

**BOROUGH OF NORTHVALE**  
**County of Bergen**  
**State of New Jersey**

**ORDINANCE #955-2015**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE  
CODE OF THE BOROUGH OF NORTHVALE ENTITLED “SOIL REMOVAL”**

WHEREAS, the Mayor and Council does hereby find and determine the following:

A. The unregulated and uncontrolled relocation, filling, excavation and removal of soil by developers and excavators has resulted in conditions detrimental to the public safety, health and general welfare, substantially hampering and deterring the efforts of the Borough of Northvale to effectuate the general purpose of municipal planning; and

B. Continuation of the unregulated and uncontrolled relocation, filling, excavation and removal of soil will result in serious and irreparable damage to the public welfare by reason of consequent soil erosion by water and wind; inadequate and improper surface water drainage; the decrease in or destruction of the fertility of soil; the removal of later support of abutting streets, lands and premises; the creation of dust storms and mosquito breeding places; the creation of dangerous depressions or pits; the deterioration of property values, the rendering of lands unfit or unsuitable to their most appropriate uses; and the creation of other factors and elements hampering and deterring the coordinated, adjusted and harmonious physical development of the Borough.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Northvale in the County of Bergen and State of New Jersey:

Section 1. Soil permit required for developer or excavator.

No developer and no excavator shall move or cause, permit or suffer to be moved any soil in or upon any lot in the Borough of Northvale unless and until a soil permit therefore shall first have been issued by the Construction Code Official, upon application and the payment of fees as required by this ordinance.

Section 2. Responsibility of owner.

No owner of any lot in the Borough of Northvale 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.

Section 3. Permit application procedures for minor soil movements.

Anyone engaged in the movement of soil of 50 or more cubic yards, but no greater than 500 cubic yards, shall make application to the Construction Code Official for a permit prior to such movement.

A. Form of application.

On forms prescribed and supplied by the Construction Code official, the applicant shall set forth, in duplicate:

- (1) The name and address of the applicant and the owner.
- (2) The block and lot numbers.
- (3) The reason for moving soil.
- (4) The kind and estimated quantity in cubic yards of soil to be moved.
- (5) A statement as to how the soil moving will affect all trees with a diameter of six inches or more.
- (6) The proposed date of completion.

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 Borough of Northvale, 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 ordinance.

C. Topographical map.

In addition, the applicant shall submit a topographical map indicating the existing condition on the site and extending 50 feet outside the periphery, together with proposed grading and drainage.

D. Route of soil movement.

In the event that the soil is being moved off the site or brought onto the site, the applicant must indicate where and what route he intends to utilize.

E. Filing fee.

The application shall be submitted to the Construction Code Official with a filing fee made out to the Borough of Northvale in the amount of \$75.00.

Section 4. Permit application procedures for major soil movement.

Anyone engaged in the moving of soil in excess of 500 cubic yards shall make application to the Secretary of the Planning Board. The procedure for applying and issuance of permit for major soil movement 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) The name and address of:
  - (a) The applicant
  - (b) The developer or excavator
  - (c) The owner
- (2) The description of the lands in question.
- (3) The purpose or reason for moving the soil and whether it will be done in connection with a proposed subdivision; if so, the date of filing and the application for subdivision.
- (4) The kind and quantity in cubic yards of soil to be moved.
- (5) In case of removal, the place to which the soil is to be removed, and the kind and quantity of soil to be removed.
- (6) The date of completion of the work.
- (7) The 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 provisions of Section 4 (C) hereof, clearly marked to indicate soil cuts or fill.
- (8) 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 Borough of Northvale, 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 ordinance.

C. Topographical map.

Accompanying the application shall be twenty 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 50 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 50 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 block and lot number of the lot itself and of each lot abutting the premises in question, as shown on the Tax Assessment Map of the Borough of Northvale.
- (2) The existing elevations of all lands as shown on a map by contours at two-foot intervals.
- (3) The existing elevations and accurate locations of all buildings, structures, streets, streams, bodies of water and watercourses, natural and artificial.
- (4) All existing surface 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 which are separate and apart from any wooded areas.
- (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.
- (7) The proposed final elevations shown by the contours at two foot intervals.
- (8) Proposed slopes and lateral supports at the limits of the area during excavation and upon completion of the soil moving operations.
- (9) Proposed provisions and facilities for surface water drainage and, where applicable, channels of any streams, bodies of water and watercourses, natural and artificial, including detailed cross sections showing proposed channel widths, bank slopes and method of erosion control during and after completion of the soil moving operation.
- (10) Accurate cross sections showing the locations and quantities, in cubic yards, of soil to be moved.

(11) Such other pertinent data as the Planning Board may, by resolution, require.

D. Application.

An application shall be submitted to the Secretary of the Planning Board with a filing fee paid to the order of the Borough of Northvale in the amount of \$250.00, plus an amount at the rate of \$0.05 per cubic yard multiplied by the number of cubic yards to be moved, as stated in the application and certified on the topographical map. In addition, there shall be posted with the Borough of Northvale through the Secretary of the Planning Board the sum of \$500.00 to reimburse the Borough of Northvale on account of services rendered by its professionals and those of the approving authority on account of the application fee may be increased from time to time as may be reasonably required. Upon completion of the soil movement activity and the approval of an as-built plan by the Municipal Engineer any sums then remaining in the reimbursement account shall be returned to the applicant.

E. Inspection.

The Borough 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 soil erosion by water and wind; surface and subsurface water drainage; soil fertility; lateral support of abutting streets and lands; public health and safety; and such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Borough. 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 Section 4 (A) hereof. In the event of the 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 Borough of Northvale for engineering surveys and reports, inspection fees and legal fees shall be retained by the Borough, and the balance remaining shall be refunded to the applicant, together with a statement of the costs of expenses incurred by the Borough of Northvale 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 the applicant, by registered mail, notice of the time and place of the said hearing. The applicant or his agent 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 on the assessment rolls of the Borough of Northvale 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 services of said notices.

G. Decision.

The Planning Board shall review and consider the application and shall render its report and binding recommendation to the Secretary of the Planning Board, who shall grant or refuse the permit in accordance with said recommendations. Such report and recommendations shall be made within 60 days after the receipt of the application.

H. Appeal.

In the event of a refusal, the applicant may, not later than 30 days after the date of such refusal, appeal to the Borough Council. The Borough Council may by a majority vote overrule the Planning Board recommendations. The Council shall render its decisions within 60 days after the receipt of the appeal.

I. Permit.

The soil removal 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 wither the Chairman of the Planning Board of the Chairman of the Soil Committee of the Planning Board, and shall contain special conditions set forth in the recommendations.

J. Date of permit; expiration.

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.

Section 5. Review of application for major soil movement; 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 Borough.

Section 6. 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 the premises are located and classified by “Northvale Zoning Ordinance” 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 and 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 land described in the soil removal permit as well as provide for the removal of soil and stones deposited on the streets.

C. Neglect or dispose of, on or before the completion date stated in the application, any partially or wholly 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, noncombustible debris resulting from the soil moving operations, by complete combustion or removal from the premises.

D. Conduct any soil moving operations which would, incidental to the using of vehicles, machinery and equipment deposit wet soil or mud on the public roadways.

E. 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.

Section 7. Topsoil removal; storage and replacement.

Whenever any developer or excavator shall move topsoil in or upon any lot, provision shall be made for the storage of topsoil within the boundary of lines of said lot.

Except as hereinafter provided, all of the topsoil so stored shall be uniformly replaces 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.

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, excepting 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. After the topsoil is replaced, is shall be seeded immediately using rye grass to prevent erosion.

Section 8. 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 grades as shown on the topographical map unless:

A. The soil permit specifies otherwise and the performance bond, hereinafter referred to, make 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 applicant 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 objective of this ordinance.

#### Section 9. 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 provisions are not practicable, provision shall be made for the uniform placement over the entire area or surface of the fill soil or other material, excepting only such portions thereof as shall be or shall have become permanently covered by a building or a 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.

#### Section 10. Approval of application for major soil movement; 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 cash 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 automatically be rescinded.



B. No soil permit shall be issued unless the applicant therefor shall have posted with the Borough of Northvale a cash performance bond 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 ordinance 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 \$2,000.00. In ascertaining the rate upon which to commute 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 a holder of an 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 bond coverage thereto.

E. Applications for the release of each performance bond posted in accordance with the terms of this ordinance, 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.

#### Section 11. Government sponsored programs exempt.

Nothing in this ordinance 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 Northeast 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.

#### Section 12. Inspection of operations.

For the purpose of administering and enforcing this ordinance, the Building Inspector and Borough Engineer and any duly authorized officers, agents or employees of the Borough of Northvale 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.

Section 13. Definitions.

Terms used in this ordinance 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” – for the purposes of this ordinance, an excavator is hereby defined as follows:

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; or

B. Any person who moves soil in or upon more than 10,000 square feet of land area in all zones other than residential; or

C. Any person who moves soil in excess of 200 cubic yards to, on or from any land area within the Borough of Northvale.

“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 Borough of Northvale, or in the office of the Bergen County Clerk. For the purposes of this ordinance, a “lot” shall also be deemed to be any contiguous parcel 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 Borough of Northvale or in the office of the Bergen County Clerk.

“Major Soil Movement” – all soil movements of 50 or more, but no greater than 500 cubic yards of soil.

“Move” – to dig; to excavate; to remove; to deposit; to place; to fill; to grade; re-grade; level or otherwise alter or change the location or contour; to transport; to supply. The term shall not be construed to include plowing, spading, cultivating, harrowing or disking of soil, or any other operation usually and ordinarily associated 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 thereof.

“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 surface layer of earth and is composed of 2% or more, by weight, of organic matter and has the ability to support vegetation.

Section 14. Prior ordinance repealed.

That Chapter 166 of the Code of the Borough of Northvale entitled “Soil Removal”, adopted by the Mayor and Council on June 24, 1958 as Ordinance #243 is hereby repealed and replaced in its entirety by this Ordinance.

Section 15. Repealer.

All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies.

Section 16. Violations and penalties.

Any person who shall violate this ordinance shall, upon conviction thereof, pay a fine not exceeding \$200 or be imprisoned in the county jail for a term not exceeding 90 days, or both, for each offense, in the discretion of the court. Each day that a violation shall continue shall constitute a separate offense.

Section 17. When effective.

This Ordinance shall take effect immediately upon publication thereof after final passage and approval as required by law.

STANLEY E. PIEHLER  
Mayor

ATTEST:

Wanda A. Worner  
Borough Clerk

Introduced: August 12, 2015

Passed: September 9, 2015