

# Minutes for the Environmental Commission September, 2016

The meeting was called to order at 7:01 pm.

Members present: Andreoli, Beaumont, Haug, Piel, Urbanski, Zuzov, Dale (TC liaison).

Members excused: Clapp, Neufeld, Van der Veen.

Approval of minutes – the minutes from July 14, 2016 were approved.

No members of the public were present for comment.

The Soil Removal Ordinance which the members had initially researched in November, 2015, was revisited. After considerable discussion as to whether or not to have this apply to single residences, the following amendments were agreed upon:

## Chapter 138: SOIL ~~REMOVAL~~ MANAGEMENT AND REMOVAL

[HISTORY: Adopted by the Township Committee of the Township of West Amwell 8-16-2006 by Ord. No. 21-2006. *Editor's Note: This ordinance also repealed former Ch. 138, Soil Removal, adopted 9-18-1970 by Ord. No. 6-70, as amended.* Amendments noted where applicable.]

### PURPOSE AND GENERAL REFERENCES

West Amwell has a long history of protecting the natural environment, preserving farmland and respecting the carrying capacity and constraints of the land. With these planning objectives in mind, it is the purpose of this chapter to protect soil as a necessary and valuable resource in the Township. Soil is an essential component of farming and therefore key to farmland productivity. It is a vital part of woodland habitat, where it provides the ecological underpinnings for a healthy and diverse population of flora and fauna. Soil removal can ~~also~~ impact neighbors in such areas as drainage and runoff. Therefore, The purpose of this chapter ~~intends~~ is to protect and manage the soil of West Amwell Township from being lost due to exportation or removal.

### § 138-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### APPLICANT

~~A developer~~ **Anyone** submitting an **application** for development **or for a project which would disturb the soil.**

## **FILL**

Usually subsoil and underlying soil parent material which has little soil, organic matter or biological activity. Fill dirt is taken from a location where soil is being removed as a part of leveling an area for construction; it may also contain sand, rocks, and stones, as well as earth.

## **SOIL**

A. The unconsolidated mineral or organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

B. The unconsolidated mineral or organic matter on the surface of the earth that has been subjected to and shows effects of genetic and environmental factors of climate (including water and temperature effects), and macro- and microorganisms, conditioned by relief, acting on parent material over a period of time. A product soil differs from the material from which it is derived in many physical, chemical, biological, and morphological properties and characteristics.

## **SUBSOIL**

A. The deepest level of soil material in which soil formation processes are active. It lies above the bedrock, but below the topsoil.

B. All soil that is not topsoil.

## **TOPSOIL**

A. The layer of soil moved in cultivation; frequently designated as the Ap layer or Ap horizon.

B. The top layer of the soil profile, above the subsoil and distinguished from other soils as a presumed fertile soil

or soil material, or one that responds to fertilization, ordinarily rich in organic matter.

## **§ 138-3 Performance standards.**

A. In addition to the standards of this chapter, soil removal and relocation of any material shall be in accordance with the Code of the Township of West Amwell, Chapter 137, Soil Erosion and Sediment Control, and the Soil Erosion and Sediment Control Plan as certified by the Hunterdon County Soil Conservation District and required by the New Jersey Soil Erosion and Sediment Control Act, Chapter 251, P.L.1975.

B. An applicant shall submit as part of his or her existing conditions and final grading plan, an engineered plan showing the earthwork balance quantities of subsoil and topsoil.

C. Topsoil shall not be removed from the municipality. **It is permissible to remove subsoil if there is no location in West Amwell Township to re-use it.**

D. Large rocks and boulders (greater than three-foot minimum diameter at any point) indicative of the rocky landscape of the Sourland Mountains shall not be removed from the Sourland Regional Planning District (SRPD).

E. Large rocks and boulders (greater than three-foot minimum diameter at any point) in districts other than the SRPD shall not be removed from the Township.

F. Large rocks and boulders referenced in § 138-3D and E outside of the area of excavation shall be left intact.

G. Topsoil removed during the course of construction shall be completely redistributed to all nonimpervious areas of the site and shall be seeded or planted so as to remain in place unless a management plan consistent with § 138-4 has been approved.

H. Topsoil and ~~fill~~ **subsoil** shall be stored in separate locations.

I. Excess soil shall not be used to fill wetlands, **vernal pools**, and sensitive environmental features identified by state and local ordinances, except for regulatory actions that have been authorized by appropriate reviewing agencies.

#### **§ 138-4 Management plan.**

A. Should an applicant have a quantity of soil in excess of the needs of the project, the applicant shall provide the Township Engineer with a management plan for review. The plan shall be consistent with the requirements of the Hunterdon County Soil Conservation District. The soil management plan shall delineate the methods of re-use of soil within West Amwell Township. The applicant shall identify potential locations of re-use as part of this plan. West Amwell Township reserves the first right of refusal. The Township Engineer shall review the management plan to insure that it is consistent with this chapter. The plan shall be approved by the Planning Board.

B. The applicant shall demonstrate that reasonable effort has been made to identify locations for potential soil re-use within West Amwell Township.

C. Should the Planning Board approve the removal of the soil from the limits of the Township, the applicant shall comply with the requirements of the Soil Erosion and Sediment Control Act Chapter 251, P.L. 1975.

D. Should the soil need to be removed from the site **and re-used within the township**, it is the applicant's responsibility to verify that the soil is clean and free from pollutants prior to removal **in accordance with NJDEP's Site Remediation Standards.**

#### **§ 138-5 Exemptions.**

The following are exempt from the provisions of Chapter 138.

A. Land disturbance of less than 5,000 square feet associated with the construction of a single-family dwelling, unless such development is a part of a proposed subdivision, site plan, zoning variance or building permit application involving two or more building units.

B. Land disturbance of less than 5,000 square feet of the surface area of land for the accommodation of construction which may or may not require a building permit.

C. Use of land for gardening primarily for personal consumption.

D. An environmental action required by the State of New Jersey.

E. Agricultural use of lands when operated in accordance with a farm conservation plan approved by the Hunterdon County Soil Conservation District or when it is determined by the Hunterdon County Soil Conservation District that such use will not cause a net loss of topsoil in the Township.

**F. Contaminated topsoil and subsoil shall be permitted to be removed from the Township in accordance with the NJDEP Site Remediation Standards, the Code of the Township of West Amwell, Chapter 137, Soil Erosion and Sediment Control, and the Soil Erosion and Sediment Control Plan, as certified by the Hunterdon County Soil Conservation District and required by the New Jersey Soil Erosion and Sediment Control Act, Chapter 251, P.L.1975.**

#### **§ 138-6 Violations and penalties.**

Any person, persons or corporations who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punished by one or more of the following: a fine not exceeding \$1,250, a term of imprisonment for a term not exceeding 90 days or a period of community service not to exceed 90 days or any combination of the above. Each day that a violation of any provision of this chapter continues shall constitute a separate offense.

Prior to the above amendments, the members discussed at length a property on Rock Road West, formerly owned by Fozman. There has been massive soil movement and excavation, piles of earth and rock. Apparently there were no permits obtained. Cathy will check into this.

Members then discussed the potential problem with the emerald ash borer. Cathy had contacted the Sourland Alliance and discussed the Green Acres preserved former United Water Company property as in need of protection. Members were supplied with a map of the property, 309 acres, with additional adjoining wooded parcels noted. F&W has confirmed the presence of the borer on Goat Hill Road, in close proximity to the Water Co. Members agreed on possible protection of this property and will work with the Sourland Alliance and Sourland Conservancy to accomplish this.

The EC then discussed whether or not to offer well water testing. This was done three years ago through Raritan Headwaters Association. Members decided to offer the program next spring and begin work in January 2017.

Cathy suggested that at our next meeting we review the Stream Corridor Ordinance since the Flood Hazard Area Protection Rules have been changed. ANJEC has recommended this and members were provided with excerpts from their email. Particularly discouraging from ANJEC:

*In addition to permitting more development in New Jersey's floodplains and stream buffers, the weakened rules:*

- 1. create permits by self-certification, in which applicants can self-certify, they are complying with the rules and are automatically issued permits;*
- 2. allow development and clearcutting in stream buffers and floodplains to be mitigated in other areas of the State, which will exacerbate local flooding and compound environmental justice issues in already overburdened communities;*
- 3. fail to provide protection for headwaters, the very beginning of our streams, which is critical for clean water and healthy ecosystems;*
- 4. eliminate the Special Water Resource Protection Area (SWRPA) 300- foot buffer protection on streams and rivers that provide drinking water. The 300-foot buffer still exists in many cases under the Stormwater Rules, but the elimination of the SWRPA under the flood Hazard Rules creates gaps in protections.*

Rob believes that ANJEC was misinterpreting the new regulations and that the new rule adopted removed the SWRPA in the Stormwater regulations. The Senate had rejected the proposed regulations and the DEP then met with the Senate Environmental Commission with new rule proposals which were more stringent.

Nonetheless, the EC should review the Stream Corridor Ordinance to insure that the original intent of the ordinance remains intact and will do so at the next meeting.

No members of the public were present for comment.

The meeting was adjourned at 8:07 pm.

Minutes prepared by Cathy Urbanski.