

## ARTICLE II. MINING\*

### Sec. 26-61. Purpose.

The purpose of this article is to:

- (1) Protect public health, safety, and welfare.
- (2) Ensure that nuisances and hazards are not created and that property will be left in usable condition when operations are completed.
- (3) Recognize the consideration of adverse effect upon property values as a criteria in limiting permits under this article.

(Ord. eff. 3-31-1995, § I(15.341))

### Sec. 26-62. Applicability.

(a) This article shall apply to all operations in the township involving excavation, removal, deposit or relocation of sand, gravel, topsoil, clay, marl, other materials, and similar materials, referred to in this article as earth solids, and fill materials that involve an amount of such earth solids, except as provided in subsection (b) of this section.

(b) This article shall not apply to excavation, removal, deposit and relocation of earth solids involving:

- (1) Operations necessary to construction of a building when a building permit has been properly issued and is in effect for such project and when the amount of earth solids to be excavated, removed, deposited, or relocated will not exceed 4,000 cubic yards;
- (2) Uses accessory or incidental to another lawful use, including landscaping, gardening and similar uses, that do not exceed an amount of earth solids to be excavated, removed, deposited, or relocated in excess of 800 cubic yards;
- (3) Uses accessory or incidental to farming operations;
- (4) Residential construction and improvements involving a plat duly approved and recorded pursuant to the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.); and
- (5) Operations necessary by a governmental agency in the construction of highways, sewers, drains and flood control projects.

(Ord. eff. 3-31-1995, § II(15.342))

### Sec. 26-63. Permit and application requirements.

(a) A permit duly issued by the township board shall be required of any person to excavate, remove, deposit or relocate earth solids in the township, except as provided in section 26-62(b).

(b) Any applicant for permit required under this article must file a written application with the township board. The application shall be addressed to the township board and shall set forth the following information:

- (1) Name and address of the applicant.
- (2) A description of land involved within a legal description of property, and a statement that it is in a proper zoning AA district.
- (3) Estimated or planned amount of earth solids to be excavated, removed, deposited or relocated.
- (4) Kind of earth solids to be excavated, removed, deposited, relocated or used for fill materials.
- (5) Measures to be taken to control noise, vibration, dust and traffic.
- (6) A description of any traffic control devices, public facilities or public services that could be required by the proposed operations.
- (7) Any necessary measures the applicant proposes to take to ensure public safety and the lateral support of surrounding land and structures.
- (8) A time span required for the proposed operations.
- (9) A description in detail, by contour maps or otherwise, of the contour and condition of the lands as the applicant proposes to leave them upon completion of the operations. Such a statement shall include proposed plans of landscaping and other stabilization control to be employed to leave the premises in a reasonably level and useable condition and to prevent erosion, dust and unsightly conditions. The applicant shall mark clearly with lath, posts, stakes, etc., the limits of the proposed excavation. The township engineer shall field verify the existing and final conditions of the premises.

(Ord. eff. 3-31-1995, § III(15.342))

**Sec. 26-64. Application fee and processing; permit condition and requirements.**

(a) Each application for a permit required by section 26-63 shall be accompanied by the currently required fee for each acre or fraction of an acre described in the permit; however, the minimum fee shall be set from time to time by the township board; and if the permit is denied, the permit fee shall be refunded to the applicant.

(b) Upon receipt of an application and fee, the application shall be transmitted forthwith by the township clerk to the township planning commission for its consideration and any recommendations. No action shall be taken relative to the application by the township board until the clerk has received a report from the planning commission or until the expiration of 40 days from the filing date of the application, whichever first occurs. The township board and the planning commission may make suggestions regarding proposed amendments of the application by the applicant; and no applications, when so amended, need be referred to the planning commission a second time as a result of such amendment.

(c) No such permit shall be issued unless the township board, after considering the application and any recommendations of the planning commission, and after giving the applicant an opportunity to be heard, either in person or through counsel, shall find that:

- (1) The proposed operations are not likely to cause any dangerous, unsanitary or unhealthful conditions;
- (2) They will impose no undue financial burden upon the township;
- (3) Such operations will not be conducted in violation of any state law or township ordinance;
- (4) There is adequate assurance that the land will be left in such condition as to protect it from erosion; and the township board may ask the U.S. Soil Conservation Service for an opinion in this matter; and
- (5) After completion of the operations, the land will be left in a reasonably level and usable condition.

(d) As a condition of granting the permit, the township board may require the applicant to post bond or escrow funds to assure that operations will be conducted and the premises left as required, and that any undertakings of the application will be carried out. The amount of the bond or escrow shall be set from time to time by resolution of the township board.

(e) When the township board reaches a decision on an application, the applicant shall be so advised in writing by the township clerk within a period not to exceed 40 days from the date the application is filed with the township board.

(f) Each permit shall apply only to the land described in the application.

(g) A permit may be revoked by the township board if the permittee operates in any manner inconsistent the statements in the final application.

(h) If the board is considering the revocation of the permit, the permittee shall be given written notice, mailed, or personally served, at least five days prior to the date of the meeting at which revocation is considered, and shall be given the opportunity to be heard, either in person or through counsel. The notice shall specify the date, time, and place of the meeting at which revocation will be considered and shall inform the permittee of the reasons that revocation is under consideration and of his right to be heard. Revocation of a permit shall not exempt the permittee from responsibility for any violation of this article as provided in section 26-69.

(i) Permits issued under provisions of this article shall be effective for a period not to exceed one year. If the permittee desires to continue the operations described in section 26-692(a), a new application shall be made.

(Ord. eff. 3-31-1995, § IV(15.344))

**Sec. 26-65. Distance of excavation from county or state road right-of-way.**

(a) Excavation shall not be permitted within 50 feet of either a county or state road right-of-way unless the existing grade is higher than the highest elevation of the adjacent road.

(b) Excavation beyond 50 feet of a county or state road right-of-way must maintain a grade no steeper than a two-to-one slope.

(c) If the terrain is not of highway or road level, but in the nature of a mound, a high bank or a hill, excavation will be permitted to the road right-of-way and to that road's highest level at that point.

(d) Any further excavation or removal of dirt below the road's highest level must then be made 50 feet from the road right-of-way, and a slope no steeper than two-to-one must be maintained as provided in subsection (b) of this section.

(e) The permittee is responsible for properly maintaining the road during mining operations and restoring the road to the original state on completion of the project.

(f) If excavation as in subsection (d) takes place and terrain remaining on road right-of-way is higher than road level, an agreement must be reached between the road commission and persons doing the excavation to remove such terrain from the right-of-way to the road commission's specifications.

(Ord. eff. 3-31-1995, § V(15.345(A)))

**Sec. 26-66. Distance of excavation from property lines.**

(a) Excavation shall not be permitted closer than 15 feet to any property line, and the slope shall not be steeper than two-to-one.

(b) Excavation from inclined terrain may be leveled 15 feet from property lines with all property owners' agreement.

(c) Excavation from level or declining terrain shall not be permitted within 15 feet of property lines, and then only at a slope of not less than two-to-one.

(d) When excavation takes place on both sides of a property line, excavation or removal of earth solids from the property line may be permitted provided that both property owners agree; and a slope no steeper than two-to-one must be maintained.

(Ord. eff. 3-31-1995, § V(15.345(B)))

**Sec. 26-67. Hazards.**

(a) Excavation taking place on private property within 50 feet from the property line or within 100 feet from any road right-of-way with a slope steeper than one-to-one and deeper than five feet is considered hazardous and will not be left unmanned overnight unless one of the following is present at the point of danger:

(1) Snow fence.

(2) Temporary board fence

(3) Saw horses placed at close intervals

(b) Any excavation within 50 feet of public property shall not be left overnight without adequate blinker lights mounted on saw horses or similar support.

(c) Unpaved roads used to transport any materials subject to this ordinance that are located within 500 feet of a private residence, business, or public recreation area shall be adequately treated for dust control by the permittee.

(Ord. eff. 3-31-1995, § V(15.345(C)))

**Sec. 26-68. Condition of property areas after excavation is completed.**

(a) Within six months after excavation operations have ceased, the excavated area must be leveled to a grade no steeper than a two-to-one slope.

(b) Where operations described in this article have caused a pond or water hole, the permittee shall grade a slope that is not steeper than three-to-one within 75 feet of any place in the pond or water hole.

(Ord. eff. 3-31-1995, § V(15.345(D)))

**Sec. 26-69. Penalties.**

Any person found to be in violation of any of the provisions of this article, upon conviction, shall be punished in accordance with section 1-11.

(Ord. eff. 3-31-1995, § VI(15.346))

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