

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Kingwood held on October 4, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on November 1, 2018 at 7:00 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 599 Oak Grove Road, Frenchtown, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE NO. 19-21-2018

AN ORDINANCE REGULATING THE IMPORTATION OF FILL INTO THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY

WHEREAS, the Township of Kingwood does not have a public water system and the residents rely exclusively upon the ability to use high quality groundwater extracted by private wells from the aquifers underlying Kingwood Township for potable water; and

WHEREAS, the Township of Kingwood contains numerous surface water bodies, including Class One trout production and maintenance streams and protection of surface water resources is critical to the protection of reliable, long-term, dependable yield and high quality of the ground water resources; and

WHEREAS, the importation and/or use of fill material that has not been verified to be free of contaminants in concentrations in excess of standards adopted by the New Jersey Department of Environmental Protection represents a threat to the surface and ground waters within Kingwood Township; and

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) Site Remediation Program (SRP) fill guidance is applicable to only those properties or sites with defined areas of concern (AOCs) and use of fill materials at all other properties and sites are not subject to the SRP.

WHEREAS, the purpose of this chapter is to protect the health, safety and welfare of persons and property within Kingwood Township by requiring permitting which seeks to create safeguards involving importation and/or use of fill material within the Township, and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey, as follows:

SECTION 1:

The Revised General Ordinances of the Township of Kingwood are amended by the addition of Chapter 75B, Fill Importation and Placement, to read as follows:

§75B-1 - PURPOSE

The purpose of this chapter is to create regulations governing the importation and use of fill material within Kingwood Township.

§75B -2 - DEFINITIONS

FILL MATERIAL

Fill material, whether used separately or together, and whether used on or below the existing or finished grade. includes dirt, stone, gravel, humus, clay, loam, rock, limonite, mulch, all items included in the NJDEP Fill Material Guidance For SRP Sites dated April 2015 (Version 3.0) and any subsequent addendum or replacement therefore, which is incorporated herein by reference, and any other natural or manmade material intended or used to fill a void or empty space in the ground or to supplement or raise the existing or modified grade of the ground surface.

APPLICANT

The person requesting a permit authorizing the importation or use of fill material as provided for in this article.

PERSON

The legal or beneficial owner or owners of a lot or any land proposed to be included in a soil or fill importation or placement operation, including the holder of an option or contract to purchase, or other person with an enforceable proprietary interest in such land and the explicit right to apply for and/or conduct activities described in this chapter.

LOT

Shall have the same definition as set forth in Section 115-3 of the Kingwood Township Code.

§75B-3 - PERMIT REQUIREMENTS

- A. Except as otherwise expressly provided Section 75B-5 of this ordinance, it shall be unlawful for any person, corporation or agent to import any fill material into or use any fill material within the Township without first obtaining a permit. The provisions of this chapter shall be administered and enforced by the Zoning Officer of the Township of Kingwood. In no case shall a permit be granted for the importation or use of fill material if the importation or use thereof would be in violation of any provision of this chapter. The Zoning Officer shall have a period of 30 (thirty) days from receipt of a complete application within which to issue or deny the permit. Each permit issued under the terms of this article shall be valid only for the location described in the permit and for a period of one (1) year from the date of issuance.
- B. All applications for a permit for the importation of fill into Kingwood Township shall be on an application form provided by the Township Zoning Officer, which shall require, at a minimum, the submission of the following information:
 1. A drawing of the proposed area of usage of the imported fill material;
 2. The boundary line of the whole tract of land within which the proposed fill material will be placed;
 3. Details of the proposed usage of the imported fill material, including the nature of the proposed fill material, its source and the quantity proposed for importation and/or usage;
 4. Certification that current taxes have been paid for the premises;
 5. Written consent of the owner of the property upon which the use of the imported fill material is proposed;
 6. The location, including street address and lot and block number of the property from which the fill material proposed for importation will originate;
 7. Written certification of the laboratory analytical results demonstrating that the proposed fill material satisfies the requirements of Section 75B-4 of this ordinance;
 8. It shall be a condition of any permit granted pursuant to this chapter that the enforcing officer is granted an irrevocable license for access to the proposed importation and/or fill operation and any fill sources located within Kingwood Township at all times during the duration of the permit;
 9. A permit fee of \$75.00.

§75B-4 - PROOF OF COMPLIANCE WITH CLEAN FILL CRITERIA

Any fill material that is proposed to be deposited within the Township, whether such fill material originates from sources outside or sources within the Township, must be sampled at the source and analyzed in accordance with the NJDEP Fill Material Guidance For SRP Sites dated April 2015 (Version 3.0), and any subsequent addendum or replacement therefore, by a state certified analytical laboratory and certified as clean fill.

- A. All expenses connected with such testing are to be borne by the recipient of the proposed fill material.
- B. Approval or rejection of any proposed fill material shall be made by the Zoning Officer in accordance with this article and any additional rules or regulations it may from time to time enact.

§75B-5 - EXEMPTIONS

The following activities shall be exempt from the provisions of this ordinance:

- A. Importation and use of fill material for septic installation and/or repair certified to be Select Fill by a New Jersey Licensed Engineer;
- B. Importation and use of material purchased in consumer packaging or in bulk from a retail or wholesale facility (e.g. mulch, sand or gravel from a home improvement center or nursery);
- C. Importation or use of material purchased from a duly licensed quarry or mine and certified as licensed quarry/mine material by such quarry or mine as provided in the NJDEP Fill Material Guidance For SRP Sites dated April 2015 (Version 3.0); and
- D. The reuse of fill material excavated from a lot elsewhere within the boundaries of that lot.

§75B-6 - ENFORCEMENT AND INSPECTION

The Zoning Officer is designated as the officer responsible for enforcing the provisions of this ordinance. It shall be the duty of the Zoning Officer to make physical inspections in connection with any application for a permit or renewal permit hereunder and, in addition, at least one other physical inspection at an interval of approximately three months following approval of the application. It shall be the duty of the Zoning Officer or his duly authorized assistants to cause any plans or premises to be inspected or examined and to order, in writing, the remedying of any conditions found to exist in violation of any provision of this chapter, and he/she shall have the right to enter any premises during the daytime in the course of his duties.

§75B-7 - ROADS TO BE KEPT CLEAR

No person engaging in activities permitted under this ordinance shall allow or permit any dangerous condition to result from the transportation of fill on any public road or highway. The public roads or highways in close proximity to the permitted area shall be kept clear of loose dirt. In the event of any violation of this section exists, the Township shall be authorized to rectify the situation, and the cost of such work will be borne by the applicant. The same will apply to drift onto roads passing through or adjoining the site area. In no event shall said roads be closed, destroyed or made impassable in any way.

§75B-8 - NONTRANSFERABILITY OF PERMIT

The permit issued under this chapter is not transferable, and the holder of the permit shall be solely responsible for the provisions specified in this chapter.

§75B-9 - REJECTION OF APPLICATION; HEARING

Should the Zoning Officer reject the application, the applicant may request a hearing by making written request to the Township Committee, which hearing shall be held within thirty (30) days after the first Township Committee meeting at which the request was received.

§75B-10 - APPEALS

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

§75B-11 – VIOLATIONS AND PENALTIES

Any person who violates any provisions of this article shall pay the required fees in connection with the permit as outlined herein, plus all costs associated with having the material tested, plus a cost of \$5.00 for each and every cubic yard of material that has been imported without a permit, as determined by the Zoning Officer. Such person shall also be liable to a fine of not more than \$5,000 for each occurrence. Every day in which such violation continues after due notice has been served shall constitute a separate violation or offense.

SECTION II

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions, thereof.

SECTION III

All Ordinances or parts of Ordinances inconsistent herewith are repealed to such inconsistencies.

SECTION IV

This Ordinance may be renumbered for codification purposes.

SECTION V

This Ordinance shall take effect upon passage and publication according to law, and filing with the Hunterdon County Planning Board.

**TOWNSHIP COMMITTEE OF
TOWNSHIP OF KINGWOOD**

Richard Dodds, Mayor

Attest: November 1, 2018

**Cynthia L. Keller, RMC
Township Clerk**

Introduction: October 4, 2018
Publication: October 11, 2018
Final Adoption: November 1, 2018
Publication By Title Only: November 8, 2018

ROLL CALL VOTE:

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
T. Ciacciarelli						
M. Syrnick						
R. Dodds						

I, **Cynthia L. Keller**, Clerk of the Township of Kingwood, County of Hunterdon and State of New Jersey do hereby certify the foregoing to be a true copy of **Ordinance No. 19-21-2018** adopted by the Kingwood Township Committee on November 1, 2018.

**Cynthia L. Keller, RMC
Township Clerk**