the effects of soil erosion, dust, mud, sedimentation and drainage during the course of said work. [Amended 4-7-80 by Ord. No. 1980-9]**

**B. The applicant shall section the property which is the subject of his permit into areas of not more than twenty-five (25) contiguous acres and schedule the work of soil removal so that the operation conducted in one (1) section is completed and at final grade before work is commenced**

**(Cont'd on page 65A15)**



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in any other section of the premises. Wood post markers set by a New Jersey licensed professional engineer or land surveyor shall mark the corners of the twenty-five-acre section being worked. [Amended 7-2-79 by Ord. No. 1979-17; 4-7-80 by Ord. No. 1980-9]

- C. Temporary vegetative cover shall be required in an area or section if same is not to final grade and the applicant desires to work in another section.

ARTICLE IV  
Operations Standards

§ 65A-11. Removal of bank.

If application for a soil removal permit involves the complete removal of a bank which extends above the elevation of the surrounding lands or above the elevation of a public road or street adjacent to the land where the removal project is to take place, the moving or removal shall be so conducted as to leave the final grade of the land or lot from which the bank is to be removed at a grade that will not create a hazardous condition for the surrounding lands or a public road or street. Wherever practical, the final grade shall not be lower than the grade of the surrounding lands or of a public road or street, and the final grade shall be established and maintained at a minimum of one percent (1%) to ensure proper drainage. In establishing final grades, the factors to be considered shall be those listed in § 65A-9.

§ 65A-12. Slope of excavations.

No slope on any property shall be left steeper than one (1) foot vertical and three (3) feet horizontal. Where earth is moved in order to lower a grade or to alter an existing slope, the upper crown or brink shall not be closer to any property line than five (5) feet, and this distance shall be increased at a rate of one (1) foot for each one (1) foot of vertical height of the slope up to a maximum required distance of twenty-five (25) feet from any property line, except where another mining operation adjoins a

property being mined. If for any reason the final grade is higher than the level of the surrounding lands, the same formula shall be used in determining the distance of the bottom of the slope from the nearest property line. In addition, the upper crown, brink or top of slope shall not be closer than two hundred (200) feet from any street, road, highway or thoroughfare in the township. Further, no soil removed shall be permitted within two hundred (200) feet of an existing home or building unless said building shall be upon the premises and said building is used in conjunction with the mining operation.

**§ 65A-13. Excavations below water level; grading.**

All excavations must be graded to remove hills and hollows in conformity with the contour of the land as submitted in the map and plan for the issuance of the special use permit. Excavations may be made to a water-producing depth; if so, the depth of the water shall be not less than three (3) feet measured from the mean low-water mark and shall not be less than five (5) acres in area. Land excavated to water producing depth shall be graded to remove hills and hollows and to leave the same in presentable condition after completion of the excavation. In all cases, grading and backfilling shall be done in such a fashion as to prevent the collection of stagnant water and to reduce erosion to a minimum as outlined herein. Mining shall proceed in a uniform direction, and no more than five (5) acres shall remain hollow without being restored as provided for herein. No burying of stumps, debris or other deleterious materials shall be permitted. Grading operations shall be done by survey stakes as set by a licensed engineer or surveyor. At all times the applicant shall have available for inspection purposes a bench mark with elevation and property line stakes in the area being worked.

**§ 65A-14. Removal, storage and replacement of topsoil.**

- A. Removal. No topsoil except such amounts as are in excess of amounts required to comply with this section for purposes of replacement of topsoil will be permitted to be

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removed from the premises. [Amended 7-2-79 by Ord. No. 1979-17]

- B. **Storage.** Whenever any owner, developer or excavator removes topsoil from any land in the township, provision shall be made for the storage of topsoil within the boundary lines of the property.
- C. **Replacement.** [Amended 7-2-79 by Ord. No. 1979-17; 4-7-80 by Ord. No. 1980-9]
  - (1) **All topsoil excavated on the premises shall be stored and uniformly replaced over the entire area at a minimum depth of four (4) inches on or before the completion date set forth in the soil removal permit so that the final grades of the replaced topsoil conform to the proposed final grades as shown on the topographic maps for the soil removal permit.**
  - (2) **When no or insufficient topsoil is removed from the site or premises, topsoil materials as defined in § 65A4 shall be brought to the premises from off the site upon completion of the excavation of soil and prior to placement of final vegetative cover.**

**§ 65A-15. Site preparation prior to topsoil application. [Amended 7-2-79 by Ord. No. 1979-17]**

- A. **Grade, as needed, shall conform to the final contours on the approved soil removal maps.**
- B. **Immediately prior to topsoil distribution, the surface should be scarified to provide a good bond with the topsoil.**
- C. **Needed erosion control practices, such as diversions, grade stabilization structures, berms, channel stabilization measures, desilting basins and waterways, shall be employed.**

**§ 65A-16. Application of topsoil; quantity required.**

- A. **Topsoil should be handled only when it is dry enough to work without damaging soil structure.**

- B. A uniform application to a depth of four (4) inches (unsettled) is required.
- C. Five hundred thirty-seven (537) cubic yards will be required per acre of soil removal permit.

**§ 65A-17. Procedure for permanent vegetative cover.**

- A. **Seeding.** Selection of drought-tolerant seed mixture shall be by recommendation of the Ocean County Soil Conservation District. [Amended 4-7-80 by Ord. No. 1980-9]
- B. Establishment of permanent vegetative cover shall be the responsibility of the applicant, and the bond as posted shall not be released until said vegetative cover is established for a minimum of one (1) growing season. [Amended 4-7-80 by Ord. No. 1980-9]
- C. **Site preparation.**
  - (1) Rough grade as required to conform to the final contours on the approved soil removal maps.
  - (2) Apply topsoil as required in §§ 65A-14 through 65A-16.
- D. **Seedbed preparation.**
  - (1) Apply limestone and fertilizer according to laboratory test requirements in accordance to said recommendations and approval of the Township Engineer.
  - (2) Work lime and fertilizer into the soil as nearly as practical to a depth of four (4) inches with a disc, spring-toothed harrow or other suitable equipment. The final harrowing or discing operation should be on the general contour. Continue tillage until a reasonably uniform, fine seedbed is prepared.
  - (3) Remove from the surface all stones two (2) inches or larger in any dimension, remove all other debris, such as wire, cable, tree roots, pieces of concrete, clods, lumps or other unsuitable material.

- (4) Inspect seedbed just before seeding. If traffic has left the soil compacted, the area must be retilled and firmed as above.

**E. Seeding.**

- (1) Selection of drought-tolerant seed mixture shall be by recommendation of the Ocean County Soil Conservation District based upon laboratory test results upon topsoil to be used and other applicable criteria, such as grade, drainage, subsoil, etc. The Township Engineer shall approve of the seed mixture. [Amended 7279 by Ord. No. 197917]
- (2) Apply seed uniformly by hand, cyclone seeder, drill, cultipacker seeder or hydroseeder (slurry including seed and fertilizer). Normal seeding depth is from one-fourth ( $1/4$ ) to one-half ( $1/2$ ) inch. Hydroseedings which are mulched may be left on soil surface.
- (3) Where feasible, except where either a cultipacker type seeder or hydroseeder is used, the seedbed should be firmed following seeding operations with a roller or light drag. Seeding operations should be on the contour.

**F. Mulching.**

- (1) Mulching is required on all sites (sands, slopes or hydroseedings and off-season operations), unless approval for omission is obtained in writing from the Township Engineer.
- (2) Mulch materials should be unrotted salt hay or small grain straw at the rate of one and one-half ( $1\frac{1}{2}$ ) to two (2) tons per acre, or seventy (70) to ninety (90) pounds per one thousand (1,000) square feet. Mulch should not be ground or chopped into short pieces.
- (3) Mulching should be spread uniformly by hand or mechanically so that approximately seventy-five percent (75%) to ninety-five percent (95%) of the soil surface will be covered. For uniform distribution of hand-spread mulch, divide area into sections of ap-

proximately one thousand (1,000) square feet and distribute seventy (70) to ninety (90) pounds within each section.

- (4) Mulch anchoring should be accomplished immediately after placement to minimize loss by wind or water. This may be done by one (1) of the following methods, depending upon the size of the area, steepness of slopes and costs.
- (a) Peg and twine. Drive eight- to ten-inch wooden pegs to within two (2) to three (3) inches of the soil surface every four (4) feet in all directions. Stakes may be driven before or after applying mulch. Secure mulch to soil surface by stretching twine between pegs in a crisscross and a square pattern. Secure twine around each peg with two (2) or more round turns.
  - (b) Mulch nettings. Staple paper, jute, cotton or plastic nettings to the soil surface. Use a degradable netting in areas to be mowed.
  - (c) Mulch anchoring tool. A tractor-drawn implement especially designed to punch and anchor mulch into the surface soil. This practice affords maximum erosion control, but its use is limited to those slopes upon which the tractor can operate safely. Tool penetration should be about three (3) to four (4) inches. On sloping land, the operation should be done on the contour.
  - (d) Liquid mulch binders may be used to anchor salt hay or straw mulches.
    - [1] Applications should be heavier at edges where wind catches mulch, in valleys and at crests of banks. Remainder of area should be uniform in appearance.
    - [2] Use one (1) of the following: [a] Emulsified asphalt 0 (SS-1, CMS-2, MS-2, RS-2, CRS-1 and CRS-2). Apply four



## § 65A-17 SOIL REMOVAL, EXCAV. & MINING § 65A-18

hundredths (.04) gallons per square yard or one hundred ninety-four (194) gallons per acre on flat slopes and on slopes less than eight (8) feet high. On slopes eight (8) feet high or more use seventy-five thousandths (.075) gallons per square yard or three hundred sixty-three (363) gallons per acre.

[b] Cutback asphalt, rapid curing (RC-70, RC-250 and RC-800) or medium curing (MC-250 or MC-800). Apply four hundredths (.04) gallons per square yard or one hundred ninety-four (194) gallons per acre on flat areas and on slopes less than eight (8) feet high. On slopes eight (8) feet high or more use seventy-five thousandths (.075) gallons per square yard or three hundred sixty-three (363) gallons per acre.

G. Irrigation (where feasible). If soil moisture is deficient, supply new seedings with adequate water [a minimum penetration of three (3) to four (4) inches] for plant growth until they are well established. This is especially true when seedings are made in abnormally dry or hot weather or on droughty sites.

H. Establishment of permanent vegetative cover shall be the responsibility of the applicant, and the bond as posted shall not be released until said vegetative cover is established for a minimum of one (1) growing season.

### § 65A-18. General requirements.

A. In the removal of soil, the owner or person in charge shall conduct the operations so that there will be no sharp declivities, pits or depressions, so that there will be no interruption of natural drainage and so that the area will be properly leveled off, cleared of debris and graded to con-

form to the contour lines and grades as approved by the Engineer. [Amended 4-7-80 by Ord. No. 1980-9]

- B. Temporary grading and back-blading will be required on a daily basis to eliminate dangerous slopes, faces and excavations.
- C. Every soil removal project shall be conducted and completed in a manner which will eliminate any condition hazardous to any member of the public who may have access to the property or to the health, safety or welfare of the township. All boulders, tree stumps and other debris shall be removed from the property, except that boulders may be buried.
- D. Hours. [Amended 7-2-79 by Ord. No. 1979-17; repealed 4-7-80 by Ord. No. 1980-9]
- E. No person shall permit the accumulation of dirt, rubble or debris on any roadway within the township.
- F. The excavating operation shall be conducted so that the noise from trucks or equipment will not be a source of annoyance or discomfort to any residents of the township.
- G. Every truckload of material shall be properly trimmed and shall protrude no more than twelve (12) inches above the sides of the truck at the peak or highest point of each load and shall be covered as provided under applicable New Jersey motor vehicle laws.
- H. No plant equipment or structure shall be erected or used in connection with the excavation or removal of said sand, gravel, stone or mineral deposits, including washers, etc., without having the details and specifications of same included in the application above required. [Amended 7-2-79 by Ord. No. 1979-17]

#### **§ 65A19. Soil erosion and sediment control.**

- A. A soil erosion and sediment control plan will be required with each application for a soil removal permit.

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- B. Requirements of soil erosion and sediment control plan shall be in conformity with the Standards for Soil Erosion and Sediment Control in New Jersey, as prepared by the New Jersey State Soil Conservation Committee and adopted by the Ocean County Soil Conservation District.**
- C. Fees. No additional fees will be required with respect to soil erosion and control. Those fees per § 65A-8 shall be applicable.**
- D. Hours. [Added 7-2-79 by Ord. No. 1979-17; repealed 4-7-80 by Ord. No. 1980-9]**

**§ 65A-20. Procedure for temporary vegetative cover.**

- A. Word usage. "Temporary vegetative cover" refers to the establishment of temporary vegetative cover on soils exposed for periods of one (1) to twelve (12) months.**
- B. Purpose. The purpose of temporary vegetative cover is to temporarily stabilize the soil and reduce damage from wind and water erosion until permanent stabilization is accomplished.**
- C. Site preparation.**
  - (1) Grade as needed and feasible to permit the use of conventional equipment for seedbed preparation, seeding, mulch application and mulch anchoring.**
  - (2) Install needed erosion control practices or facilities, such as diversions, grade stabilization structures, berms, channel stabilization measures, desilting basins and waterways.**
  - (3) The Township Engineer may relax or waive those requirements established under this section where he determines that a lack of compliance with such requirements will not affect surrounding nonlicensed areas or cause erosion into streams and/or drainage facilities. [Added 7-2-79 by Ord. No. 1979-17]**

- D. Seedbed preparation. [Repealed 4-7-80 by Ord. No. 1980-9]
- E. Seeding. [Repealed 4-7-80 by Ord. No. 1980-9]
- F. Mulching. [Repealed 4-7-80 by Ord. No. 1980-9]
- G. Extent of temporary vegetative cover. [Repealed 4780 by Ord. No. 1980-9]

**§ .65A-21. Dust control.**

- A. Word usage. "Dust control" refers to the control of dust on construction sites and roads.
- B. Purpose. The purpose of dust control is to prevent blowing and movement of dust from exposed soil surfaces, reduce on- and off-site damage and health hazards and improve traffic safety.

(Cont'd on page 65A29)

**§ 65A-21 SOIL REMOVAL, EXCAV. & MINING § 65A-21**

**C. Applicability.** This practice is applicable to areas subject to dust blowing and movement where on- and off-site damage is likely without treatment.

**D. Methods.** The following methods should be considered for controlling dust:

(1) Mulches.

(2) Vegetative cover.

(3) Spray-on adhesives, for use on mineral soils (not effective on mulch soils). Keep traffic off these areas. Apply according to the following schedule:

	Water Dilution	Type of Nozzle	Apply Gallons Per Acre
Anionic asphalt emulsion	7:1	Coarse spray	1,200
Latex emulsion	12 1/2:1	Fine spray	235
Resin in water	4:1	Fine spray	300

(4) Tillage. The purpose of tillage is to roughen surface and bring clods to the surface. This is a temporary emergency measure which should be used before soil blowing starts. Begin plowing on windward side of site. Chisel-type plows spaced about twelve (12) inches apart and spring-toothed harrows are examples of equipment which may produce the desired effect.

(5) Sprinkling. Site is sprinkled until the surface is wet.

(6) Barriers. Solid board fences, snow fences, burlap fences, crate walls, bales of hay and similar material can be used to control air currents and soil blowing.

(7) Calcium chloride shall be in the form of loose dry granules or flakes fine enough to fit through commonly used spreaders at a rate that will keep surface moist but not cause pollution or plant damage. If used on steeper slopes, then use other practices to prevent washing into streams or accumulation around plants.

**(8) Stone. Cover surface with crushed stone or coarse gravel.**

**E. Requirements as to dust control. The Township Engineer may require any or all of the above to ensure protection of the public.**

§ 65A-22. Applicability; exceptions.

- A. This ordinance shall apply to all existing (conforming or nonconforming) soil removal operations.**
- B. All existing soil removal permits, upon expiration, shall require application under §§ 65A-5 through 65A-7 of this ordinance.**
- C. Fees for existing soil removal permits, when made under this ordinance, shall be in accordance with § 65A-8 of this ordinance.**
- D. This ordinance shall not apply to the removal of soil for building excavation, a private sewage disposal system or landscaping. This ordinance shall not include plowing, spading, cultivating, harrowing or discing of soil or any operation usually associated with the tilling of soil for agricultural or horticultural purposes. This ordinance shall not include any operations for the purpose of soil and water conservation as defined or prescribed by the Soil Conservation Service of the United States Department of Agriculture. Nothing contained in this ordinance shall conflict with the present or future zoning of the township, and, in the case of a conflict, the Zoning Ordinance shall prevail.<sup>4</sup>**
- E. Soil removal, excavation and mining activities in the Pinelands area of the township shall be subject to the requirements and standards of this chapter, in addi-**

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<sup>4</sup> Editor's Note: See Vol II, Land Use.

**§ 65A-22 SOIL REMOVAL, EXCAV. & MINING § 65A-23**

**tion to the requirements contained in Section 233 of Chapter 55B (Lad Use - West of Parkway Pinelands) of this Code. Where the standards differ, the stricter regulations shall apply. [Added 8-2-93 by Ord. No. 1993-30]**

**§ 65A-23. Transportation of soil.**

**A person who transports over the streets, roads or highways in the township soil removed from land or premises pursuant to a soil removal permit shall daily sweep, pick up and remove or cause to be swept, picked up and removed all dust, dirt and mud from**

**(Cont'd on page 65A31)**





**§ 65A-23 SOIL REMOVAL, EXCAV. & MINING § 65A-25**

roads, streets or highways and shall apply or cause to be applied to the roads, streets or highways a dust preventive wherever deemed necessary by the Engineer. If a permit holder neglects or refuses to sweep, pick up and remove any dust, dirt and mud or to apply a dust preventive when required, the Engineer is authorized to suspend the permit for a period of not less than ten (10) days or may revoke the permit after notification in writing by an authorized officer, agent or employee of the township to the holder of the permit. If revoked, no soil removal permit shall again be issued unless application is made to the Township Committee for reinstatement.

**§ 65A-24. Hours of operation. [Added 12-29-78 by Ord. No. 1978-49; amended 4-7-80 by Ord. No. 1980-9; 7-16-07 by Ord. No. 2007-12]**

No permittee under this ordinance shall dig, excavate, scrape or otherwise disturb, move or cause, allow or permit to be moved or transport soil to or from or on any premises which is the subject of a permit issued under this ordinance except between the hours of 7:00 a.m. and 6:00 p.m. Mondays through Fridays and between the hours of 8:00 a.m. and 4:00 p.m. on Saturdays. No permittee under this ordinance shall dig, excavate, scrape or otherwise disturb, move or cause, allow or permit to be moved or transport soil to or from or on any premises which is the subject of a permit issued under this ordinance on Sundays.

**ARTICLE V  
Guaranties; Enforcement**

**§ 65A-25. Performance bond. [Amended 4-7-80 by Ord. No. 1980-9]**

- A. No soil removal permit will be issued until the applicant has posted with the township a performance bond in a form and with surety that is acceptable to the township**

and in an amount that the Township Engineer deems to be reasonable.

- B. The Engineer shall determine that amount, taking into account the nature and extent of the work to ensure that the site will be restored with sufficient vegetative growth, adequate surface drainage and such other factors as may bear on the operation. The performance bond will be conditioned upon the full and faithful performance by the applicant and principal, within the time specified in the application, of all the proposed work in accordance with the provisions of this ordinance and of the soil removal permit issued pursuant hereto.

§ 65A-26. (Reserved<sup>1</sup>)

§ 65A-27. Inspection.

For the purpose of administering and enforcing the provisions of this ordinance, any authorized officer, agent or employee of the township shall have the right to enter any land where soil removal operations are being conducted in order to examine and inspect the land and the operations.

§ 65A-28. (Reserved<sup>2</sup>)

§ 65A-29. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this ordinance shall, upon conviction thereof, be punishable by a fine of not more than five hundred dollars (\$500.) or by imprisonment for a term no to exceed ninety (90) days, or by both such fine and imprisonment, at the discretion

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<sup>1</sup>Editor's Note: Former § 65A-26, Enforcing officer; fees for service, was repealed 4-7-80 by Ord. No. 1980-9.

<sup>2</sup>Editor's Note: Former ~~§ 65A-28~~, Revocation of permit, amended 7-2-79 by Ord. No. 1979-17, was repealed 4-7-80 by Ord. No. 1980-9.

**§ 65A-29 SOIL REMOVAL, EXCAV. & MINING § 65A-32**

of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violations may be punished as provided above for each separate offense.

**§ 65A-30. Repealer. [Added 12-18-78 by Ord. No. 1978-46; amended 7-2-79 by Ord. No. 1979-17]**

Any ordinance or parts of ordinances inconsistent herewith are hereby repealed.

**§ 65A-31. Severability. [Added 7-2-79 by Ord. No. 1979-17]**

Should any provision of this ordinance be found and/or declared to be void or otherwise illegal, such declaration and/or finding shall not affect the validity of the remainder of this ordinance.

**§ 65A-32. When effective. [Added 12-18-78 by Ord. No. 1978-46; amended 7-2-79 by Ord. No. 1979-17]**

This ordinance shall become effective immediately upon its final passage and adoption as provided by law.