

ORDINANCE NO. 2138

AN ORDINANCE AMENDING CHAPTER IX OF THE "REVISED GENERAL
ORDINANCES OF THE TOWNSHIP OF OCEAN, 1965" ENTITLED
"SOIL AND TREE REMOVAL"

BE IT ORDAINED by the Township Council of the Township of Ocean, County of Monmouth, State of New Jersey as follows:

SECTION I

Chapter 9, Soil and Tree Removal Ordinance of the Township of Ocean is hereby amended and supplemented to read as follows:

SECTION II

Section 9-1, Land Disturbance and Soil Erosion is hereby amended in its entirety to read as follows:

9-1 Land Disturbance and Soil Erosion Control

9-1.1 Purpose

The purpose of this chapter is to control soil erosion and sediment damages and related environmental damage by requiring adequate provisions for surface water retention and drainage and for the protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the community.

9-1.2 Definitions.

Any word or term not interpreted or defined in this section shall be used with a meaning of common or standard utilization. The following definitions shall apply in the interpretation and enforcement of this chapter unless otherwise specifically stated:

Applicant – shall mean a person requesting permission to engage in land disturbance activity.

Critical Area – shall mean a sediment producing land area or land with a potential for erosion.

Erosion – shall mean detachment and movement of soil or rock fragments by water, wind, ice or Gravity.

Land – shall mean any ground, soil, or earth including marshes, swamps, drainageways, and areas not permanently covered by water within the Township.

Land Disturbance – shall mean any activity including but not limited to clearing, grading, stripping, transporting and filling which causes land to be exposed to the danger of erosion.

Land Disturbance Permit – shall mean a certificate issued to perform work under this section.

Mulching – shall mean the application of plant residue or other suitable materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover.

Sediment – shall mean solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by water, wind, ice, or gravity as a product of erosion.

Sediment Basin – shall mean a barrier or dam built at suitable locations to retain rock, sand, gravel, silt or other sedimentary material.

Soil Erosion and Sediment Control Plan – shall mean a detailed plan in accordance with Section 9-1.4 hereof, indicating necessary land treatment measures, including a schedule of the timing of their implementation, that will effectively minimize soil erosion and sedimentation. Such measures shall meet or exceed the standards and regulations contained herein, or in the absence of such Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil

Conservation Committee.

Soil – shall mean all unconsolidated material and organic material of any origin.

Soil Conservation District – shall mean a governmental subdivision of the State, which encompasses this township, organized in accordance with the provisions of R.S. 4:24.

Site – shall mean any lot, tract, parcel, or parcels of land within the township.

Stripping – shall mean any activity which significantly disturbs vegetated or otherwise stabilized soil surface including, but not limited to, clearing and grubbing operations

9-1.3 Applicability

No person shall disturb the land or cause the land to be disturbed within the township without first having obtained a land disturbance permit, as provided in this chapter. Furthermore, no person shall allow the land within the township to become eroded.

9-1.4 Procedure for Permit

Application for Land Disturbance Permit

- a. *Preliminary Subdivisions.* Each application for tentative, preliminary subdivision approval shall be accompanied by an application for a land disturbance permit pursuant to the terms hereof if the applicant chooses to do site work prior to the submission and approval of the final plat. If the applicant does not do any site work prior to approval of the final plat, he/she may defer the application for a land disturbance permit until a submission of the final plat. The data required in the application for the land disturbance permit applies to any and all lands that would be disturbed if the application for the preliminary subdivision were approved. Except as provided herein, no preliminary subdivision approval shall be granted without a written report from the Township Engineer on the applicant's soil erosion and sediment control plan and without its submission to the planning board for their consideration.
- b. *Final Subdivision.* Each application for final subdivision approval shall be accompanied by an application for a land disturbance permit pursuant to the terms hereof. No final subdivision approval shall be granted without a written report from the Township Engineer on the applicant's soil erosion and sediment control plan and without its submission to the planning board for their consideration.
- c. *Site Plan.* Each application for site plan approval shall be accompanied by an application for a land disturbance permit pursuant to the terms hereof. No site plan approval shall be granted without a written report from the Township Engineer on the applicant's soil erosion and sediment control plan and without its submission to the planning board for their consideration.
- d. *All Other Land Disturbances.* No site shall be disturbed unless an application for a land disturbance permit has been submitted pursuant to the terms thereof and no permit shall be granted by the building inspector without the written approval of the Township Engineer.
- e. *General Conditions for All Applications.*
 1. Each application for a land disturbance permit shall be accompanied by a soil erosion and sediment control plan for the proposed disturbed site consistent with this chapter. The plan shall be accompanied by a site plan at a scale of at least one inch equals 50 feet.
 2. Four copies of the application and plans as required by this section shall be filed by the applicant with the building inspector of the township, who shall immediately forward one copy to the township engineer, and where applicable one copy to the planning board. Such application shall contain the name and address of the owner of the subject site and the location of the site.
 3. If the title to the land is subsequently transferred, the new owner must follow the plan already approved or submit a new plan in accordance with this chapter.
 4. All proposed revisions of the soil erosion and sediment control plan shall be submitted for approval in the manner as specified herein.

Data Required:

Each soil erosion and sediment control plan shall contain the following:

- a. Location and description of existing natural and man-made features on and surrounding the site, including general topography and soil characteristics and a copy of the soil conservation district soil survey where available.
- b. Location and description of proposed changes to the site.
- c. Measures for soil erosion and sediment control which meet or exceed the standards and specifications set forth herein or, in the absence of such standards, in the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee. Such standards and specifications shall be on file at the office of the township clerk.
- d. A schedule of the sequence of the implementation of the planned erosion and sediment control measures as related to the progress of the project including anticipated starting and completion dates.
- e. The impact of the proposed disturbance to all adjacent properties, both during and after development or disturbance.
- f. A map showing the contours of the land at two-foot intervals prior to the disturbance of the proposed contours to be created, prepared in accordance with the standard engineering practices. The map shall be accompanied by a sketch of the site showing all land areas to be disturbed as shaded areas on the sketch.

9-1.5 Review and Approval

Section I. Powers of the Planning Board and Building Inspector.

In considering and approving a soil erosion and sediment control plan, the planning board, when it has the authority pursuant to this chapter, and the building inspector, when it does not:

- a. Shall have the right, among other things, to fix the time schedule for exposure of land area and for the construction and installation of improvements (or the taking of other measures in accordance with the Standards for Soil Erosion and sediment Control in New Jersey as promulgated by the New Jersey State Soil Conservation Committee) to prevent soil erosion and sedimentation and may require that such work or measures be completed prior to any site development work.
- b. Shall provide for the posting of performance guarantees and maintenance bonds in the same manner as provided in the land subdivision chapter of the township.
- c. Shall refer the plan to the environmental commission of the Township and shall take no final action on the plan until 15 days after such referral.
- d. May refer the plan to the Freehold Soil Conservation District.
- e. May impose lawful conditions or requirements necessary or desirable to proper implementation of the plan and of the purpose and intent of this chapter.
- f. Shall provide written notice to the applicant indicating the decision on the plan. Such decision shall be made within a period of 30 days of submission of the complete application unless, by mutual agreement in writing between the township and the applicant, this period is extended for an additional 30 days. Failure to make a decision within such period or such extension thereof shall constitute certification. A copy of such decision, along with other information as may be required by Freehold Soil Conservation District, shall be sent to said district.

Section II. Changes in Approved Plan

- a. *Unlawful.* After a soil erosion and sediment control plan has been approved, it shall be unlawful for the applicant therefore, or any person performing services and implementing plan, knowingly to deviate from, change, amend or modify the plan in any way except in accordance with the provisions of the paragraph below.
- b. *Approved.* Minor changes, amendments or modifications to a soil erosion and sediment control plan required as a result of conditions in the field during construction may be approved by the township engineer who shall in turn notify the planning board thereof.

Major changes, amendments or modifications to such a plan shall require the approval of the planning board.

9-1.6 Principles and requirements for Site Development

Control measures shall apply to all aspects of the proposed site development involving land disturbance and shall be in operation during all stages of the disturbance activity. The following principles shall apply to the soil erosion and sediment control plan:

- a. *Stripping.* Stripping of vegetation, grading, or other soil disturbance shall be done in a manner that shall minimize soil erosion.
- b. *Protection of Vegetation.* Whenever feasible, natural vegetation shall be retained and protected.
- c. *Minimal Disturbance of Area.* The extent of the disturbed area and duration of its exposure shall be kept to a minimum.
- d. *Soil Profile.* When all land disturbance is complete, the soil profile shall consist of a subsoil covered by a minimum of six inches of topsoil and shall be prepared in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee.
- e. *Stabilization Measures.* Either temporary seeding, mulching or other suitable stabilization measures shall be used to protect all critical areas during construction or other land disturbance
- f. *Water Runoff.* Water runoff shall be minimized and retained on site wherever possible to facilitate ground water recharge.
- g. *Drainage Provisions.* Satisfactory provisions shall be made for drainage to accommodate all increased runoff resulting from modifications of soil and surface conditions during and after development or disturbance. Where necessary, the rate of water runoff shall be mechanically retarded.
- h. *Sediment Retention.* Sediments shall be retained on site to the maximum extent feasible.
- i. *Prior Installation of Required Structures.* Diversions, sediment basins, and similar required structures shall be installed prior to any on-site grading or disturbance, except as necessary to the construction of such structures.

9-1.7 Maintenance Responsibility

Any applicant carrying out soil erosion and sediment control measures under this chapter and, all subsequent owners of the property upon which such measures have been carried out, shall adequately maintain all permanent control measures, devices and plantings in good order for a period of two years after completion of the approved plan implementation. Maintenance bonds therefore shall be posted in connection therewith as heretofore provided.

9-1.8 Exemptions; Prohibition

Section I. Exemptions

The following activities are specifically exempt from this chapter:

- a. Land disturbance occurring on sites containing existing one family dwellings.
- b. Use of land for gardening, primarily for home consumption.
- c. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the Freehold Soil Conservation District or when it is determined by the Freehold Soil Conservation District that such use will not cause soil erosion and sedimentation.

Section II. Exemptions Prohibited

There shall be no exemptions for any person for any critical area.

9-1.9 Occupancy Approval

No certificate of occupancy for any building shall be issued unless there has been compliance with the provisions of the approved soil erosion and sediment control plan for permanent measures to control soil erosion and sedimentation. A formal report of compliance with the provision of the approved soil erosion and sediment control plan shall be filed with the municipal agent authorized to issue certificates of occupancy. A copy of this report shall be sent to the Freehold Soil Conservation District. Approval for occupancy may be granted notwithstanding that permanent vegetation protection or ground cover has not been installed: such permanent protection and ground cover has not and cannot be installed because of conditions of weather; and the installation thereof is enforced by appropriate provisions in the bond or other security and improvement agreements which shall provide for installation, within such time limits as may be reasonable, upon direction of the township engineer as soon as weather conditions shall permit.

9-1.10 Enforcement

The township engineer or building inspector shall enforce the requirements of this chapter and shall inspect the work being undertaken in connection with the plan. The applicant shall be required to have the approved soil erosion and sediment control on site during construction. In the event of a failure to comply with any condition or provision of the soil erosion and sediment control plan or, if existing conditions are not as stated in the applicant's soil erosion and sediment control plan, the township engineer or building inspector may, among other things, revoke the land disturbance permit, building permit or certificate of occupancy; issue a stop order, refuse to approve further work and may require necessary erosion and sedimentation control measures to be promptly installed and seek such other penalties as provided herein.

9-1.11 Penalties

If any person violates any of the provisions of this chapter, any standard promulgated pursuant to the provisions of this chapter, or fails to comply with the provisions of a certified plan, the township or Freehold Soil Conservation District may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. Any person who violates any of the provisions of this chapter, any standard promulgated pursuant to this chapter or fails to comply with the provisions of a certified plan shall be liable to a penalty of not less than twenty-five (\$25.00) dollars nor more than three thousand (\$3,000.00) dollars to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.). The Superior Court, County Court, County District Court and Municipal Court shall have the jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

9-1.12 Appeals

Appeals from decisions under this chapter may be made to the township council in writing within ten days from the date of such decision. The appellant shall be entitled to a hearing before the township council within 45 days from the date of the appeal.

9-1.13 Fees

The fee schedule of the Freehold Soil Conservation District is incorporated herein as to any applications and projects which fall under their jurisdiction pursuant to the contract with the Township of Ocean.

9-1.14 Zoning Ordinance Amended

The Township of Ocean Zoning Chapter is hereby amended to remove said chapter where applicable.

9-1.15 Land Subdivision Ordinance Amended

The Land Subdivision Chapter of the Township of Ocean is hereby amended to remove said chapter where applicable.

9-1.16 Applicability of Chapter Provisions

The provisions of this chapter shall only apply to those applications or projects where there is no jurisdiction of the Freehold Soil Conservation District.

CERTIFICATION

*I hereby certify that this is a true copy of a Ordinance adopted by the Township of Ocean Governing Body at their meeting held on **September 21, 2009**.*

Vincent Buttiglieri, RMC/CMC
Township Clerk