

## ARTICLE II Soil Importation

### **§ 241-2. Depositing of contaminated or unwholesome material prohibited.**

No owner, agent, lessor, lessee, tenant or occupant of any lot, grounds, street, road or alley in the Town of Newton shall deposit thereon or permit the depositing thereon of any contaminated material, or animal or vegetable substance or garbage or refuse or dirt gathered in cleaning sewers, or waste of mills or factories, or any materials which are offensive to health or tend to decay, to become putrid or to render the atmosphere impure or unwholesome, or any other environmentally inappropriate materials as determined by the New Jersey Department of Environmental Protection.

### **§ 241-3. Permit required for deposit of acceptable soil material: exemptions.**

- A. No owner, agent, lessor, lessee, tenant or occupant of any lot, grounds, street, road or alley in the Town of Newton shall deposit thereon or permit the depositing thereon of any acceptable soil material unless a permit is issued by the Town Engineer.
- B. Exempt from the provisions of this section shall be the following:
  - (1) Select fill for septic installation and/or repair certified to be such by a licensed New Jersey professional engineer; or
  - (2) Routine landscaping activities that do not require an excess of 50 cubic yards of approved soil material conducted in connection with residential use not subject to any other permitting requirements set forth in the ordinances of the Town of Newton. Any materials used in activities permitted herein shall nevertheless conform to all applicable local, state and federal regulations.

### **§ 241-4. Hours of operation.**

Hours of operation shall be limited to the following: 7:00 a.m. to 5:00 p.m., Mondays through Fridays and 8:00 a.m. to 12:00 p.m. on Saturdays. There shall be no operations of any kind or character on Sundays.

### **§ 241-5. Deposit of acceptable soil material in connection with development approval.**

Unless otherwise exempt under the terms of this chapter, no permit to deposit approved soil material upon or used to fill up or raise the surface or level of any lot, grounds, street, road, or alley in the Town of Newton shall be issued unless such fill operation is performed in connection with:

- A. A grading permit; or
- B. Site plan or subdivision approval granted by the Newton Planning Board.

### **§ 241-6. Proof of compliance with soil cleanup criteria.**

- A. Unless otherwise exempt under the terms of this chapter, no permit to deposit acceptable soil material upon or used to fill up or raise the surface of any lot, grounds, street, road, or alley in the Town of Newton shall be issued unless the applicant submits proof that the acceptable soil material has been tested in conformance with § 241-7 of this chapter and that it complies with the technical requirements for site remediation found in N.J.A.C. 7:26E-1.1 et seq., as may be amended.
- B. Proof shall be a letter from a laboratory certified by the State of New Jersey to perform soil analysis, stating that results meet or exceed the present requirements for residential direct contact as contained above, along with the actual test results.

#### **§ 241-7. Fees.**

Fees shall be paid when the application for a permit is made, as set forth in § 100-24O. A guarantee shall be paid to guarantee performance by the applicant of the terms and conditions of this chapter, such funds to be released upon inspection of the fill project and approval thereof by the Town Engineer, as having met the provisions of §§ 241-6 and 241-8. The Town shall have a period of 90 days from receipt of the complete application within which to issue or deny the permit application.

#### **§ 241-8. Supplemental specifications for fill operations with acceptable soil material.**

- A. Any acceptable soil material that will be deposited within the Town of Newton, which is to be brought into the Town from outside sources, or from sources as within the Town, must be tested at the source for compliance with the requirements found in N.J.A.C. 7:26E-1.1 et seq., in accordance with § 241-6 of this chapter, and collected and evaluated by a laboratory certified by the State of New Jersey.
- B. Further:
  - (1) All expenses connected with such testing are to be borne by the recipient of the fill;
  - (2) The Town shall have the authority to order additional reports or inspections as it may deem necessary and appropriate;
  - (3) Acceptance or rejection of any approved soil material is to be made according to this chapter and any additional rules or regulations it may from time to time enact; and
  - (4) A minimum of two samples are to be extracted from the source for laboratory analysis for each 500 cubic yard lot, or fraction thereof if from undisturbed natural ground. Testing for all other sources shall be determined based upon the source and volume of the fill to be imported. Samples are to be extracted, tested and evaluated by a state certified laboratory. Samples must be biased to the location of the highest suspected contaminated concentrations, as determined by the laboratory professional or his duly assigned representative.

**§ 241-9. Responsibility for obtaining permits.**

Responsibility for obtaining a permit for approval to deposit approved soil material is with the property owner.

**§ 241-10. Duration of permit.**

Each permit issued under the terms of this chapter shall be valid only for the location(s) described in the permit and shall be valid for one year from the date of issuance, subject to renewal.

**§ 241-11. Violations and penalties.**

Any person, firm or corporation who or which shall violate any provision of this chapter shall pay the required fees in connection with the permit as outlined herein, plus all costs associated with having the material tested, plus a cost of \$5 for each and every cubic yard of material that has been imported to the site, as determined by the Town. Such person, firm or corporation shall also be liable to a fine of not more than \$2,000 or to imprisonment for a term not to exceed 90 days, or both such fine and imprisonment, at the direction of the Municipal Court. Every day in which such violation continues after due notice has been served shall constitute a separate violation or offense.