

**BOROUGH OF LEONIA
ORDINANCE NO. 2024-08**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 290 “ZONING”,
ARTICLE XIII “GENERAL REGULATIONS”, SECTION 290-57 “SOIL REMOVAL” OF
THE CODE OF THE BOROUGH OF LEONIA**

BE IT ORDAINED that Chapter 290 “Zoning”, Section 57 “Soil Removal” of the Code of the Borough of Leonia is hereby amended and supplemented as follows (additions in **bold** and deletions marked by “---“):

Section 1.

- A. Permit required. No person, firm or corporation shall do, cause or allow any of the following actions to occur on any land in the Borough, unless and until a soil permit shall first have been issued by the Borough Engineer:
- (1) The addition, removal or movement of more than 100 cubic yards of soil from or on any lot or change in its contour of greater than six inches.
 - (2) The moving of any soil on a lot where the activity results in a change in the lot contours which result in a change in the drainage characteristics of the lot to the extent that there is increased or decreased runoff to any abutting properties or private or public roads.
 - (3) The installation of retaining walls over ~~two~~ **four** feet in height, swales, pools or ponds, headwalls or drainage facilities.
- B. No Change.
- C. Application for permit. Any person, firm or corporation desiring to engage in any activities for which a permit is required shall, before commencing work, file a written application with the Borough Engineer **or Building Department** on a form furnished by the Borough for a permit therefor, signed by the property owner, which application shall contain the following data:
- (1) **Property Survey showing Present** contour lines and grades of the lots and lands; existing buildings, walls or other structures; trees over six inches in diameter; and existing property lines, **prepared by a New Jersey licensed land surveyor;**
 - (2) Proposed contour lines and proposed ~~contour~~ grades resulting from the addition, removal or moving of soil on the lots and lands and in relation to the adjoining properties; proposed landscaping; proposed buildings, drainage structures, pools, utilities or other facilities **prepared by a New Jersey licensed engineer;**
 - (3) Grades of all abutting streets, lots and lands to the extent required by the Borough Engineer;
 - (4) Where soil is to be removed and stored on lands within the Borough, the applicant shall indicate the precise location where the soil shall be stored, the present contour lines and contour grades of the property on which this soil shall be stored, the total cubic yards

intended to be stored, the length of time of storage, and any and all plans for soil erosion control when requested by the Borough Engineer;

- (5) The Borough Engineer may waive or omit any of the requirements set forth herein or may require the submission of additional detail or data.

D. No Change.

E. Review by Planning Board ~~or Board of Adjustment~~. In those instances where the Borough Engineer feels it is appropriate, he may refer any applications for soil movement to the Planning Board ~~or Zoning Board of Adjustment~~ for review and approval. ~~In those instances where an application is pending before the Board of Adjustment pursuant to the Municipal Land Use Act, the Board of Adjustment shall have the same authority to hear and decide soil movement applications as the Planning Board pursuant to the authority granted in this section.~~

F. Guiding factors in reviewing applications. In considering and reviewing the application and in issuing or denying the permit, the Borough Engineer shall be guided by the general purposes of municipal planning and shall take into consideration the following factors:

- (1) Soil erosion by water and wind;
- (2) Surface water drainage;
- (3) Soil fertility;
- (4) Lateral support of abutting streets, lots and lands;
- (5) Public health and safety;
- (6) Land ~~values and~~ uses, including effect on surrounding properties, landscaping, etc.;
- (7) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Borough with proper consideration of environmental and aesthetic effects;
- (8) Water table;
- (9) Streams, ponds, lakes and watercourses;
- (10) Needed detention of stormwater runoff.

G. Performance guarantee. **If required by the Borough engineer, and B**before any permit shall be issued the applicant shall file with the Mayor and Council of the Borough, a performance bond or its equivalent ~~as required by the Borough Engineer~~ with satisfactory surety, the amount to be set by the Borough Engineer. The bond shall be conditioned upon full and faithful performance by the principal within the time specified in the application of all the proposed work as set forth in the application and such additional work which may be found necessary by the Borough Engineer. In addition, the bond shall be conditioned upon the repair at the expense of the owner or applicant of any street or streets damaged by the transportation of soil in connection with the applications, if in the judgment of the Borough Engineer, such repairs are deemed to be necessary. The term "expense" as used in this

section shall include the cost of supervision incurred by the Borough Engineer in connection with such repairs. The term "bond" may also include a cash deposit or approvable letter of credit.

H. No Change.

I. Performance of operations, prohibited time for work; records.

(1) In the moving of soil, when permission has been duly granted, the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits or depressions, and in such a manner that, upon completion, the area shall be properly leveled off, cleared of debris and graded and seeded to conform with the contour lines and grades as approved by the Borough Engineer.

(2) No operation for which a permit has been issued pursuant to this section shall be conducted on Sundays. On any other day of the week, pursuant to validly issued permit, work shall be conducted between the hours of ~~8:00 9:00~~ a.m. and ~~6:00 8:00~~ p.m.

(3) When a permit for the moving of soil has been granted, the person, firm or corporation receiving such permit shall keep records as are necessary to show the quantities of soil moved, removed or added to land. The records shall be so maintained as to permit inspection and audit by the Borough Engineer.

J. Inspections of work. The Construction Code Official, Borough Engineer, Mayor and/or any member of the Borough Council; ~~or Planning Board or Board of Adjustment~~ shall have at all times the right to inspect any property where a permit has been issued under the provisions of this section for the purpose of insuring conformance to the permit requirements. In order to facilitate this right of inspection, the owners of the property shall cause sufficient grade and boundary stakes to be put in place while work is going on or about to commence. The Borough Engineer, Mayor, Borough Council; ~~and Planning Board and Board of Adjustment~~ **and Planning Board** shall also have the right to inspect the property at anytime for the purpose of laying out roads, drainage or for any other purpose deemed in the best interests of the Borough.

K. Filing and engineering deposits.

(1) The applicant shall pay an application fee in the amount of \$100 to the Borough ~~Clerk~~ **Building Department**.

(2) The applicant shall make an escrow deposit in the amount of \$1,500 to the Borough ~~Clerk~~ **Building Department for engineering review and inspections**.

(3) Prior to the review of the soil moving permit application, the escrow deposit must be paid.

(4) Moving more than the estimated number of cubic yards or failure to comply with permit conditions shall be considered a violation of this section.

(5) A separate soil moving permit is required for each site where soil is being removed from a site in the Borough and deposited on another site or sites.

- (6) Upon approval of the application, an additional escrow deposit, if required, shall be prescribed **if necessary** by the engineer for inspection purposes.
- (7) The balance remaining in the applicant's escrow account upon final action on the application and completion of inspections shall be returned to the applicant.

L. No Change.

Section 2.

The remaining provisions of Chapter 290 are hereby ratified and confirmed.

Section 3. Severability.

If any article, section, subsection, sentence, clause or phrase of this Ordinance is for any reason deemed to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

Section 4. Repealer.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 5. Effect.

This Ordinance will take effect immediately upon publication.

RECORD OF VOTE												
ORD. 2024-08												
	First Reading						Second Reading					
	May 20, 2024						June 17, 2024					
Council	M	S	Y	N	A	AB	M	S	Y	N	A	AB
Hesterbrink	✓		✓									
Fisher			✓									
Grandelis			✓									
Scarangella			✓									
Terrell		✓	✓									
Zeigler			✓									
Mayor Ziegler												
M - Motion S - Seconded Y- Yes N - No A - Abstain AB - Absent												

Bill Ziegler, Mayor

ATTEST:

Jonathan Mandel, Borough Clerk