

Lapeer County, Michigan

Goodland Township

**Earth Material Removal
Ordinance No. 801,
as amended.**

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TOWNSHIP OF GOODLAND
ORDINANCE NO. 801
EARTH MATERIAL REMOVAL ORDINANCE

THE TOWNSHIP OF GOODLAND, COUNTY OF LAPEER, STATE OF MICHIGAN
ORDAINS:

ARTICLE I – INTRODUCTION

SECTION 1.01 PURPOSE AND AUTHORIZATION

An Ordinance adopted pursuant to the provisions of Act No. 246 of the Public Acts of 1945, as amended to regulate the removal of earth materials such as topsoil, subsoil, sand, gravel, clay, rock, peat, muck, and other materials, within the Township of Goodland, to provide for the issuance of permits for such activities, to provide for payment of fees, to prescribe rules and regulations and conditions for the issuance of permits, to provide for surety, to insure compliance and satisfactory performance of the terms of said Ordinance, to provide for renewals of permits, to provide penalties for the violation of this Ordinance, and to provide for the relationship of this Ordinance to other laws and ordinances.

This Ordinance is enacted for the purpose of promoting the public health, welfare, and safety, of the residents of Goodland Township.

ARTICLE II – DEFINITIONS

EARTH MATERIALS, shall mean any soil, topsoil, subsoil, sand, gravel, clay, peat, muck or other similar material. *(Rock was removed by Amendment 801.1, effective 3/18/04.)*

FENCE, when required by this Ordinance shall mean a woven wire fence of at least four (4) feet in height but in no instance shall a fence be of lesser quality than No. 11 farm fence.

GREENBELT OR PLANTING, shall consist of a dense evergreen or similar plant material designed to provide an obscuring buffer.

NUISANCE, shall mean anything that annoys, injures or endangers the safety, health, comfort or repose of the public, interferes with or destroys or renders dangerous any public thoroughfare, allows accumulation of noxious matter on private or public property, or in any way renders the public insecure.

OPERATOR, shall mean the person who will be responsible for the day-to-day activities at the mining site and the person responsible for payment of all application fees, annual permit fees, and performance bonds.

PIT OPERATIONS, shall mean any excavation where ponded water results or that lowers the surface to a point below the definition of a stripping operation.

PREMISES, shall mean a contiguous parcel of land in the same ownership.

RECLAMATION, shall mean the restoration of property in a fashion that makes its development possible as outlined under “permitted uses” in the applicable zoning district.

STRIPPING OPERATION, shall mean any one of the following types of excavations where no ponded water results:

- 1) Any operation which results in the removal of all or part of a visible surface landform, or
- 2) Any operation which is limited to the removal of topsoil only and does not disturb the underlying subsoil, whether the subsoil is composed of sand, gravel, clay or other material, or
- 3) Any operation which removes the surface soils no lower than a point at least 6 inches above the mean elevation of the centerline of the nearest existing or proposed street or road established or approved by the Lapeer County Road Commission, or
- 4) Where there is no nearby street or road, an operation which removes the surface soils no lower than a point at least 6 inches above the mean elevation of the surrounding land within one quarter mile, as shown on United States Geological Survey Data.

ARTICLE III – REMOVAL OF EARTH MATERIALS

SECTION 3.01 REMOVAL PERMITS

After the effective date of this Ordinance, it shall be unlawful for any person to remove any earth material from any premises without a permit from the Township Board. However, no permit will be required where the removal of earth materials is carried on for the installation of the foundation and/or basement of any use permitted in the applicable zoning district, as regulated by the Goodland Township zoning Ordinance, and covered by an active building permit.

SECTION 3.02 APPLICATION FOR PERMITS. NEW MINING OPERATIONS

Prior to applying for a permit, the applicant must receive a location approval for a quarrying operation as specified in the zoning ordinance.

Before the Township Board grants a permit, the Township Planning Commission shall review the plans and other data concerning such application and file its recommendation with the Township Board.

A separate permit shall be required for each separate site. For each permit, the applicant shall submit to the Township Clerk fifteen (15) copies of a Topographical Survey, Engineering Plan and a Reclamation Plan (all at the same scale) and the following information as a condition precedent to the obligation to consider such request:

- A) Full names and addresses of all parties of interest in said premise setting forth their legal or equitable interest. Proof of said legal interest shall be provided;

- B) A boundary survey, sealed by a registered Land surveyor, of the premises wherein the operations are proposed shall be provided;
- C) If the area to be cut, excavated or stripped is larger than five (5) acres, a topographical survey map of the proposed mining site at a scale of at least one (1) inch equals one hundred (100) feet, showing existing and proposed grades on two (2) foot contour interval or greater, consistent with sound engineering practice. Said grades shall be prepared and sealed by a Civil Engineer or Land Surveyor, registered as such by the State of Michigan;
- D) A statement, cross-sections showing all proposed slopes and calculations by a Registered civil Engineer or Land Surveyor showing the cubic yards of the earth material to be removed and a detailed statement and engineering plan as to how the removal is to be accomplished;
- E) If the area to be cut, excavated or stripped is larger than five (5) acres, a detailed site engineering plan of the proposed mining site drawn at a scale of at least one (1) inch equals one hundred (100) feet which identifies all types of materials to be removed and/or redistributed and indication of specific places on the property where the fill (redistributed material) is to be placed, storm drainage design including off-site ditch and drain elevations, final grading plan, method of operation, such as wet or dry method, the type of machinery or equipment to be used; and the estimated period of time that such operations will cover. Where restoration is not complete, as-built drawings showing the present contours of the excavation shall be submitted with each subsequent year's request for permit renewal;
- F) Statement of similar operations carried on by applicant, including location by municipality;
- G) The type and daily number of vehicles and equipment to be used in the proposed operation. A signed and approved tentative working agreement of the proposed haul route from the Lapeer County Road Commission. (Said haul route is required to ingress and egress in the least distance possible to the nearest Class A road.)
- H) Detailed statement as to exactly what type of deposit is proposed to be extracted, the proposed method of removal, and whether blasting or other use of explosives will be required.
- I) Identification of access roads, on-site roads, a drainage plan that identifies grades for proper drainage and any special drainage devices, fencing, any existing or proposed structures on the site, existing and proposed utilities.
- J) A detailed reclamation plan of the proposed mining site drawn at a scale of at least one (1) inch equals one hundred (100) feet, showing-that the entire property will be left in a form that is suitable for development with uses that are outlined under "permitted uses" in the applicable zoning district. Among items to be included in such plan are feasible circulation patterns in and around the site, the treatment of the exposed soil or subsoil (including measures to be taken to replace topsoil in excavated areas) in order to make the property suitable for the proposed reuse, treatment of slopes to prevent erosion, and delineation of drainage ways and flood plains, which shall be left undisturbed.

- K) A map showing all parcels of property and names of each owner within 500 feet of the proposed mining site.

SECTION 3.03 PERMIT FEES

To defray costs of engineering services, investigation, publication charges, and other administrative expenses incurred by processing such application, there is hereby established an application fee. Permits issued by the Township Board shall be for a period of one (1) year, expiring on December 31st of each year, and such permits may be renewed by the payment of an annual permit fee. The amount of the application fee and the annual permit fee shall be set from time to time by resolution of the Township Board. Such permits shall be renewed as herein provided for so long as the permittee complies with all of the provisions of this Ordinance, other Township ordinances, State Law, or other conditions of this permit.

SECTION 3.04 ISSUANCE OF PERMITS

- A) After reviewing all of the information submitted by the applicant and other pertinent information and the recommendations of the Planning Commission, Township Engineer, zoning Administrator and/or Township Attorney, the Township Board shall determine that the issuance of the permit would not detrimentally affect the public health, safety, and welfare and that granting the permit, as proposed, would not:
- 1) Permanently impair the intended land use potential of the property in question;
 - 2) Detrimentially affect the adjoining and adjacent properties;
 - 3) Be inconsistent with the planning, land use, and zoning of the area where the proposed operation is to be located; and
 - 4) Violate or defeat any of the requirements and standards set forth in this Ordinance.
- B) The commencement of operations during the time frame covered by the permit shall constitute acceptance of all limitations and conditions, which the Township may impose as a part of the permit under Section 3.06 and/or 3.07 and/or 3.08 of this Ordinance.
- C) Permits issued pursuant to Section 3.03 of this Ordinance may be renewed annually by filing of a progress report as to areas of excavation and reclamation with reference to the initial engineering plans and information filed in support of the original application. Annual renewal of licenses need not be predicated upon an updated engineering plan and topographic survey, provided, however, that the Township Board finds that no significant variation from engineering data filed in support of the initial application has occurred.
- D) Farm or Residential Ponds. Ponds for farm or residential purposes up to a maximum size of three (3) acres in size, not to exceed 25% of the parcel size, may be excavated without meeting the other requirements of this ordinance, providing a permit is obtained from the Township Board. Any such pond excavation shall be completed within eighteen (18) months of the date of issuance of the permit. *(This section was added by amendment 801.1 and effective 3/18/04.)*

SECTION 3.05 OPERATIONS INSPECTIONS

As a condition for issuance of a permit under this Ordinance, the operator shall agree to annual inspection(s) by the Township Engineer or *the designated Township (added by Amendment 801.1, effective 3/18/04)* Inspector. Such inspection(s) are for the purpose of determining compliance with all requirements of this Ordinance and any specific conditions applied to the individual permits. The permit fees established in Section 3.03 shall fund the annual inspection(s). If additional inspections are required because of non-compliance, the cost of it shall be born by the operator and paid prior to the following year's permit renewal.

SECTION 3.06 GENERAL OPERATIONAL REQUIREMENTS

- A.) No stockpiling of soil materials or processing thereof shall occur closer than fifty (50) feet to any property line. If conditions of the site indicate that the fifty- (50) foot setback requirement would not be adequate to protect abutting property, the Township Board may require a greater setback. Further, the Township Board may require a four- (4) foot fence along such property boundary.
- B.) No cut, excavation or stripping of soil materials shall be conducted closer than one hundred (100) feet of any road right-of-way, or property line. No excavation shall take place closer than five hundred (500) feet to the nearest residence. The Township Board may, however, prescribe greater setbacks in order to give sublateral support to surrounding property where soil or geographic conditions warrant it, or in order to protect nearby residences from any potential adverse impacts of the operation.
- C.) Sight barriers shall be provided along all boundaries of the site, which lack natural screening conditions through existing contours or vegetation. Such barriers shall consist of one of the following:
- 1) Earth berms constructed to a height of eight (8) feet above the mean elevation of the centerline of the adjacent public road or highway, or eight (8) feet above the general level of terrain along interior property lines, as the case may be. The slopes of such berms shall be not in excess of one (1) foot vertical to three- (3) feet horizontal, and shall be planted with grass, trees or shrubs.
 - 2) Plantings of evergreens or shrubbery in rows parallel to the boundaries of the property, not less than six (6) feet in height at time of planting and which grow to not less than eight (8) feet in height at maturity and sufficiently spaced to provide effective sight barriers when eight (8) feet in height.
- D) Both permanent and/or temporary processing plants and accessory structures shall not be located closer than two hundred (200) feet from the interior property lines and adjoining public right-of-ways and shall, where practicable, be located at a lower elevation than the surrounding terrain to lessen visual and noise impact. The foregoing requirement shall not apply to any excavating apparatus or to stockpiling, loading and transportation equipment.

- E) Hours of operation shall be limited to both equipment and vehicles, and shall be allowed only between the hours of 7:00 A.M and 7:00 P.M., and is prohibited entirely on Sunday and legal holidays. The Township Board may establish more limited hours of operation upon the recommendation of the Planning Commission subsequent to the public hearing on the request for a special land use approval to establish a mining or extraction operation.
- F) The owner/operator shall not permit any motor vehicle to carry or track any soil materials from the site onto any paved public road or highway. If any materials are carried or tracked onto a paved public road or highway, the soil materials shall be removed by the close of the working day.
- G) No person shall cause or permit noise to intrude into the property of another person. No noise created as a result of any mining operation shall exceed a maximum of 60 dBA at the property line. Variances may be granted from the noise level requirement if the Township Board makes findings that immediate compliance with such requirement cannot be achieved because of special circumstances. Any such variance thereof shall be granted only for the minimum time period found necessary under the facts and circumstances.
- H) All dust produced as a result of the soil mining or excavation operations shall be confined within the boundaries of the site. The Township Board may require the erection of a snow fence, greenbelt or other barrier to contain blowing soil material, or may require the spraying of material with water or a dust control chemical.
- I) Any roads used for the purposes of ingress and egress to said excavation site which are located within three hundred (300) feet of occupied residences shall be kept dust free by surfacing with concrete or bituminous aggregate, or approved chemical treatment.
- J) The Township Board shall prescribe more stringent requirements if deemed necessary in the interest of the public health, safety and welfare, as demonstrated by the Impact Assessment and/or Statement, or the report of the Township Engineer.

SECTION 3.07 SPECIFIC REQUIREMENTS FOR PIT OPERATIONS

- A) Where an excavation in excess of five (5) feet will result from such operations, the owner/operator shall erect a fence with appropriate KEEP OUT - DANGER signs completely surrounding the portion of the site where the excavation extends, said fence to be not less than four (4) feet in height, complete with gates, which shall be kept locked when operations are not being carried on. Where an owner/operator can demonstrate that no attractive nuisance exists, the Township Board may waive the requirement for fencing.
- B) Side slopes around the perimeter of the site and the banks adjacent to ponded water shall not have a slope exceeding one (1) vertical foot for each three (3) horizontal feet. The slope extending into the water shall also not exceed this ratio from the edge of the water out to a depth of five (5) feet.

- C) Where quarrying operations result in a body of water, the operator shall place appropriate "KEEP OUT - DANGER" signs on the perimeter fence not more than two hundred (200) feet apart. In order to protect water wells and the water supply of the Township of Goodland, the pumping or drainage of water from such quarrying operations is absolutely prohibited.
- D) Sufficient topsoil shall be stockpiled on said site so that the entire cut or excavation may be recovered with a minimum of four (4) inches of topsoil. Re-vegetation of the pit shall be started as soon as the first ten (10) acres are completely excavated and shall progress in stages as the excavation progresses. The slopes of the pit shall be graded and seeded in accordance with the approved Reclamation Plan and in a manner that prevents erosion. Topsoil shall not be removed from the site until it is demonstrated that this requirement has been met.

SECTION 3.08 SPECIFIC REQUIREMENTS FOR STRIPPING OPERATIONS

- A) No earth materials as defined herein or similar materials shall be removed in such manner as to cause water to collect or to result in a place of danger or menace to the public health. The premises shall at all times be graded so that surface water drainage off-site is maintained and is not interfered with.
- B) Sufficient topsoil shall be stockpiled on said site so that the entire stripped area, when stripping operations are completed, may be recovered with a minimum of four (4) inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the stripping operations each year. In the event, however, that such stripping operations continue over a period of time greater than thirty (30) days, the operator shall replace the stored topsoil over the stripped areas, in two (2) acre increments, as he progresses.
- C) In order to prevent all unnecessary dust and blowing of sand or other soil materials, the Township Board may restrict the maximum height and size of all stockpiles.
- D) A farm pond may be installed up to 2 acres without meeting the requirements of this ordinance with a permit and a fee established by the township board for 18 months.

SECTION 3.09 SITE RECLAMATION

Reclamation of excavated areas shall be accomplished as soon as practicable following the excavation of an area. Where possible, such reclamation shall be accomplished concurrently with soil removal operations. Completion of reclamation shall be effected within one (1) year after termination of soil removal operations. The following standards shall control such reclamation:

- A) All excavations shall be either to a water producing depth of not less than eight (8) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-flammable and non-combustible solids to insure:

- 1) That the excavated area shall not collect stagnant water and not permit the same to remain therein; or
 - 2) That the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion and which will be generally compatible with the adjoining land area.
- B) The banks of all excavations shall be sloped to the water line in a water producing excavation, and to the pit floor in a dry operation, at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
- C) Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are desired. Where used, topsoil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
- D) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
- E) Upon cessation of soil removal operations by abandonment or otherwise, the owner/operator, within a reasonable period of time not to exceed one (1) year thereafter, shall remove all plant structures, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located and under such other plan, may be retained.

SECTION 3.10 REMOVAL OPERATIONS EXISTING PRIOR TO PASSAGE OF THIS ORDINANCE

Earth material removal operations, which existed prior to the effective date of this Ordinance, shall obtain ~~a permit as required herein~~ *an annual permit which shall be obtained as of January 1 of each year (Amendment 801.1, 3/18/04)*. Such permit shall be obtained upon expiration of the operation's existing permit. In order to obtain a permit as required under this Ordinance, previously existing operations shall comply with all provisions of this Ordinance, except in cases where excavations already exist which are closer to property lines or road rights-of-way than permitted in this Ordinance. Such noncompliance will be permitted, but the excavation may not be extended in any manner, which would increase the non-compliance. All existing operations shall provide the same information required in Section 3.01 of this Ordinance but will not be subject to Planning Commission review.

SECTION 3.11 SURETY (PERFORMANCE BOND)

The Township Board shall, to ensure strict compliance with any regulations contained herein or required as a condition for the issuance of a permit for the removal of earth materials, require the operator to furnish surety in the form of cash, an irrevocable bank letter of credit, or a bond executed by a reputable surety company authorized to do business in the State of Michigan. The amount of such surety shall be ~~at least \$5,000.00 per each forty (40) acre site of land to be cut,~~

~~excavated, or stripped, owned or leased by the owner/operator of the site, and may be greater if deemed necessary by the Township Board to insure compliance with this Ordinance established by the Township Board in a duly adopted fee schedule. (Amendment 801.1, 3/18/04)~~ In fixing the amount of such surety, the probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply with court orders and any other relevant factors shall be considered. Excess funds, if any, shall be returned to the depositor, upon completion of the rehabilitation of the premises. The Surety Company and/or the bank shall give the Township 30 days notice, in writing, of any cancellation of a surety bond or letter of credit.

Removal fee per ton established by the Township Board to be paid quarterly and held in escrow until completion.

ARTICLE IV – DRAINAGE AND EROSION CONTROL

Existing drainage patterns shall not be altered so as to result in flooding of any adjacent or surrounding Properties. All operations involving the moving or removal of earth materials shall comply fully with Act 347 of the Michigan Public Acts of 1972 (Soil Erosion and Sedimentation Control Act).

ARTICLE V – VIOLATIONS

Any person, persons, firm, or corporation, or anyone acting in behalf of said person, persons, firm or corporation, who shall violate any of the provisions of this Ordinance, or who shall fail to comply with any of the regulatory measures or conditions of the Zoning Board of Appeals or Planning Commission, adopted pursuant hereto, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each infraction. Repeat offenses under this ordinance shall be subject to increased fines as provided for in the Civil Infraction Ordinance.

ARTICLE VI – SEVERABILITY

This Ordinance and the various articles, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any article, sentence, paragraph, section, subsection, phrase, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

ARTICLE VII – ENACTMENT

SECTION 7.01 ORDINANCE ENACTED

The provisions of this ordinance are hereby enacted and declared to be immediately necessary for preservation of the public peace, health, safety, and welfare of the people of the Township of Goodland.

SECTION 7.02 EFFECTIVE DATE

This ordinance becomes effective thirty (30) days after the date of publication.

SECTION 7.03 CERTIFICATION

The undersigned Supervisor and Clerk of the Township of Goodland hereby certify that this Ordinance is a true copy of that Ordinance adopted by the Goodland Township Board, at a meeting held on the 12th day of February, year 2002. We further certify that a notice of adoption of this Ordinance was published in the Tri-City times on the 20th day of February, year 2002.

Supervisor, Ron Cischke

Clerk, Anna Maria Calianno

Effective Date: March 22, 2002

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1/8/2004