

Soil Disturbance Permit

What you will need:

- W9
- Escrow form
- 2 sets of Engineer plans
- 2 copies of survey
- 2 checks – 1) for \$1000.00 made out to the Borough of Kinnelon
2) \$ based on the cubic ft. being removed

The "application fee" is either \$150 for soil movement between 50 cy & 500 cy OR \$500 for soil movement greater than 500 cy.



BOROUGH OF
Kinnelon

130 Kinnelon Road
Kinnelon, New Jersey 07405

BOROUGH CLERK

Phone: 973-838-5401

Extension 1

Fax: 973-838-1862

NEW ACCOUNT ESCROW INFORMATION SHEET

ESCROW REQUIRED FOR: (CIRCLE ONE) PLANNING BRD BRD OF ADJUSTMENT SOIL REMOVAL

DATE: _____

APPLICATION#: _____

1. Applicant Name: _____

2. Applicant Date of Birth: _____

3. Mailing Address: _____

4. Block: _____

5. Lot: _____

6. Daytime Phone# _____

7. Cell Phone # _____

8. Property Address: _____

9. Escrow Amount: _____

10. E-mail Address: _____

Request for Taxpayer Identification Number and Certification

Give Form to the
 requester. Do not
 send to the IRS.

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
<input type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number																						
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Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number										

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A *disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

Chapter 169

SOIL DISTURBANCE

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| § 169-1. Definitions. | § 169-8. Soil permit effective only where use permitted by Zoning Ordinance. |
| § 169-2. Grading plans required. | § 169-9. Conduct of operation; inspection. |
| § 169-3. Soil disturbance permit required. | § 169-10. Removal of top layer of arable soil prohibited. |
| § 169-4. Application and contour map. | § 169-11. Enforcement. |
| § 169-5. Review and examination of application. | § 169-12. Violations and penalties. |
| § 169-6. Fees. | § 169-13. Soil imported for use as fill. |
| § 169-7. Performance guarantee. | |

[HISTORY: Adopted by the Mayor and Council of the Borough of Kinnelon 9-15-2011 by Ord. No. 14-11.¹ Amendments noted where applicable.]

GENERAL REFERENCES

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| Land use procedures — See Ch. 47. | Streets and sidewalks — See Ch. 173. |
| Road Department — See Ch. 62. | Subdivision of land and site plans — See Ch. 176. |
| Driveway and private road construction — See Ch. 113. | Zoning — See Ch. 207. |
| Soil erosion and sediment control — See Ch. 167. | |

§ 169-1. Definitions.

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

PERSON — Any developer, organization, individual, company, corporation, partnership, limited-liability company, limited-liability partnership, or any other form of business entity.

SITE — The block(s) and lot(s) that is named on the application form and is the location of the project.

SOIL — Any earth, sand, clay, loam, gravel, humus, rock or dirt, without regard to the presence or absence therein of organic matter, including any synthetic substance used as a substitute or in conjunction with soil.

SOIL DISTURBANCE — Any movement of soil, including movement of soil within one site or movement of soil from one site to another site, regardless of its destination. This also includes movement of soil on land disturbed previously as a result of a previous project or development.

1. Editor's Note: This ordinance also superseded former Ch. 169, Soil Removal, comprised of Art. I, General Provisions, adopted 7-16-1964 by Ord. No. 7-64 (Ch. 74, Art. I, of the 1972 Code), and Art. II, Lake Improvement, adopted 12-16-1982 by Ord. No. 17-82 (Ch. 74, Art. II, of the 1972 Code), as amended.

- B. This section shall also apply to soil disturbance incidents under a permit issued by the Construction Official for the construction of a single-family dwelling and its accessory structures (such as garages, sheds, swimming pools, cabana houses, driveways, etc.).
- C. The soil disturbance permit shall expire after one year from the date it is issued. In the event the soil disturbance activity for which the permit was issued is not completed within one year, the applicant may apply to the Borough Council for an extension of said permit. Approval of said extension shall not be unreasonably withheld.
- D. All applications shall include a soil erosion and sediment control plan as set forth in Chapter 167, Soil Erosion and Sediment Control, of the Borough of Kinnelon Code book. In addition, certification may be required from the Morris County Soil Conservation District.
- E. All applications for lot grading plans or soil disturbances shall include a report from a qualified environmental professional which confirms the presence or absence of freshwater wetlands, wetlands transition areas, flood hazard areas, Category 1 watercourses, riparian buffers, and which confirms the applicability of the state Highlands Water Protection and Planning Act,² the state Flood Hazard Area Control Act,³ Freshwater Wetlands Protection Act,⁴ or any other state regulations protecting environmental resources which could be impacted by the proposed work. Copies of any necessary state permits shall be submitted prior to the final approval of any lot grading or soil disturbance plan.
- F. Exemptions from permit requirements.
- (1) In cases involving minor soil moving, as set forth below, no permit is required:
 - (a) Removal of less than 50 cubic yards.
 - (b) Spreading of topsoil for a lawn, provided that there is not a buildup of more than four inches and the areas filled are within the property line.
 - (c) Filling of holes left by rock or tree stump removal.
 - (d) Filling of sunken backfill areas, provided that such filling does not take place more than two years after the completion of the original backfill.
 - (e) Importation of less than 50 cubic yards, provided that the change in elevation is no more than two feet at any point and the source of fill material is identified and approved by the Construction Official.
 - (f) Cut and fill operations over an area less than 400 square feet that result in no more than a two-foot change in elevation at any point.
 - (2) Notwithstanding the foregoing, no exemption should be given in cases where stormwater facilities are being constructed or in cases where grading will redirect

2. Editor's Note: See N.J.S.A. 13:20-1 et seq.

3. Editor's Note: See N.J.S.A. 58:16A-50 et seq.

4. Editor's Note: See N.J.S.A. 13:9B-1 et seq.

- (5) The proposed final elevations where existing elevations shown on the map are to be changed as a result of completion of the proposed work.
- (6) Proposed slopes and lateral supports at the limits of the area upon completion of the soil disturbance operations.
- (7) Proposed provisions and facilities for surface water drainage and, where applicable, channels of natural or artificial drainage, including cross-sections showing proposed channel widths, bank slopes and method of erosion and control thereof.
- (8) Accurate cross-sections at intervals of not more than 50 feet showing the locations and quantities, in cubic yards, of soil to be disturbed.
- (9) All proposed elevations in enclosed rectangular boxes, and all existing elevations to be indicated without any kind of enclosure.
- (10) If the application is before the Planning Board or Board of Adjustment, such other pertinent data as the Planning Board or Board of Adjustment may require.

C. Traffic plan.

- (1) Accompanying all applications which include the importation or exportation of soil shall be a traffic plan which will indicate the following:
 - (a) The specific trucking ingress and egress into the subject site.
 - (b) The proposed truck routes that will be used to service the site.
 - (c) The specific hours of operation.
 - (d) The maximum number of cubic yards that will be moved to or from the subject site during any twenty-four-hour period.
 - (e) The required traffic plan shall comply with the following requirements.
 - [1] Except for emergencies, all soil shall be imported or exported from the subject site during the hours of 7:00 a.m. through 6:00 p.m., Eastern standard time, on weekdays only (excluding holidays).
 - [2] The scheduling of trucks used to move soil to and from the subject site shall be done in such a way as to minimize truck traffic within school zones during the morning and afternoon school hours.
- (2) Twenty-five copies of the traffic plan shall be submitted if the application will be reviewed by the Borough Engineer and the Planning Board or Board of Adjustment. Four copies of the traffic plan shall be submitted if only the Borough Engineer will review the application.

§ 169-5. Review and examination of application.

- A. Upon receipt of an application for a soil disturbance permit in conjunction with an application before the Planning Board or Board of Adjustment, the Borough Clerk shall

§ 169-6. Fees.

- A. An application fee of \$150 must be submitted with the application if the applicant proposes to disturb 50 to 500 cubic yards of soil. An application fee in the amount of \$500 must be submitted with the application if the applicant proposes to disturb 501 or more cubic yards of soil. In addition to the application fee stated herein, a minimum escrow of \$1,000 must be established. The Borough Engineer may request additional escrow funds as warranted.
- B. Prior to issuance of a soil disturbance permit and approval of the same by the Borough Council, the permit applicant shall pay to the Borough a permit fee as per the following schedule:
- (1) Movement of soil within the same site: \$0.10 per cubic yard.
 - (2) Exportation of soil from the site, irrespective of the destination of the soil: \$0.25 per cubic yard (\$0.10 for movement and \$0.15 for exportation).
 - (3) Importation of soil from a location outside the site: \$0.25 per cubic yard (\$0.10 for movement and \$0.15 for importation).
 - (4) If soil is imported and the applicant is charged \$0.25 per cubic yard and that soil is later moved within the site in connection with the same soil movement activity or construction of the same development, a further fee shall not be charged. In addition, if soil is moved within the site and the applicant is charged \$0.10 per cubic yard and that soil is later exported from the site in connection with the same soil movement activity or construction of the same development, an additional charge of \$0.15 shall be charged.
- C. All soil volume calculations for the purposes of determining fees shall be initially calculated by the applicant and submitted to the Borough Engineer for approval.

§ 169-7. Performance guarantee.

Before any permit or permission for soil disturbance is granted or issued, the owner or applicant shall file with the Borough Clerk, in such amount as in the opinion of the Borough Engineer shall be sufficient, a performance guarantee, in a form satisfactory to the Borough Attorney, consistent with the guarantee form permitted under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., to insure the faithful performance of the work to be undertaken, pursuant to the permission granted by the Borough Council, pursuant to the provisions of this section. For those soil permit applications submitted in connection with an application before the Planning Board or Board of Adjustment, said performance guarantee may be included in the guarantee required by the developer's agreement. An as-constructed contour map shall be filed and approved by the Borough Engineer prior to the release of any bond required.

§ 169-8. Soil permit effective only where use permitted by Zoning Ordinance.⁵

5. Editor's Note: See Ch. 207, Zoning.

not applicable to the addition to the land of any material or substance in the ordinary course of farming, horticulture, gardening, quarrying and mining.

- B. Applicable substances; exceptions. Fill shall consist of topsoil, earth, rock, gravel, quarry process, or sand obtained solely from virgin sources. Concrete and asphalt cannot be used as fill. Topsoil is the exposed layer of the earth's surface, and earth is the layer of soil immediately beneath the topsoil and above rock. Rock excludes boulders, boulders being detached and rounded or worn pieces of rock, the greatest side of which is no less than six inches. All other materials are excluded. Excluded materials include, but are not limited to, soil containing contaminates, muck, peat, timber, debris, stumps and roots of trees, demolished structures, construction materials or any other refuse; provided, however, that these excluded items shall not have been reprocessed so as to conform with the definition of "fill" herein provided. Muck is soft silt or clay, very high in organic content, which is usually found in swampy areas. Peat is soil composed principally of partially decomposed vegetative matter.