



Township of River Vale
County of Bergen
State of New Jersey

ORDINANCE #142-2006

Date of 1 st reading: January 9, 2006	Motion to Introduce by: Councilman Menville
Date of Public Hearing: February 18, 2006	Motion Seconded by: Councilman deStefan

AN ORDINANCE REGULATING THE MOVEMENT OF SOIL IN THE TOWNSHIP OF RIVER VALE, COUNTY OF BERGEN AND STATE OF NEW JERSEY

Under Part 7 "Soil Removal" of Chapter 142 "Land Use Ordinance" of the Township of River Vale;

Replace Paragraph 142-179 "Review of permit application" as follows:

For soil movement of 500 cubic yards or more, the matter of reviewing and considering all applications for soil movement shall be referred to the Planning Board for consideration and approval. The Board Secretary shall issue no permit until the Planning Board approves the application.

For soil movement of less than 500 cubic yards, the matter of reviewing and considering all application for soil movement shall be referred to the Township Engineer for review and recommendation to the Construction Official.

For soil movement of less than 125 cubic yards, the applicant shall provide evidence of actual soil volume to be moved and file an affidavit on forms provided by the Township to the Township Engineer stating that construction activities will not move a greater volume of soil.

Replace Paragraph 142-180D "Filing Fee" as follows:

<u>Volume of Soil</u>	<u>Filing Fee</u>	<u>Deposit for Costs</u>
Under 25 cubic yards	\$10.00	None
26-125 cubic yards	\$75.00	\$375.00
126-500 cubic yards	\$75.00	\$550.00
501-1,000 cubic yards	\$75.00	\$1,000.00
1,001 and over	\$75.00	\$1,500.00 + \$0.50/cubic yard

All unexpended portions of the Deposit for Costs shall be returned to the applicant upon completion and approval of soil movement activities by the Township Engineer.

Delete the first sentence of paragraph F "Hearing," and replace it with the following:

"For applications involving 500 cubic yards or more of soil movement, the Planning Board shall, within 45 days receipt of a complete application, fix a date for a hearing for the purpose of considering the application and shall give the applicant, by registered mail, notice of the time and place of said hearing. The applicant shall, at least ten days prior to the date appointed for said hearing...."

Change Paragraphs 142-180F, G, H, I, and J to 142-180(1), (2), (3), and (4).

Add the following new Paragraph 142-180F "Hearing" as follows:

"For all applications involving less than 500 cubic yards of soil movement, the Township Engineer shall, within 45 days of receipt of a complete application, review and render a report and recommendation to the Construction Official, who shall grant or deny the permit in accordance with the recommendation of the Township Engineer."

(1) Appeal: In the event of denial or failure of the Township Engineer to act within the prescribed time, the applicant may, no later than 30 days after such denial or failure to issue a report, appeal to the Township Council. The Council may sustain, modify, or overrule the Township Engineer's recommendations, and/or order such application to be issued.

(2) Permit Date: same as Section F(4) above.

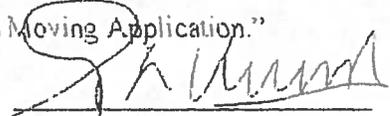
Amend the first sentence in Paragraph 142-181 "Review of applications; factors considered" as follows:

Replace Planning Board with "Planning Board and Township Engineer"

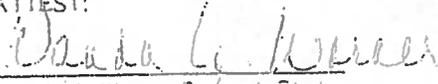
Replace the definition of Excavator under Paragraph 142-189 "Definitions" with the following:

"Excavator - Any person who moves soil in excess of 25 cubic yards to, from, or within any land area or lot within the Township of Rivervale."

Delete Paragraph 142-33 "Fees," Section (18) "Soil Moving Application."


George Paschalis, MAYOR

ATTEST:


Wanda A. Wormer, Borough Clerk

Council Member	AYE	NAY	N.V.	A.B.	VETO	Council Member	AYE	NAY	N.V.	A.B.	VETO
BLUNDO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MATOS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DE STEFAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MIENVILLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JASIONOWSKI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						

X - Indicates Vote A.B. - Absent N.V. - Not Voting (Abstained or Excused)

Part 7
Soil Removal
[Adopted 7-6-1967 as Ch. 70 of the 1967 Code]

ARTICLE XXXVIII
General Provisions

§ 142-177. Permit required; exceptions.

- A. No developer and no excavator shall move or cause, allow, permit or suffer to be moved any soil in or upon any lot in the Township of River Vale unless and until a soil permit therefor shall first have been issued by the Secretary of the Planning Board of the Township of River Vale.
- B. This section or any other section of this Part 7, however, shall not apply to the Township of River Vale or to its designated agents. [Added 7-8-1971 by Ord. No. 71-16]

§ 142-178. Responsibility of owner.

No owner of any lot in the Township of River Vale shall cause, allow, permit or suffer any soil in or upon such lot to be moved by any developer or excavator until such developer or excavator has first obtained a soil permit therefor.

§ 142-179. Review of permit application.

The matter of reviewing and considering all applications for soil permits is hereby referred to the Planning Board of the Township of River Vale. The Secretary of the Planning Board shall issue no soil permit until the Planning Board approves the same and submitted to him its report and recommendation.

§ 142-180. Permit application procedures.

The procedure for applying for and issuance of a soil permit shall be as follows:

- A. Form of application. On forms prescribed and supplied by the Planning Board, the applicant shall set forth, in duplicate:
- (1) His name and address.
 - (2) The description of the lands in question.
 - (3) The name and address of the owner of the lands.
 - (4) The purpose or reason for moving the soil and whether it shall be done in connection with a proposed subdivision; if so, the date of filing of the application for subdivision.
 - (5) The kind and quantity in cubic yards of soil to be moved.

- (6) In case of removal, the place to which the soil is to be removed, and the kind and quantity of soil to be removed.
 - (7) The proposed date of completion of the work.
 - (8) A certification that he has placed or caused to be placed stakes at each corner of the lands from which soil is to be removed, and further that he has placed or caused to be placed grade stakes at the existing elevation points designated on the topographical map pursuant to the provision of this section hereof, clearly marked to indicate the soil cuts or fill.
 - (9) Such other pertinent data as the Planning Board may, by resolution, hereafter require.
- B. Signature. Said application shall bear the signature of the applicant and the endorsement of the owner or owners of said lands signifying approval of the application, consent to the applicant to perform the proposed work and the consent to the Township of River Vale in the event of failure of the applicant to do so, to cause the proposed work to be completed or otherwise terminated in keeping with the purposes and objectives of this Part 7.
- C. Topographical map. Accompanying the application shall be eight prints of a topographical map of the lot upon which the proposed soil-moving operations are to be conducted and of all surrounding lands within 200 feet of the perimeter of said lot prepared and certified by a licensed professional or civil engineer or land surveyor of the State of New Jersey, on a scale of not less than one inch to 100 feet, and referred to United States Coast and Geodetic Survey Data, showing both as to the lot and as to all of said surrounding lands:
- (1) The dimensions of the lot and the lot and block number of the lot and of each lot in the surrounding lands as shown on the Tax Assessment Map of the Township of River Vale.
 - (2) The existing elevations of all lands on a one-hundred-foot grid layout.
 - (3) The existing elevations of all buildings, structures, streets, streams, bodies of water and watercourses, natural or artificial.
 - (4) All existing surfaces and/or subsurface water-drainage conditions and provisions therefor.
 - (5) All wooded areas and all trees having a diameter of six inches or more at the base.
 - (6) The limits of the area or areas within the lot or lots in question within which the soil-moving operations are to be conducted, and the existing elevations of said limits at intervals of not more than 100 feet.
 - (7) The proposed final elevations at each point where existing elevations shown on said maps are to be changed as a result of completion of the proposed work.
 - (8) The proposed slopes and lateral supports at the limits of the area upon completion of the soil-moving operations.

- (9) The proposed provisions and facilities for surface-water drainage and where applicable channels of any streams, bodies of water and watercourses, natural or artificial, including detailed cross sections showing proposed channel widths, bank slopes and method of erosion and control thereof.
 - (10) Accurate cross sections showing the locations and quantities, in cubic yards, of soil to be removed.
 - (11) All proposed elevations in enclosed rectangular boxes, and all existing elevations to be indicated without any kind of enclosure.
 - (12) Such other pertinent data as the Planning Board may, by resolution, require.
- D. Filing fee. The application shall be submitted to the Secretary of the Planning Board with a fee to the order of the Township of River Vale in an amount computed at the rate of \$0.35 per cubic yard multiplied by the number of cubic yards to be moved, as stated in the application and certified on the topographical map; provided, however, that in no event shall such fee be less than \$75. **[Amended 4-26-1990 by Ord. No. 0-6-90; 8-26-2004 by Ord. No. 0-9-04]**
- E. Inspection.
- (1) The Township Engineer shall make an inspection of the site from which soil is to be moved and shall make such engineering studies as may be required to determine the effect of the removal of soil from the location as it relates to:
 - (a) Soil erosion by water and wind.
 - (b) Surface and subsurface water drainage.
 - (c) Soil fertility.
 - (d) Lateral support of abutting streets and lands.
 - (e) Public health and safety.
 - (f) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Township.
 - (2) He shall also inspect the aforesaid site to determine whether stakes have been placed on each corner thereof and whether grade stakes have been placed at the existing elevation points designated on the topographical map pursuant to the provisions of Subsection A hereof. In the event of refusal of the soil permit, as hereinafter provided, the fee paid by the applicant shall be refunded, except that all moneys and costs incurred by the Township of River Vale for engineering surveys and reports, inspection fees and legal fees shall be retained by the Township and the balance remaining shall be refunded to the applicant, together with a statement of the costs and expenses incurred by the Township of River Vale in the processing of the soil application.
- F. Hearing. The Planning Board shall, within a reasonable time after receipt of the application, fix a date for hearing for the purpose of considering the application and shall

give to the applicant, by registered mail, notice of the time and place of said hearing. The applicant shall, at least five days prior to the date appointed for said hearing, serve written notice either in person or by registered mail upon such persons as are shown by the assessment rolls of the Township of River Vale to be the owners of such lots as are within 200 feet of the property in question. The applicant shall at the hearing present to the Planning Board satisfactory proof in affidavit form of the service of said notices.

- G. Decision. The Planning Board shall review and consider the application and shall render its report and recommendation to the Secretary of the Planning Board who shall grant or refuse the permit in accordance with the recommendation. Such report and recommendation shall be made within 60 days after the receipt of the application.
- H. Appeal. In the event of refusal, the applicant may, not later than 30 days after the date of such refusal, appeal to the Township Council. The Township Council may, by a majority vote, sustain or, by a two-thirds vote of its entire membership, overrule the Planning Board recommendations.
- I. Soil permit. The soil permit shall be in such form as may be prescribed by the Planning Board, shall be signed by the Secretary of the Planning Board and either the Chairman of the Planning Board or the Chairman of the Soil Committee of the Planning Board and shall contain any special conditions set forth in the recommendation.
- J. Permit date. The soil permit shall be dated as of the date it is actually issued, and the term of said permit shall not exceed one year. All permits shall automatically expire on the termination date unless application for renewal has been made and approved in writing extending such permit.

§ 142-181. Review of application; factors considered.

In considering and reviewing the application, the Planning Board shall be guided by general purpose of municipal planning, and shall take into consideration the following factors:

- A. Soil erosion by water and wind.
- B. Surface and/or subsurface water drainage.
- C. Soil fertility.
- D. Lateral support of abutting streets and lands.
- E. Public health and safety.
- F. Land values and uses.
- G. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Township.

§ 142-182. Operations prohibited.

No person to whom a soil permit has been issued shall:

- A. Conduct or maintain on the premises any sand, gravel or similar kind of pit, any sand or gravel washing or screening machinery or equipment, any business or industry not permitted in the district in which said premises are located and classified by Part 9, Zoning, of this chapter, as amended and supplemented, or any endeavor or enterprise other than the grading and regrading of said premises in accordance with the provision of said permit, and where applicable, the necessary disposal of soil incidental to said grading or regrading.
- B. Conduct or maintain any soil-moving operations without having first made adequate provision by means of road oil, or otherwise, for the laying of dust incidental to the use of vehicles, machinery and equipment on the lands described in the soil permit.
- C. Neglect to dispose of, on or before the completion date stated in the application, any partially or whole excavated boulders or other incombustible debris resulting from the soil-moving operations, by burial or removal, or any partially or wholly excavated stumps, felled or uprooted trees or other combustible debris resulting from the soil-moving operations, by combustion or removal from the premises.
- D. Conduct any soil-moving operations beyond the expiration date as set forth in the soil permit or extended expiration date as may duly be granted by the Planning Board.

§ 142-183. Topsoil removal, storage and replacement.

- A. Whenever any developer or excavator shall move topsoil in or upon any lot, provision shall be made for the storage of said topsoil within the boundary lines of said lot.
- B. Except as hereinafter provided, all of the topsoil so stored shall be uniformly replaced over the entire area or surface of the lot on or before the completion date set forth in the soil permit so that the final grade or grades of said replaced topsoil shall be in accordance with the proposed final grades shown on the topographical map.
- C. No developer or excavator shall remove to any point beyond the boundary lines of the lot any topsoil whatsoever unless and until topsoil not inferior in quality to that to be removed shall first have been replaced uniformly to a depth of not less than six inches, measured from the proposed final grades as shown on the topographical map, over the entire surface or area of the lot, except only such portions thereof as shall be or shall have become, since the date of filing of said topographical map, permanently covered by a building or structure, street pavement, curb, sidewalk, driveway or other paved area or by any body of water or waterway. In no event shall the developer or excavator remove from the lot more topsoil than that comprising the surplus or excess remaining after the replacement of the topsoil as aforesaid.

§ 142-184. Excavating below grade.

No developer or excavator shall, at any time in the course of the work, dig or excavate more than six inches below the proposed final grades as shown on the topographical map unless:

- A. The soil permit specifies otherwise and the performance bond, hereinafter referred to, makes specific provision for replacement, on or before the completion date set forth in

the soil permit, of soil of sufficient quantity and kind to restore the final grades to those shown on the topographical map; or

- B. After issuance of the soil permit, the developer or excavator, before digging or excavating below said minimum level, shall apply to the Planning Board and be granted an amendment of the application and topographical map then in effect, which amendment may be granted upon such terms as the Planning Board may deem necessary to assure adherence to the purpose and objectives of this Part 7.

§ 142-185. Raising grade of lot.

No developer or excavator shall deposit soil upon, fill in or raise the grade of any lot without first making provision for:

- A. The use in said work of soil or such other materials as will not result in deviation from the proposed final grades or the uniformity thereof by reason of abnormal shrinkage or settlement.
- B. The collection and storage upon the lot of the original topsoil to the end that said topsoil shall not be buried beneath soil or other material of inferior quality, and the uniform replacement of the topsoil so stored over the entire area or surface of the fill soil or other material, so that the final grade or grades of said replaced topsoil shall be in accordance with the proposed final grades shown on the topographical map. In the event that such provision be not practicable, provision shall be made for the uniform placement over the entire area or surface of the fill soil or other material, except only such portions thereof as shall be or shall have become permanently covered by a building or structure, street pavement, curb, sidewalk, driveway or other paved area or by any body of water or waterway, of a layer of topsoil not inferior in quality to that of the original topsoil to a depth of not less than six inches, measured from the proposed final grades as by another person or shown on the topographical map.

§ 142-186. Approval of application; performance bond; amendment of terms.

- A. In the event that the Planning Board recommends approval of the soil removal application, the Secretary of the Planning Board shall, forthwith, give notice to the applicant of the action of the Board, and further, the amount of the performance bond required as hereinafter set forth. In the event that the applicant fails to post the required performance bond within 60 days of said notice, then the recommendation of the Planning Board shall be automatically rescinded.
- B. No soil permit shall be issued unless the applicant therefor shall have posted with the Township of River Vale a performance bond in form and with surety acceptable to the Township of River Vale, in such amount as the Planning Board shall determine, conditioned upon full and faithful performance by the principal, within the time specified in the application, of all the proposed work in accordance with the provisions of this Part 7 and of the soil permit issued pursuant hereto.

- C. The amount of said bond shall be determined at the rate of not less than \$0.10 per cubic yard and not in excess of \$0.50 per cubic yard of the amount of soil to be removed; provided, however, that in no event shall said bond be less than the principal amount of \$2,000. In ascertaining the rate upon which to compute the amount of the bond, the Planning Board shall take into consideration such factors as may bear upon the facility with which the proposed work may be performed, including but not limited to the type and character of soil, the extent of the area over which the soil-moving operations are to be conducted, the extent and depth of the various cuts and fills, the extent to which the area of operations is wooded, the proximity of the proposed operations to streets, buildings, structures, natural or artificial streams or watercourses and general drainage conditions.
- D. Before the holder of any soil permit shall proceed before the Planning Board with any application for any amendment or alteration of the terms and conditions of any outstanding soil permit, there shall be submitted to the Planning Board the written consent of the surety on said bond approving said application for amendment or alteration and consenting to extension of the bond coverage thereto.
- E. Applications for the release of any bonds posted in accordance with the terms of this Part 7 and/or the resolutions of the Planning Board shall be accompanied by an affidavit stating that the soil-moving operation has been completed in accordance with the application and all plans, maps and other data filed therewith, and in accordance with all resolutions and conditions therein adopted by the Planning Board. Said affidavit shall be executed by a licensed professional or civil engineer of the State of New Jersey.

§ 142-187. Government-sponsored programs exempt.

Nothing in this Part 7 shall be construed to affect or apply to any person engaged in the moving of soil in and upon lands enrolled in the Soil Conservation Program of the Northeastern Jersey Soil Conservation District of the United States Department of Agriculture Soil Conservation Service, and for which lands an approved farm plan has been established by said agency, provided that all soil-moving operations in and upon such lands are performed in accordance with said approved farm plan.

§ 142-188. Inspection of operations.

For the purpose of administering and enforcing this Part 7, any duly authorized officer, agent or employee of the Township of River Vale shall have the right to enter into and upon any lands in or upon which soil-moving operations are being conducted, to examine and inspect such lands.

§ 142-189. Definitions.

The terms used in this Part 7 shall be deemed and construed to have the following meanings:

DEVELOPER — Any person who, either directly or through an agent or independent contractor, engages or intends to engage in land subdivision or in the construction of two or

more dwelling houses, business or industrial buildings, in any subdivision for the purpose of sale to or occupancy by another person or persons.

EXCAVATOR —

- A. Any person who moves soil in or upon more than 12,500 square feet of land area in a district zoned for residential use.
- B. Any person who moves soil in or upon more than 10,000 square feet of land area in all zones other than residential.
- C. Any person who moves soil in excess of 300 cubic yards to, on or from any land area within the Township of River Vale.

LOT — Any parcel of land or portion thereof, the boundary lines of which can be ascertained by reference to the maps and records, or either, in the office of the Tax Assessor of the Township of River Vale or in the office of the Bergen County Clerk. For the purposes of this Part 7, a lot shall also be deemed to be any contiguous parcels of land under common ownership, which ownership can be ascertained by reference to the maps and records, or either, in the office of the Tax Assessor of the Township of River Vale or in the office of the Bergen County Clerk.

MOVE — To dig; to excavate; to remove; to deposit; to place; to fill; to grade; regrade; level; or otherwise alter or change the location or contour; to transport; to supply. This term shall not be construed to include plowing, spading, cultivating, harrowing or discing of soil, or any other operation usually and ordinarily associating with the tilling of soil for agricultural or horticultural purposes.

OWNER — Any person seized in fee simple of any lot, or having such other interest or estate therein as will permit exercise of effective possession thereof or dominion thereover.

PERSON — Any individual, firm, association, partnership or corporation or any group of two or more of them.

SOIL — Any earth, sand, clay, loam, gravel, humus, rock or dirt, without regard to the presence or absence therein of organic matter.

TOPSOIL — Soil that, in its natural state, constitutes the top layer of earth, and is composed of 2% or more, by weight, of organic matter and has the ability to support vegetation.

§ 142-190. Violations and penalties.

Any person who shall violate this Part 7 shall, upon conviction thereof, be subject to the penalties in Chapter 1, General Provisions, Article I, § 1-14, for each offense, in the discretion of the court. Each day that a violation shall continue shall constitute a separate offense.