

**BOROUGH OF HAMPTON
HUNTERDON COUNTY, NEW JERSEY**

ORDINANCE # 03 – 2025 (Re-Introduction)

**AN ORDINANCE TO AMEND CHAPTER 157 ENTITLED “LAND DEVELOPMENT”
SECTION -31 ENTITLED “CONSTRUCTION STANDARDS” TO INCLUDE ITEM G
ENTITLED “SOIL REMOVAL REGULATIONS” OF THE CODE OF THE BOROUGH
OF HAMPTON**

WHEREAS, on January 6, 2025 after reviewing information provided by the Hampton Borough Planning Board Engineer, Bryce D. Good, P.E., CPESC, Finelli Consulting Engineers, a Division of UTRS pertaining to a Land Development Ordinance known as “Topsoil Movement & Distribution Requirement” Ordinance and Amendment to Municipal Land Use Law, the Hampton Borough Planning Board agreed with the recommendations made to said Land Development Ordinances as prepared by the Hampton Borough Professionals; and

WHEREAS, the Borough of Hampton Planning Board has no further comments, recommendations or adjustments that need to be made to said document, as it is consistent with the current Hampton Borough Master Plan; and (See Exhibit A- Letter dated January 6, 2025)

WHEREAS, the Mayor and Council of the Borough of Hampton, Hunterdon County, State of New Jersey approve and hereby recommend the adoption of the Land Development Ordinance pertaining to “Topsoil Movement & Distribution Requirement” Ordinance and Amendment to Municipal Land Use Law as prepared by the Hampton Borough Planning Board Engineer; and

WHEREAS, it was determined that said “Topsoil Movement & Distribution Requirement” Ordinance amend the current code of the Borough of Hampton, Chapter 157 entitled “Land Development”, Section 31 entitled “ Construction Standards” to include an item G entitled “Soil Removal Regulations”; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hampton, Hunterdon County, State of New Jersey, that Chapter 157 entitled “Land Development”, Section 31 entitled “Construction Standards” of the Code of the Borough of Hampton is hereby amended to include item G entitled “Soil Removal Regulations” as follows:

§157-31

G. Soil Removal Regulations

(1) Title.

This article shall be known as the "Soil Removal Regulations of the Borough of Hampton."

(2) Purpose and findings.

This chapter is adopted pursuant to N.J.S.A. 40:55D-1 et seq. in order to promote, develop and maintain a harmonious balance between man and the natural processes and to effectuate the general purpose of municipal planning, with an intent towards the promotion of sensitive land development, the guiding of inevitable land development and the opposition to unnecessary or detrimental land development and the deterioration of property values, through the consideration of aesthetics, good landscaping and sound engineering practice. The Borough Council hereby finds and determines that the unregulated and uncontrolled relocation, excavation and removal of soil on a large scale has resulted or will result in conditions detrimental to the public safety, health and general welfare and to the development of the Borough.

(3) Applicability.

This chapter intends to limit soil removal to only those instances where the same is required to develop lands in accordance with Chapter 157, Land Development. **Nothing herein shall be deemed to apply to normal gardening activities.**

- (a) No removal of soil will be considered in the Borough unless the soil removal shall be necessary for and in conjunction with the development of the site.
- (b) No removal application will be reviewed until a complete development application for site plan or subdivision is submitted with the request for soil removal.
- (c) Exceptions shall be made for excess soil removed for construction of an individual single- or two-family dwelling or appurtenances thereto, including but not limited to private sewage disposal systems, swimming pool, driveways and landscaping.
- (d) Exceptions shall be made for approved site plan and subdivisions resulting in less than 100 cubic yards of excess soil to be removed from the site, provided that specific grades are as approved by the Board.
- (e) The applicants for soil removal shall make every attempt to keep excess soils on site by including in their development plans terracing of the site and/or construction of landscape berms or mounds wherever practical.

(4) Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

APPLICANT

The person requesting a soil removal permit as provided for in this chapter.

DEVELOPER

Any person who, either directly or through an agent or independent contractor, engages or intends to engage in land subdivision for the purpose of sale to or occupancy by another person or persons.

EXCAVATOR

Any person engaged in the moving, removal or excavation of soil from, in or upon any land in the Borough.

LOT

A parcel or plot of land occupied or designed to be occupied by a building and its accessory building or by a dwelling group and its accessory buildings, together with such open spaces as are arranged and designed to be used in connection with such building.

MOVE

To dig, excavate, remove, deposit, fill, grade, replace, level or otherwise alter or change the location or contour of land or to transport or supply soil.

OWNER

Any person seized in fee simple of any lot, subdivision or premises or having any interest or estate therein which would permit effective possession thereof or dominion therefor.

PREMISES

One or more contiguous lots in single ownership.

REDISTRIBUTION

Any change or alteration in the grade of any land.

SOIL

Earth, sand, clay, loam, gravel, humus, rock or dirt, without regard to the presence or absence of organic matter.

SUBSOIL

All soil except topsoil.

TOPSOIL

Soil that, in its natural state, constitutes the top layer of earth (usually eight inches to 10 inches deep), and is composed of 2% or more by weight of organic matter and has the ability to support vegetation and growth.

(5) Permit required; disposal of soil; exceptions.

- (a) No owner, developer, excavator or other person shall move or cause, allow, permit or suffer to be moved or removed any topsoil or subsoil in the Borough for use other than on the lot from which it shall be taken, except as otherwise defined or provided for in this chapter, unless and until a soil removal permit is issued by the Borough Engineer.
- (b) The Borough Engineer shall first determine that the excavation, grading or removal of the amount of soil applied for is necessary and essential to the development or the improvement of the premises. Removal of topsoil from the Borough shall only be permitted after the Borough Engineer determines that there exists no alternative location for said topsoil within the Borough. In determining whether there exists no alternative location, the Borough Engineer shall ascertain from the Departments of Public Works whether the Borough has need to purchase a quantity of topsoil or, in the absence of such need, whether any other person or entity within the Borough has, in writing, expressed a willingness to purchase a quantity of topsoil.

(6) Conditions for permit requirement and approval.

Should the Borough Engineer find and determine that the excavation, grading or removal of the amount and type of soil applied for is necessary and essential to the development or improvement of the premises and that the applicant has complied with the provisions hereof and all other applicable ordinances, then the appropriate soil removal permit may be issued. If the lot is part of an approved subdivision or site plan presently under construction, then a permit shall be required only if the soil is to be removed from the subdivision premises or premises within the site plan.

(7) Application for permit.

Applications shall contain the following information in a form and to a degree to be determined by the Borough Engineer:

- (a) The name, address and telephone number of the applicant and owner of the land.
- (b) The lot and block numbers of the land from which soil is to be removed, as shown on the current Tax Map of the Borough.
- (c) The location to which soil is to be removed.

- (d) The route to be taken during the removal operation.
- (e) The reason for removing soil.
- (f) The proposed dates for the commencement and completion of the soil removal, not to exceed three months for any single application.
- (g) A map of the lot showing the present contour lines and the proposed future contour lines resulting from the intended excavation or redistribution of soil and the location of streams, watercourses or other environmentally sensitive areas, if different from any such information appearing on an approved site plan or subdivision.
- (h) The amount of soil and/or topsoil to be removed from the site and the amount of soil and/or topsoil to remain on the site.
- (i) 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.
- (j) A copy of an approved soil erosion and sediment control plan for the property receiving the removed soil.
- (k) Three copies of a topographic map of the land upon which the proposed soil moving operations are to be conducted and a reasonable engineering estimate of the existing grade of the surrounding lands within 200 feet of the perimeter of land which is the subject matter of the application, prepared and certified by a licensed professional civil engineer or land surveyor of the State of New Jersey, on the scale of not less than one inch to 100 feet, and referred to in the United States Coast and Geodetic Survey data showing:
 - (a) The dimensions of the land and the lot and block number of the land and each lot surrounding the land within 200 feet as shown on the last tax assessment map of the Borough.
 - (b) The existing contour lines at a two-foot interval up to and including five acres; or for more than five acres, contour lines at a five-foot interval. Where access to adjoining lands is not permitted, the contour lines of the adjacent properties shall be taken from the available State of New Jersey or United States Survey Map of the particular area.

- (c) The existing elevations of all buildings, structures, streets, streams, bodies of water and watercourses, natural or artificial.
- (d) 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 Borough Engineer.
- (e) All wooded areas.
- (f) The proposed grades at points in Subsection (k)(c) when the work has been completed with the requirements as contained therein.
- (g) The quantity, in cubic yards, of the soil to be removed.
- (h) The average depth of topsoil.
- (i) The grades of all abutting streets and lands.
- (j) Proposed slopes and lateral supports at the limits of the area upon completion of the proposed work.
- (k) The proposed detail of surface water drainage and of any streams, bodies of water and watercourses, natural or artificial.
- (l) Location and description of one benchmark elevation for each 20 acres.
- (m) Boundary survey map prepared by a New Jersey licensed land surveyor showing location of all property corners.
- (n) Such other pertinent data as the Borough Engineer may deem necessary.

(8) Consideration of applications.

In considering the application, the Borough Engineer shall be guided by the following factors:

- (a) Soil erosion by water and wind.
- (b) Inadequate and improper surface water drainage.
- (c) Impairment of soil fertility.
- (d) Removal of lateral support of abutting streets and lands.
- (e) Creation of dangerous depressions and declivities.
- (f) Availability of alternative sites within the Borough, as defined herein.
- (g) Such other factors as the Borough Engineer may deem necessary or appropriate in light of the particular application.

If, after considering the above factors, the Borough Engineer determines that the proposed excavating, grading or removal or redistribution of soil will not be detrimental to the health, safety and welfare of the Borough or

its inhabitants and complies with the terms hereof, the Borough Engineer shall issue a soil removal permit. Otherwise, the Borough Engineer shall deny the application and shall notify the applicant. The Borough Engineer shall have 30 days after the application is filed within which to notify the applicant whether the application has been granted or denied.

(9) Appeals.

If an application is denied, the applicant may appeal the decision of the Borough Engineer by filing a written notice of appeal with the Borough Committee within 15 days after receiving the notice of denial of the application.

(10) Fees.

(a) Application fee. A fee of \$500 shall accompany each application to cover the cost incurred in investigating and processing the application and will be retained by the Borough whether the permit is issued or denied.

(b) Permit fee. If the Borough approves an application for removal of soils, a fee for the soil removal permit shall be paid to the Borough prior to the issuance of the permit and the commencement of any site activity in accordance with the following schedule:

Fill Area (cubic yards)	Fee
0 to 10,000	\$300
10,001 to 50,000	\$500
50,001 to 300,000	\$1,000
300,001 to 1,000,000	\$2,000
1,000,001 or more	\$3,000

(c) Inspection fee. There shall be a fee to cover the cost of inspection and enforcement of the provisions of this chapter which shall be estimated based upon the total number of yards to be removed in accordance with the following schedule:

Fill Area (cubic yards)	Fee
0 to 10,000	\$500
10,001 to 50,000	\$4,000
50,001 to 300,000	\$8,000
300,001 to 1,000,000	\$12,500
1,000,001 or more	\$15,000

(d) To ensure conformity to the requirements of this chapter, inspections shall be made by the Borough Engineer or his authorized or qualified agent of the land in or upon which soil-moving operations are being conducted. The Zoning Officer, with the advice of the Borough Engineer, may, upon written notice to the applicant, issue a stop order for violations of the soil removal provisions of this chapter, or the resolution of

approval. Work shall not resume until the violations have been corrected and, in the event of the discontinuance of the soil removal which causes erosion and/or siltation problems or other problems detrimental to the environment, the performance bond for the development may be utilized to guarantee the proper performance of the soil removal.

(11) Bond required.

- (a) Before the permit is issued, the applicant shall file with the Borough Engineer cash, certified check, letter of credit or a bond executed by the applicant as principal and a surety company licensed to do business in the State of New Jersey as surety unless the applicant, owner or developer has previously posted such security covering the work to be performed hereunder in connection with an approved subdivision or site plan. The Borough Engineer shall determine the amount of the bond taking into account the nature and extent of the work to be done; the type and character of the soil; the extent and depth of the various cuts and fills; the extent to which the area of operations is wooded; the proximity of proposed operations to streets, buildings, structures, natural or artificial streams or watercourses and the general drainage conditions; amount of topsoil required 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 chapter and of the soil removal permit issued pursuant thereto.
- (b) In no event shall the bond amount be less than \$1,000.
- (c) The applicant shall repair, to the satisfaction of the Borough Engineer, any public street, structure or land which may be damaged as a result of the work authorized by the soil removal permit.

(12) Regulations for soil removal or redistribution.

- (a) Soil removal or redistribution conducted under a permit issued under this chapter shall be in accordance with the following regulations:
 - (a) Operations shall be conducted so that there shall be no sharp declivities, pits or depressions.
 - (b) Lands shall be graded so as to conform to the approved contour lines and grades and shall be cleared of debris.

- (c) A minimum of four inches of topsoil shall remain over the entire lot from which soil was removed, except for those portions of the lot occupied by a building or structure or pavement, in accordance with the approved plans and specifications for the development thereof, upon completion of the intended construction.
- (d) All of the work described in this chapter shall be performed between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.
- (e) Adequate measures shall be taken to prevent erosion and sedimentation of soil upon surrounding lands, streets, municipal facilities, bodies of water or waterways, in accordance with the provisions of the Soil Erosion and Sediment Control Ordinance. No soil shall be removed during periods of rain or other precipitation or within 48 hours thereafter.
- (f) The Borough Engineer shall be notified at least 48 hours before the removal of soil begins.
- (b) An accounting of the soil removed shall consist of inspection by the Borough Engineer of the receipts given the applicant by the excavator for the soil removed. The receipts shall record the type and amount of soil taken, the date it was removed and the capacity of the truck. A final written estimate of the amount removed shall be submitted by the applicant. The Borough Engineer must be satisfied that the inspected receipts account for all of the amounts indicated in the final estimate.

(13) Sectioning of land under permit.

The Borough Engineer shall require operations under a soil removal approval to be conducted in such a manner as to minimize the effects of soil erosion, dust, mud, sedimentation and drainage during the course of the work. Unless temporary vegetative cover is established according to soil erosion standards, the applicant shall be required to section the property which is the subject of his approval into areas of not more than five acres and to schedule the work of soil removal so that the operation conducted in one section is completed and at final grade before work is commenced in any other section of the premises. Temporary vegetative cover shall be required in an area or section if the same is not to final grade and the applicant desires to work in another section.

(14) Removal of a bank.

- (a) Complete removal of a bank. If application for a soil removal approval 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 2% to insure proper drainage.

(b) Partial removal of a bank.

(a) If the applicant for soil-moving involves the partial cutting down of a bank, the project shall leave the final slope of all sides of the remaining portion of the bank at slopes that conform to the following minimum slope standards:

- i. Wet clay and sand: one vertical to three horizontals.
- ii. Gravel, loam and clay: one vertical to four horizontals.
- iii. Rock: one vertical to one horizontal.

(b) 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 feet, and this distance shall be increased at a rate of one foot for each one foot of vertical height of the slope up to a maximum required for a distance of 25 feet from any property line. 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.

(15) Topsoil.

(a) Removal of topsoil. No topsoil will be permitted to be removed from the premises.

(b) Storage of topsoil. Whenever any owner, developer or excavator removes topsoil from any land in the Borough, provision shall be made for the storage of topsoil within the boundary lines of the property.

(c) Replacement of topsoil. All topsoil excavated on the premises shall be stored and uniformly replaced over the entire area at a minimum depth of four 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 application.

(d) Requirements for replacement. When no or insufficient topsoil is removed from the site or premises:

- (a) Each site, area or premises covered by a soil removal permit shall be covered with a minimum of four inches of topsoil upon completion of the period of the soil removal permit.
- (b) Topsoil material shall be brought to the premises from off site, upon completion of the excavation of soil and prior to placement of final vegetative cover.
- (c) Topsoil shall be friable and loamy, free of debris, objectionable weeds and stones and contain no toxic substance that may be harmful to plant growth. APH range of 5.0 to 7.5 is acceptable. Soluble salts should not exceed 500 ppm.
- (d) Topsoil shall be tested by a recognized testing laboratory, U.S. Department of Agriculture or Rutgers University Soil Testing Laboratory, with test results submitted to the Borough Engineer for approval prior to placement. Also, topsoil previously excavated and stockpiled on the premises shall be subject to this requirement.

(e) Site preparation.

- (a) Grade as needed, to conform to the final contours on the approved soil removal maps.
- (b) Subsoil should be tested for lime requirement and limestone, if needed, should be applied to bring soil pH to 6.5 and incorporated into the soil as nearly as practical to a depth of four inches.
- (c) Immediately prior to topsoil distribution, the surface should be scarified to provide a good bond with the topsoil.
- (d) Employ needed erosion control practices such as diversions, grade stabilization structures, berms, channel stabilization measures, desilting basins and waterways.

(f) Applying topsoil.

- (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 inches (unsettled) is required.
- (g) Quantity of topsoil required. Five hundred thirty-seven cubic yards will be required per acre of soil removal permit

Section II. Severability:


Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section III. Effective Date:

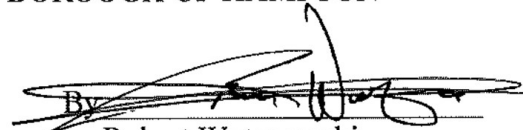
This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

ALL OF WHICH IS ADOPTED THIS 21st day of July, 2025, by the by the Mayor and Council of the Borough of Hampton, Hunterdon County, State of New Jersey.

ATTEST:


Linda Leidner, RMC
Borough Clerk

BOROUGH OF HAMPTON

By 
Robert Wotanowski.
Council President

Intro: 6/16/2025
Publish: 6/18/2025

Adopt: 7/21/2025
Publish: 7/23/2025