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Title: AN ORDINANCE AMENDING TITLE 28, SOIL EROSION AND SEDIMENT CONTROL, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY REVISING FEES AND DEPOSITS.
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12/3/2014	1	Municipal Council	Adopt on First Reading	Pass
11/17/2014	1	Municipal Council	Advance to First Reading	Pass

AN ORDINANCE AMENDING TITLE 28, SOIL EROSION AND SEDIMENT CONTROL, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY REVISING FEES AND DEPOSITS.

WHEREAS, the City of Newark, Department of Engineering has determined that it is necessary to adjust the permit fees and deposits for Soil Erosion and Sediment Control Permits City-wide, in order to be in line with other regional government agencies.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

[Note: Bold and underscored text represents additions and strikethroughs represent deletions.]

Section 1. That Title 28, Soil Erosion and Sediment Control, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, be amended as follows:

TITLE XXVIII

NOTE: For State Statutes providing for soil erosion and sediment control in developments, see N.J.S. 4:24-39 et seq.

CROSS REFERENCE: For provisions concerning land subdivision and site plans, see Title XXXVIII, Land Subdivision.

For flood control, see Title XII, Flood Damage Protection.

For zoning, see Title XL, Zoning.

Chapter Listings:

Chapter 1.	Title; Purpose
Chapter 2.	Definitions
Chapter 3.	Soil Erosion and Sediment Control Plans
Chapter 4.	Procedures
Chapter 5.	Fees
Chapter 6.	General Provisions

CHAPTER 1 TITLE; PURPOSE

28:1-1. TITLE.

This Title shall be known and cited as the "Newark Soil Erosion and Sediment Control Regulations." (R.O. 1966 C.S. § 21A:1-1)

28:1-2. PURPOSE.

The purposes of this Title are to control soil erosion and sedimentation and to prevent related environmental damage by requiring adequate provisions for surface water retention and drainage and by requiring protection for surface water retention and drainage and by requiring protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the City. (R.O. 1966 C.S. § 21A:1-2)

CHAPTER 2 DEFINITIONS

28:2-1. DEFINITIONS.

As used in this Title:

Applicant shall mean a person, partnership, public or private corporation, public or municipal agency or other entity requesting permission to engage in a land disturbing activity.

Application for Development shall mean a proposed subdivision of land, site plan, special exemption, zoning variance, planned unit development or building permit.

Central permit office shall mean office established pursuant to Section 7:1-5.

Central Planning Board shall mean the Municipal Planning Board established pursuant to the

provisions of Section 37:1-1 et seq.

City shall mean the City of Newark.

Critical area shall mean a sediment-producing, erodible or severely eroded area.

Department of Engineering shall mean an administrative department of the Newark municipal government established pursuant to Section 2:8-1 et seq.

Director shall mean Director of the Department of Engineering as appointed by the Mayor, and who may appoint an authorized agent to act in his/her behalf.

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

Excavation or cut shall mean any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

Land shall mean any ground, soil or earth including marshes, swamps, drainage ways, and areas not permanently covered by water within the municipality.

Land disturbing activity shall mean any activity involving clearing, grading, transporting, filling, excavating, stripping or any other activity which exposes land to the danger of erosion.

Mulching shall mean the application of plant residue or other suitable materials to land surfaces to conserve moisture, stabilize soil and promote plant cover.

Natural ground cover shall mean the original vegetation and trees on the proposed site before clearing, grading, stripping, excavating, filling or other land disturbing activity.

Permit shall mean an authorization issued by the Director of Engineering to perform work under this Title.

Project shall mean the disturbance of more than five thousand (5,000) square feet of surface area of land (1) for the accommodation of construction for which the City of Newark Uniform Construction Code [Title VII] would require a construction permit, excepting the activities exempted under Section 28:6-2; (2) for the demolition of one or more structures; (3) for the construction of a parking lot; (4) for the construction of a public facility for which the State Uniform Construction Code would require a municipal construction permit.

Sediment shall mean solid mineral and organic material subject to weathering, dissolution, abrasion, corrosion, transportation and deposition by water, wind, ice or gravity.

Sediment basin shall mean a depression formed by excavation and/or by the construction of a barrier or dike built at suitable locations to retain rock, sand, gravel, silt or other material.

Site shall mean any plot, parcel or parcels of land.

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

Soil Conservation District shall mean a governmental subdivision of this State, which encompasses this City, organized in accordance with the provisions of N.J.S. 4:24-7 et seq.

Soil Erosion and Sediment Control Plan shall mean a plan which fully details necessary land treatment measures including a time schedule for installation, that effectively minimizes soil erosion and sedimentation. Such measures shall be in accordance with standards adopted by the State Soil Conservation Committee.

Standards shall mean standards as defined in "Standards for Soil Erosion and Sediment

Control in New Jersey" as promulgated by the State Soil Conservation Committee.

State Soil Conservation Committee shall mean an agency of the State established in accordance with the provisions of N.J.S. 4:24-3.

Stripping shall mean any activity which significantly disturbs vegetated or otherwise stabilized soil surfaces including tree removal, clearing and grubbing operations.

(R.O. 1966 C.S. § 21A:2-1)

CHAPTER 3 SOIL EROSION AND SEDIMENT CONTROL PLANS

28:3-1. SOIL EROSION AND SEDIMENT CONTROL PLANS TO BE SUBMITTED.

No individual site of five thousand (5,000) or more square feet shall be disturbed by any person, partnership, private or public corporation, public or municipal agency (i.e. an applicant) within this City unless the applicant has submitted to the ~~Central Permit Office~~ **Director of the Department of Engineering**, a soil erosion and sediment control plan for such disturbance formulated in accordance with the "Standards for Soil Erosion and Sediment Control in New Jersey" as promulgated by the State Soil Conservation Committee and a valid permit has been issued by the Director of Engineering unless exempted under Section 28:6-2. (R.O. 1966 C.S. § 21A:3-1)

28:3-2. DATA REQUIRED.

Any applicant desiring to engage in a land distributing activity shall submit to the ~~Central Permit Office~~ **Director of the Department of Engineering**, a separate soil erosion and sediment control plan, in ~~triplicate~~ **duplicate**, for each noncontiguous site. ~~The Central Permit Office shall forward the plan to the Director of Engineering for review.~~ The applicant may consult with the local Soil Conservation District in the selection of appropriate erosion and sediment control measures and in the development of the plan. A complete soil erosion and sediment control plan shall contain the following items (note that the information required by items a., b., c. and d. may be entered on a single set of plans, where appropriate):

a. The identity and address of the applicant and of the property owner, if not such applicant; the block and lot number of the site; **street address**; flood hazard and zoning determinations for the site; and the purpose for which the land distributing activity is proposed.

b. Survey plans of a scale not greater than one inch equals ten feet (1" = 10') or less than one inch equals fifty feet (1" = 50') (that have been prepared by a New Jersey State licensed engineer or land surveyor pursuant to N.J.S. 45:8-1 et seq.) depicting the location and description of existing natural and manmade features on and surrounding the site, including natural ground cover; general topography of the site utilizing contour intervals of one (1) foot where the slope is less than five (5%) percent and two (2) feet where the slope exceeds five (5%) percent; existing drainage ways, sewers and culverts. ~~Soil characteristics, including copies of pertinent sheets of the County Soil Conservation District Survey.~~

c. Plans of a scale not greater than one inch equals ten feet (1" = 10') or less than one inch equals fifty feet (1" = 50') (that have been prepared by a New Jersey State licensed engineer or land surveyor pursuant to N.J.S. 45:8-1 et seq.) depicting proposed changes to the site including the location and description of natural and manmade features to be either retained or provided as a result of the proposed land disturbing activity. As a minimum, such plans shall depict: all alterations

and improvements proposed for the site; proposed topography utilizing contour intervals of one (1) foot where slope is less than five (5%) percent and two (2) feet when the slope exceeds five (5%) percent; proposed ground cover; and proposed drainage facilities including storm water inlets, catch basins, drainage ways, sewers, culverts, storm water retention facilities, etc.

d. Plans of a scale not greater than one inch equals ten feet (1" = 10') or less than one inch equals fifty feet (1" = 50') (that have been prepared by a New Jersey State licensed engineer or land surveyor pursuant to N.J.S. 45:8-1 et seq.) depicting proposed measures to be undertaken to prevent soil erosion and sedimentation during the period of the land disturbing activity and after completion of the proposed project.

e. A schedule delineating the installation sequence of planned erosion and sediment control measures as related to progress of the project, including anticipated starting and completion dates and the time period during which each area will be exposed or disturbed. Measures for soil erosion and sediment control shall be in conformance with the standards, which standards shall be kept on file at the Offices of the Department of Engineering and the Soil Conservation District.

f. If soil is to be removed from the site, the amount of soil to be removed, the method to accomplish removal, the place to which the soil will be removed and an authorization and certification for deposition at the site to which it will be delivered.

g. Revisions to the Soil Erosion and Sediment Control Plan as may be required by the Soil Conservation District, the Director of Engineering or the applicant prior to issuance of a permit.
(R.O. 1966 C.S. § 21A:3-2)

28:3-3. GENERAL DESIGN PRINCIPLES AND REQUIREMENTS.

Control measures to minimize soil erosion and sedimentation shall be demonstrated by the applicant and shall apply to all aspects of proposed site development involving a land disturbing activity and shall be in operation during all stages of the disturbing activity. The following principles shall apply to the Soil Erosion and Sediment Control Plan:

a. Stripping of vegetation, grading or other soil disturbances shall be done in a manner which will minimize soil erosion.

b. Whenever feasible, natural vegetation shall be retained, protected and supplemented.

c. The extent of the disturbed area and the duration of its exposure shall be kept within the practical limits as specified in "Standards for Soil Erosion and Sediment Control in New Jersey," as promulgated by the State Soil Conservation Committee.

d. Temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed areas during construction or other land disturbing activity. Temporary measures are required if permanent measures will not be completed within thirty (30) days.

e. Drainage provisions shall accommodate increased runoff, resulting from modified soil and surface conditions, during and after development or disturbance. Such provisions shall be in addition to any other requirements of these Revised General Ordinances.

f. Water runoff shall be minimized and retained on site to such extent so as to prevent an overload of the municipal sewerage system.

g. Sediment shall be retained on site to the maximum extent feasible.

h. Diversions, sediment basins, and similar required structures shall be installed prior to any

on-site grading or disturbance.

i. Soil, gravel, sand or other unconsolidated materials stored on site for use in filling, grading and/or other construction activity, shall be adequately maintained so as not to contribute to sedimentation and/or dust storms.

(R.O. 1966 C.S. § 21A:3-3)

CHAPTER 4 PROCEDURES

28:4-1. REVIEW AND APPROVAL.

a. Soil erosion and sediment control plans shall be reviewed by the Director of Engineering and shall be approved when in conformance with the "Standards for Soil Erosion and Sediment Control in New Jersey" as promulgated by the State Soil Conservation Committee and applicable City ordinance. The Director of Engineering may seek the assistance of the Local Conservation District in the review of such plans and may deem as approved those plans which have been reviewed and determined adequate by the district.

b. The ~~Director of Engineering~~ **Director of the Department of Engineering** shall grant or deny approval within a ~~twenty (20)~~ **thirty (30)** day period following admission of a complete application unless, by mutual agreement in writing between the ~~Director of Engineering~~ **Director of the Department of Engineering** and the applicant, the ~~twenty (20)~~ **thirty (30)** day period shall be extended for an additional ~~twenty (20)~~ **thirty (30)** day period. Failure of the Director of Engineering to grant or deny approval within such period or such extension thereof, shall constitute approval.

c. The decision of the ~~Director of Engineering~~ **Director of the Department of Engineering** shall be provided in writing to the applicant with copies sent to the Central Permit Office and the Central Planning Board. A ~~copy of this decision~~ **Copies of decision** including the address of the site, the block and lot numbers of the site, the proposed land use and other information as required by the district shall be sent to the Local Soil Conservation District **on a quarterly basis.**

(R.O. 1966 C.S. § 21A:4-1)

28:4-2. ISSUANCE OF A PERMIT.

a. Upon compliance with all aforementioned requirements and upon payment of all fees required hereunder, the ~~Central Permit Office~~ **Director of the Department of Engineering** shall issue a permit to the applicant, with or without conditions. Each permit shall prescribe a reasonable schedule for all work to be completed thereunder.

b. No permit shall be issued for a land disturbing activity, including, but not limited to, building, development, and excavation, which is not permitted by existing zoning and variances or by appropriate City, State or Federal rules, regulations, laws or ordinances.

c. Permits as required under the Newark Uniform Construction Code [Title VII] shall not be issued until the applicant has obtained a soil erosion sediment control permit.

(R.O. 1966 C.S. § 21A:4-2)

28:4-3. COMMENCEMENT OF PROJECT.

The ~~Director of Engineering~~ **Director of the Department of Engineering** shall be notified in writing seventy-two (72) hours before commencement of any land disturbing activity permitted under this Title. (R.O. 1966 § 21A:4-3)

28:4-4. SOIL EROSION AND SEDIMENT CONTROL PLAN MODIFICATIONS.

a. Major revisions to an approved soil erosion and sediment control plan proposed by the applicant shall constitute a new project and shall necessitate a new application where required by the Director of Engineering or the Soil Conservation District. Major revisions shall include significant changes in the dimensions of the area to be disturbed, changes affecting at least a ten (10%) percent cost deviation from the approved plan, significant modifications of the general design principles of such revisions as deemed by the Director of Engineering as requiring reevaluation.

b. The ~~Director of Engineering~~ **Director of the Department of Engineering** shall, when he/she deems necessary, order on-site repairs or modifications to effect protection of water courses, properties, and the general public from impending damage until such modifications can be incorporated into the approved soil erosion and sediment control plan.

c. Where work cannot be completed in the time period allotted by the approved schedule, a request for an extension, reasons for the requested extension and a revised schedule of compliance shall be submitted in writing to the ~~Director of Engineering~~ **Director of the Department of Engineering**. The revised schedule shall be implemented subject to the approval of the Director of Engineering.
(R.O. 1966 § 21A:4-4)

28:4-5. MAINTENANCE.

All permanent soil erosion and sediment control measures installed pursuant to this Title shall be adequately maintained by the property owner for two (2) years after completion of the approved plan and after this period of time the property shall be maintained in a manner which shall not create an erosion problem. (R.O. 1966 § 21A:4-5)

28:4-6. PROTECTION TO PROPERTY.

a. The applicant shall not engage in any land disturbing activity which permits or causes the deposition of sediment, rock, gravel or other material on any public street, sewer, storm water inlet, catchbasin, water course or any public property resulting in damage or interference with the use of such property.

b. The applicant shall not engage in any land disturbing activity which permits or causes the deposition of sediment, rock, gravel or other material on any private property resulting in damage to such property without the express consent of the owner of the affected property.

c. When sediment, rock, gravel or other material is hauled from a site, precautions shall be implemented to prevent the material from being blown, spilled, deposited, dropped or discharged from the vehicle by any means whatever onto the street or adjacent public or private property.

d. Where sediment, rock, gravel or other material is deposited on any public or private property in violation of paragraph a., b., or c. above, the applicant shall effect removal of same from such property within twenty-four (24) hours.

(R.O. 1966 C.S. § 21A:4-6)

28:4-7. INSPECTION.

No person shall interfere with or obstruct the passage of an authorized representative of the **Director of the Department of Engineering** Director of Engineering to or from any site while engaged in inspection under this Title. Permission is granted to the Director of Engineering **Director of the Department of Engineering** or his/her authorized designee as a condition of the issuance of the permit to enter upon the site and property during regular work hours. (R.O. 1966 C.S. § 21A:4-7)

28:4-8. COMPLETION.

Upon completion of all work, the applicant shall file with the **Director of the Department of Engineering** Director of Engineering certification, on a form obtained from the Department of Engineering, that all soil erosion and sediment control measures have been completed in conformance with the approved plan, conditions of the permit and provisions of this Title. (R.O. 1966 C.S. § 21A:4-8)

28:4-9. PERFORMANCE BOND OR CERTIFIED CHECK. INSPECTION/ COMPLIANCE FEE

- a. The applicant shall post a performance bond or certified check in an amount that is ten (10%) percent of the cost of work to be performed under the approved plan but in no case less than ~~two hundred fifty (\$250.00)~~ **three hundred (\$300.00)** dollars to assure completion of required control measures before the issuance of a permit by the Central Permit Office.
- b. The Director of Engineering **Director of the Department of Engineering** shall inspect each site for which a performance bond or certified check **an inspection/ compliance fee** has been posted and shall certify whether installations and control measures are in compliance with the standards and general design principles prescribed by this Title and with any specific requirements that have been stated as conditions of application approval. The applicant shall have a copy of the approved soil erosion and sediment control plan and permit on site during construction.
- c. The Director of Engineering **Director of the Department of Engineering** shall issue a stop construction order for all activities on the site if a project is not being executed in accordance with the approved soil erosion and sediment control plan, modifications thereof, conditions stipulated in the permit, or provisions provided by this Title. The Director of Engineering **Director of the Department of Engineering** shall provide to the applicant the necessary corrective measures and a schedule of compliance.
- d. The Director of Engineering **Director of the Department of Engineering** shall revoke or suspend the soil erosion and sediment control permit for failure to comply with the provisions of c. above.
- e. A certificate of occupancy shall not be issued until the permanent measures to control soil erosion and sedimentation are installed in compliance with the provisions of the approved plan. A formal report of such compliance prepared by the Department of Engineering shall be filed with the Building Sub code Official. A copy of this report shall be sent to the Local Soil Conservation District.
- f. The Director of Engineering may, within thirty (30) days after the date of such report, release the performance bond in whole or in part, depending upon his/her assessment of need to

withhold all or a portion of the bond or certified check to assure full compliance with requirements and adequate maintenance of the facilities.
(R.O. 1966 C.S. § 21A:4-9)

CHAPTER 5 FEES

28:5-1. APPLICATION FEES.

a. The applicant shall pay to the City of Newark a fee to cover the cost of the processing applications and enforcing this Title. This fee shall be in accordance with the following fee schedule:

*Residential (**Single Family Detached, Multi Family, Apartment Buildings**)*

5,000-10,000 sq. ft.....	\$250.00	<u>\$500.00</u>
10,001-20,000 sq. ft.....	280.00	<u>\$560.00</u>
20,001 sq. ft.-1 acre.....	300.00	<u>\$600.00</u>
1- 40 5 acres.....	400.00	<u>\$800.00</u>
Over 40 6 acres.....	500.00	<u>\$1,000.00</u>

*Mercantile, Industrial and Business (~~Other than parking lots~~), **and Parking Lots***

5,000-10,000 sq. ft.....	\$600.00
10,001-20,000 sq. ft.....	700.00
20,001 sq. ft.-1 acre.....	800.00
1-5 acres.....	1,000.00
5-10 acres.....	1,000.00
Over 40 6 acres.....	1,200.00

~~Parking Lots~~

5,000-10,000 sq. ft.....	\$500.00
10,001-20,000 sq. ft.....	560.00
20,001 sq. ft.-1 acre.....	700.00
1-2 acres.....	800.00
2-3 acres.....	\$ 900.00
Over 3 acres.....	1,000.00

*Demolition, **Land Grading, All Other***

Over 5,000 sq. ft.....	\$500.00	<u>\$600.00</u>
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b. When a permit is applied for after a land disturbing activity has commenced or completed and no prior application for a permit has been made, the fee for such permit shall be one and one-half (1 1/2) times the normal fee and further provided that the minimum fee for any such application shall be seven hundred fifty (\$750.00) dollars.

(R.O. 1966 C.S. § 21A:5-1; Ord. 6 S+FI, 9-16-87; Ord. 6 S+FC, 2-19-97; Ord. 6 S+FA, 4-3-02 § 1)

CHAPTER 6 GENERAL PROVISIONS

28:6-1. PENALTIES.

If any person violates any of the provisions of this Title, any standard promulgated pursuant to the provisions of this Title or fails to comply with the provisions of any approved soil erosion and sediment control plan, the City may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violations and the court may proceed in a summary manner. Any person who violates any of the provisions of an approved soil erosion and sediment control plan shall be liable to a penalty of not less than ~~one hundred (\$100.00) dollars~~ **five hundred (\$500.00) dollars** nor more than three thousand (\$3,000.00) dollars to be collected in a summary proceeding pursuant to the Penalty Enforcement Law of 1999 (N.J.S. 2A:58-12 et seq.). The Superior Court, ~~County District Court~~ and Municipal Court shall have jurisdiction to enforce the 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. (R.O. 1966 C.S. § 21A:6-1)

28:6-2. EXEMPTIONS.

The following activities are specifically exempted from this Title:

- a. The construction of a single-family detached unit unless such unit is part of a proposed subdivision, site plan, conditional use, zoning, variance, planned development or construction permit application involving two (2) or more single-family dwelling units.
 - b. Use of land for gardening primarily for home consumption.
- (R.O. 1966 C.S. § 21A:6-2)

28:6-3. AMENDMENTS.

No amendments to this Title shall become effective until approved by the State Soil Conservation Committee. (R.O. 1966 C.S. § 21A:6-3)

28:6-4. REPEAL OF INCONSISTENT PROVISIONS.

All ordinances or parts of ordinances inconsistent with this Title are hereby repealed. (R.O. 1966 C.S. § 21A:6-4)

28:6-5. SEVERABILITY AND VALIDITY.

If any clause, sentence, subparagraph, paragraph, section, article or title of these Revised General Ordinances or of any ordinance of the City hereinafter adopted or any part thereof to any person or circumstances, is held invalid, inoperable or unconstitutional by a Court of competent jurisdiction, such determination, order or judgment shall not affect, impair or invalidate the remaining portions of these Revised General Ordinances, as amended or other ordinances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, section, article, chapter, title or part thereof directly involved in the controversy in which the determination, order or judgment shall have been rendered. (R.O. 1966 C.S. § 21A:6-5)

28:6-6. EFFECTIVE DATE.

Section 1. This Title shall take effect upon final passage and publication as required by law and upon approval by the State Soil Conservation Committee. (R.O. 1966 C.S. § 21A:6-6)

Section 2. Any existing ordinances or parts thereof inconsistent with this ordinance are hereby repealed.

Section 3. This ordinance shall take effect upon final passage and publication, and in accordance with the laws of the State of New Jersey.

Statement:

This ordinance increases the permit fees and deposits for Soil Erosion and Sediment Control Permits.