

MINERAL EXTRACTION ORDINANCE

AN ORDINANCE FOR REGULATION AND LICENSING
OF MINERAL EXTRACTION OPERATIONS.

THE TOWNSHIP OF LAKE HEREBY ORDAINS:

I. FINDINGS

The Township finds that mineral extraction operations can negatively affect the health, safety, and welfare of Township residents unless such operations are adequately regulated. Mineral extraction operations can pollute the environment, damage the water supplies, cause noise nuisances, dust nuisances, damage the roads and create conditions that are dangerous to Township residents. If unregulated, completed mineral extraction operations can leave land in a condition that is unsightly and presents an attractive nuisance. The Township has authority to enact ordinances regulating the public health, safety and welfare pursuant to Public Act No. 246 of 1945, being section 41.181 of the Michigan Compiled Laws.

- a. A Mineral License Board is established by this Ordinance to further the above purposes.
- b. The Mineral License Board shall be composed of the Township Supervisor and four members appointed for two year terms by the Township Supervisor subject to approval by the Lake Township Board. The appointment of members 1 and 3 shall end on December 31, in odd numbered calendar years, and members 2 and 4 shall end on December 31, in even number years.

2. LICENSE REQUIRED

No person shall commence or continue a business activity involving mineral extraction from any property in the Township without first obtaining a mineral extraction license issued by the Mineral License Board pursuant to this ordinance.

- a. For the purpose of this ordinance mineral extraction is defined as the mining, quarrying excavation or other removal or processing of sand, gravel, soil, metallic minerals, or other minerals from the location of the mineral extraction site.

- b. For the purpose of this ordinance, processing is defined as washing, sorting, crushing, aggregating, grinding, cutting, or beneficiation.
- c. A mineral extraction license does not permit other uses including but not limited to on-site processing of material from off-site, asphalt, cement or other manufacturing operations of any nature.

3. COMPLIANCE WITH LICENSE

No person who has been issued a license pursuant to this ordinance shall engage in activity contrary to the terms of the license or contrary to the terms of this ordinance.

4. LICENSE APPLICATION

A license shall only be issued based on an original signed application submitted to the Township Clerk together with four duplicates as stated below. Prior to submission of an Application, the Applicant shall attend a pre-application conference with Township Officials and pay a pre-application fee, as determined by resolution of the Township Board. To be complete each application must contain the following:

- a. Names and full address of all parties having an interest in the land and/or an interest in the operation on the site. Evidence of such interest shall be provided along with any current partnership agreement, articles of incorporation, articles of organization, or assumed name certificate. Written consent of the legal title holder is also required.
- b. The applicant's signature and date shall appear on the first page of the application original and on all duplicates submitted to the Township for review. In addition, each page of the complete application submittal shall include the original application date in the lower right hand corner. If the application is subsequently amended, each replacement page shall bear, in the lower right hand corner, the original application date and the date of the submittal of the page revision. All applications shall be made in a loose leaf, 3-ring binder in order to facilitate the replacement of pages.
- c. A full legal description and drawing of the site prepared by a registered surveyor showing the number of acres on each portion of the site to be mined.
- d. A detailed topographic map and aerial photos showing the property and adjacent areas within 5,280 feet of the site and a map showing the property boundaries of all parcels within 5,280 feet of the site, including the name of the property owner and use of the site.
- e. An environmental impact assessment, which shall include but not be

limited to the following:

- (i) A description of the natural features of the area, including topography, drainage, soil type(s), streams, lakes, floodplains, Great Lake shorelines, and wetlands within 1320 feet.
 - (ii) A description and location of any of the following in relation to the proposed mine:
 - (a) Residences within 1,000 feet.
 - (b) Schools within 2,000 feet.
 - (c) Commercial developments, public roads, power lines, and pipelines within 500 feet.
 - (d) Areas actively maintained for public recreation within 1000 feet.
 - (iii) The ownership patterns in and around the area and the impact of the proposed mining activity on adjacent existing land uses or land use plans.
 - (iv) The impact of the proposed mining activity on flora, fauna, or wildlife habitats.
 - (v) The impact of the proposed mining activity on any threatened or endangered plant or animal species.
 - (vi) The impact of the proposed mining activity on any historical or archaeological resources in the area.
 - (vii) The effects of the proposed mining activity on groundwater supply, level, quality, and flow on site and within 5,280 feet of the proposed mining activity.
 - (viii) The effect of the proposed mining activity on air quality within 3,000 feet.
 - (ix) Alternatives, if any, to the methods and processes to be used for the proposed mining, and for the location of proposed roads, buildings, processing plants, and other associated facilities; and the reasons for the choice of the methods, processes, and locations of the proposed mining activity over those alternatives.
 - (x) A description of measures to be taken to protect environmental and land use values.
- f. A complete description of proposed pollution and erosion control measures which shall include a monitoring plan for groundwater and air

quality together with control measures.

- g. A map showing truck routes and/or private easements to the site and a letter of preliminary comments from the Menominee County Road Commission impacted by the truck routes.
- h. The estimated average amount of gravel, sand, or other materials and the maximum amount of minerals, to be removed each year of the plan for mineral excavation.
- i. Evidence that a bond or security deposit (if required) has been supplied to the Menominee County Road Commission in an amount sufficient for maintaining the truck haul route during the term of the license until reclamation has been completed.
- j. The estimated average number of trucks per day, and the maximum number of trucks per day that are to haul minerals from the site each year of the plan.
- k. A mining and reclamation plan which shall include maps, drawings, and documents depicting and describing all of the following:
 - (i) A detailed description of the geology of the proposed mining area.
 - (ii) The method and direction of mining.
 - (iii) The rate at which mining will progress.
 - (iv) The expected operating life of the mine.
 - (v) Surface overburden stripping plans.
 - (vi) Types, amounts, sequence, and schedule of mining the ore body and stockpiling materials.
 - (vii) Amounts, sequence, schedule, and means of tailings disposal.
 - (viii) Plans for the sloping, terracing, or other practical treatment of stockpiles and tailings basins.
 - (ix) Plans for the stabilization of the surface overburden banks of open pits in rock and the entire bank of open pits in unconsolidated materials upon their abandonment.
 - (x) Plans for the sloping or terracing of portions of the bank or bottom of open pits that will be submerged upon their abandonment.

- (xi) The location and depth of surface pits, underground mine excavations, or both, over the entire site from which the metallic mineral, overburden, and peripheral rock will be removed.
- (xii) A description of the geochemistry of the ore, waste rock, overburden, peripheral rock, and tailings.
- (xiii) The location of portals, shafts, or other openings between the surface and underground mine workings, and provisions for their sealing and restoration upon termination of mining operations.
- (xiv) Provisions for assuring there will be no damage to the environment or public health or safety from caving or collapse of underground mine workings.
- (xv) The location of buildings, equipment, stockpiles, roads, or other features necessary to the mining activity and provisions for their removal and restoration of the area at the project termination.
- (xvi) Cleanup of the plant site and mining areas and the removal of debris from those areas on termination of the mining operation.
- (xvii) The interim use or uses of reclaimed areas before the cessation of the entire mining operation.
- (xviii) Fencing or other techniques to minimize trespass or unauthorized access to the mining activity.
- (xiv) If the proposed mining activity includes beneficiation or treatment of the metallic ore or material mined for its metallic content, the application documents shall include specific plans depicting the beneficiation and treatment methods and techniques, and manufacturer's material safety data sheets on all chemicals or other additives that are not natural to the site, that will be utilized in the process. The operator shall obtain all applicable state and federal permits before beginning the beneficiation process.
- (xv) A contingency plan to manage and respond to accidents, emergencies, and unexpected conditions to prevent harm to the environment or public health.
- (xvi) The proposed date for completing all extraction operations and the date for completing final restoration.
- (xvii) A long term plan for monitoring ground water quality.
- (xviii) Details setting forth how any proposed blasting and the fracture of bedrock

and other rock adjacent to the blasting site would impact groundwater flow, direction, rate, and quality.

- I. An environmental protection plan which shall include maps, drawings, documents, and data as required to depict and describe all of the following:
 - (i) Provisions for drainage control, grading, stabilization, and revegetation that will minimize soil erosion, wind erosion, and offsite deposition. Revegetation plans shall include species, quantities, and final density of plants.
 - (ii) A hydrogeological survey of the proposed mining area and the surrounding area.
 - (iii) A description of the amounts and sources of water that will be used.
 - (iv) Measures to minimize impacts to the volumes of recharge, flow, and discharge of groundwater and surface waters on the mining area and in surrounding areas.
 - (v) Provisions for monitoring of groundwater and surface water quality during mining operations and for a minimum 20 year period following cessation of mining operations.
 - (vi) Provisions for the control of acid-forming or toxic ore and waste products from the mining process so as to prevent leaching into groundwater or runoff into surface water. Provisions may include, but are not limited to:
 - (a) Lining or covering, or both, of the ore and waste products with synthetic or earth material that will effectively isolate the ore and waste products from the air, surface water, and groundwater.
 - (b) Mixing the ore and waste products with a material or materials that counteract or neutralize the acid-forming or toxic characteristics of the ore and waste products.
 - (c) Grading or diking to assure that surface water drains away from the storage or disposal area.
 - (vii) Plans specifying and describing ponds, streams, roads, dikes, and drainage ditches and structures that will remain after completion of reclamation.
 - (viii) A detailed plan to perform post closure maintenance, including any water treatment systems, pumps, drainage features, dikes, and other necessary structures.

- (ix) If a threatened or endangered species is identified, a plan to protect the threatened or endangered species that conforms to the federal endangered species act, USC title 16, chapter 35.
- (x) A list of other permits and licenses required for the mining operation.
- m. A proposed surety bond, irrevocable bank letter of credit in satisfactory form, or security deposit in an amount sufficient to guarantee restoration of the site. In fixing the amount of such surety bond, the Mineral License Board shall take into account the size and scope of the proposed excavation, probable costs of rehabilitating the premises upon default of the operator, recommendation of the Township Engineer, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application for both open pit and subsurface mineral extraction. The financial assurance required by this section shall also be sufficient to cover the cost to administer and hire a third party to implement the mining and reclamation plan and the environmental protection plan.
- n. Michigan State Fire Marshall and/or Michigan State Police permit for the on-site storage or transfer of fuels; or a written indication from the applicable agency that a permit is not required.
- o. A proposed liability insurance policy of not less than \$10,000,000 per incident for all liability claims arising out of the site.
- p. An application fee, in an amount established by resolution of the Township Board, shall be provided at the time of the application submittal.
- q. The first annual license fee, in an amount established by resolution of the Township Board, shall be provided at the time of application submittal and, if approved, subsequently on the anniversary date of the issuance of the mining permit. The fee shall be held in escrow pending decision on granting the application. The annual fee shall remain payable on all acreage not yet restored.
- r. A description of the proposed operation including whether it is for mining and/or processing; and specifications of whether the applicant will perform extraction methods in a manner that does or does not require artificial means to lower the existing groundwater table.
- s. Drawings, aerial photographs and plans submitted with an application shall be correlated by transparent overlays, combined maps or other means that clearly set forth site features and proposed features and

requirements of this ordinance including setbacks.

- t. Copies of all permit(s) required by federal, state or county agencies or departments with jurisdiction over mineral extraction operations, or letter(s) from federal, state or county agencies with jurisdiction over mineral extraction operations stating that a permit is not required for the proposed mining or reclamation under any one or more than one of the following, as currently adopted, subsequently amended or replaced, together with a statement that any proposed mineral extraction operations will be conducted in compliance with the following laws, rules, and regulations to the extent the same are applicable to the proposed mineral extraction operations:

- i. Part 5 – Metallic Minerals Leasing Program
- ii. Part 17 – Michigan Environmental Protection Act
- iii. Part 31 - Water Resources Protection Act
- iv. Part 35 – Use of Water in Mining Low-Grade Iron Ore
- v. Part 55 – Air Pollution Control Act
- vi. Part 91 – Soil Erosion and Sedimentation Control
- vii. Part 111 - Hazardous Waste Management
- viii. Part 115 – Solid Waste Management
- ix. Part 121 – Liquid Industrial Waste Act
- x. Part 201 – Environmental Remediation
- xi. Part 211 – Underground Storage Tank Regulations
- xii. Part 301 - Inland Lakes & Streams Act
- xiii. Part 303 - Wetlands Act
- xiv. Part 323 - Shorelands Protection and Management Act
- xv. Part 353 - Sand Dune Protection and Management Act
- xvi. Part 365 - Endangered Species Act
- xvii. Part 515 – Forest Fire Prevention Act
- xviii. Part 625 - Mineral Wells Act

- xix. Part 631 - Reclamation of Mining Lands Act
 - xx. Part 633 - Mineral Mining Act
 - xxi. Part 635 - Surface & Underground Coal Mine Reclamation Act
 - xxii. Part 637 - Sand Dune Mining Act
 - xxiii. DEQ permits for Solid Waste Disposal Facility Construction
 - xxiv. DEQ Solid Waste Facility Operating License
 - xxv. DEQ permit for National Pollutant Discharge Elimination System
 - xxvi. Federal Mine Safety & Health Act of 1977
 - xxvii. Clean Air Act Amendments of 1990, 40 CFR Parts 50-99
 - xxviii. Clean Water Act, NPDES, 40 CFR 403
 - xxix. Michigan Drain Code, PA 40 of 1956
 - xxx. Michigan Fire Prevention Code, 1941 Act 207
 - xxxi. Copper and Iron Mine Inspectors, Act 163 of 1911
 - xxxii. Explosives Act, 1970 PA 202
 - xxxiii. Endangered Species Act of 1973
 - xxxiv. Spill Prevention, Control, and Countermeasure (SPCC) Plan (USEPA)
 - xxxv. Section 10 of the Rivers and Harbors Act, 33 U.S.C 403
 - xxxvi. Section 404 of the Clean Water Act, 33 U.S.C. 1344
- u. A hydrogeological analysis, prepared by a Registered Professional Engineer or Certified Professional Geologist or hydrologist with experience in hydrogeological studies, shall be provided for all projects that propose a dewatering operation during any phase of the mining development. The analysis shall demonstrate that the proposed operation will have no significant impact on existing private water supply wells within the influence of the site dewatering operations. The hydrogeological report shall include the following:
- i. Test pumping data at the site and analytical computations used to assess potential dewatering impacts.

- ii. A test well and computer model shall be used to determine the probable drawdown of the proposed dewatering. The hydrogeological report shall determine the direction and rate of flow of groundwater, the upgradient and down-gradient water quality, aquifer characteristics (when soil dewatering is planned), extent of dewatering influence, and impact on surrounding water supply wells. Not less than three (3) monitoring wells shall be installed according to the requirements of the Michigan Department of Environmental Quality. Locations of wells shall be approved by the Township Engineer. A sufficient number of monitoring wells shall be installed to provide assurance that the contamination will not affect surface water, Shakey Lakes, or the Menominee River.
- iii. Well logs of existing wells within 10,500 feet of the site boundaries.
- iv. A written statement of the impact the proposed operation will have on private wells shall be provided, as well as a plan for mitigation measures in the event that existing wells are impacted by the dewatering operations.
- v. Groundwater testing of each well shall take place prior to commencing extraction operations to establish background water quality levels. Quarterly tests of each well shall be performed and results shall be provided to the Township within 30 days of the testing. At a minimum, the ground water shall be tested for the following: trace metals, pH, temperature, conductivity, dissolved oxygen, dissolved organic carbon, benzene, ethylenebenzene, toluene and polynuclear aromatic hydrocarbons (PNA).
- vi. A description of the discharge rate and discharge location(s) of the dewatering operation, including an assessment of the potential for flooding in the area and downstream from the point of the discharge.

In the event that dewatering is proposed, the applicant shall provide sufficient data to establish the direction and levels of groundwater movement in the area before, during and after mining. This shall be accomplished by the utilization of a variety of methods which adequately describe the current groundwater flow direction and rates in the vicinity of the site and which data shall predict the impact of the mining operation on groundwater flow and quality.

- v. The permit must include an environmental compliance history for all parties having an interest in the land and/or an interest in the operation on the site. This shall include, by way of illustration and not limitation, any

corporation, limited liability company, partnership or sole proprietorship involved in the ownership or operation of the proposed mineral extraction operation. The history shall be provided for the prior twenty year period and shall include such information as the Mineral License Board shall request and shall include as a minimum at the least the following: (1) records of compliance for all existing or prior mining or mineral extraction operations located in this state or any other state, (2) records of existing financial guarantees or bonding requirements for other mining or mineral extraction operations in this state or any other state, (3) any previous accidents, incidents, spills, violations, citations, letters of non-compliance, warning letters, findings of needed corrective actions, regarding other mining or mineral extraction operations in this state or any other state, and (4) any previous fines, sanctions, or penalties imposed as a result of mining or mineral extraction operations in this state or any other state.

- w. Four duplicate copies of all of the above except the application fee, and the first annual license fee. One duplicate is for the Township Engineer for his review and report, one duplicate is the records of the Mineral Licensing Board; one duplicate is for the Mineral License Board to attach to the Applicant's License, if approved; and the final copy is to attach to the Township's copy of the License, if approved. The original is maintained in the Township Clerk's records.

5. REVIEW OF APPLICATION BY MINERAL LICENSE BOARD

Once a complete application is submitted, the Mineral License Board shall, within 120 days:

- a. Approve a license based on the following findings;
 - i. The applicant can comply with this ordinance;
 - ii. The operation will not adversely affect the health, safety, and welfare, of the residents of the Township;
 - iii. The site will be restored so it is safe and harmonious with surrounding land uses;
 - iv. The necessary fees, bonds, security deposits and evidence of insurance have been submitted;
 - v. The proposed operation will not adversely affect the water table or water quality or supply of any surrounding land;
 - vi. The use proposed in the reclamation plan is acceptable, based upon a review of the Township Zoning Ordinance, Township Master Plan, surrounding land uses and site characteristics

- b. Disapprove the license based on one or more of the following findings that the applicant has failed to demonstrate that:
 - i. The applicant can or will comply with this ordinance; or
 - ii. The operation will not adversely affect the health, safety, and welfare of the residents of the Township; or
 - iii. The site will be restored so it is safe and harmonious with the surrounding land uses; or
 - iv. The proposed operation will not adversely affect the water table or water quality or supply of any surrounding land; or
 - v. The use proposed in the reclamation plan is acceptable to the Mineral License Board, based upon the Board's review of the Township Zoning Ordinance, Township Master Plan, surrounding land uses and site clearances.
- c. Conditionally disapprove the license until the applicant submits revised document(s) providing that the license should be approved.
- d. The Mineral License Board may extend the period of review for additional 30 day periods based upon the recommendation of the Township Engineer that additional time for review is needed.

6. ISSUANCE OF LICENSE

If a license is approved, the Mineral License Board shall issue the license in duplicate upon deposit of the required fee, bond, irrevocable letter of credit, or security deposit, and proof of insurance by the licensee. One duplicate original will be provided to the applicant, and the other will be maintained by the Township Clerk. An issued license may be transferred to a new person or entity with the approval of the Mineral License Board. The person or entity which acquired the license shall submit a request for a transfer of the license. The proposed transferee of the license shall file a written acceptance of the conditions of the existing license and adhere to the requirements and conditions of the license, mining and reclamation plan, and environmental plan. Pending the transfer of the license, the proposed transferee shall not conduct any mineral extraction operations within the Township.

7. FORM OF LICENSE

The license shall be prepared in duplicate originals and signed by the Township Supervisor and Township Clerk, after approval by a majority of the Mineral License Board, and contain the following:

- a. A full description of the operation permitted by the license based on

approved plans and drawing;

- b. A full description of the restored site based on the approved plans and drawings;
- c. Dates for the completion of the mining operations and the completion of restoration;
- d. The dates for which the permit is valid based on the continual restoration schedule approved by the Mineral License Board;
- e. Signed commitments for compliance with the ordinance and the license by all parties having an interest in the land and the operation; and that the licensee will reimburse all legal, engineer and investigation costs incurred by the township in establishing any violations;
- f. That Township agents, representatives, independent contractors and engineers are authorized to enter upon the property at any time for the purpose of inspection and may extract from the property such small samples of water, soil and other materials as may be necessary to assure compliance;
- g. That it remains subject to inspections by the Township Engineer and/or other agents of the Township and payment of annual license fees; and reimbursement of the Township Engineer's fees for monitoring to determine compliance with the license;
- h. All required attachments to the application.
- i. The terms and conditions set forth in the permit application, mining and reclamation plan, and environmental protection plan and any other conditions approved by the Mineral License Board shall be incorporated into and become a part of the license.
- j. The Mineral License Board may require additional license conditions which it determines are necessary to protect the environment, natural resources, and public health and safety.

8. COMPLIANCE BY LICENSEE

All persons or firms engaged in the activity of mineral extraction shall comply with the following:

- a. Operate only with a license issued under this ordinance. No mineral extraction operations shall be conducted without first obtaining a license as required by this ordinance.
- b. Make payment to the Township Clerk, on each anniversary date of the

license, of the annual permit fee established by resolution of the Township Board, to be held in escrow pending satisfactory results of the Township's annual inspection.

- c. Operate only in compliance with the terms and limits of the license.
- d. Operate only between the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday's or legal holidays, unless alternate hours of operation are demonstrated to be necessary and approved by the Mineral License Board after consultation with the Township Engineer and such other consultants deemed necessary by the Mineral License Board.
- e. Other than as specified in the application and license, no processing of any nature, shall be conducted at any time on site.
- f. All fixed machinery and equipment and buildings shall be located at least 250 feet from any lot line and 500 feet from any existing residence.
- g. No extraction, processing, loading, weighing, stockpiling or other operations or equipment storage or repair shall take place closer than 250 feet from any road right of way, 500 feet from a residence or 250 feet from any other property boundary, whichever is farther.
- h. There shall be no excavation unless there is adequate lateral support for adjoining land as determined by the Township Engineer.
- i. Stockpiles of soil to be used for the reclamation shall be seeded or otherwise maintained to avoid erosion.
- j. Grading shall be maintained so that a drainage nuisance is not caused on adjacent property.
- k. Operations shall be conducted so the noise from the site when measured outside its legal boundaries does not exceed 70 decibels ("a" scale) for a period longer than a minute. Equipment shall be installed, used and maintained so that noise and vibration emitted from the site do not exceed the level reasonably necessary for the operation of the equipment.
- l. The operation shall be conducted so it will not cause any contamination or change in the quality of ground or surface water outside the site. The quality of ground water shall be monitored by adequate test wells as determined by the Township.
- m. There shall be no excavation within 500 feet of any stream or waterway unless approved in writing by the Michigan Department of Natural Resources.

- n. There shall be not more than one entrance way from a public road for each 660 feet of front lot line.
- o. Each entranceway shall be located not less than 500 feet from an intersection of two or more public roads.
- p. The site including ingress and egress shall be treated and maintained so that dust does not blow onto neighboring properties.
- q. Berms, fences and landscaping shall be installed at all locations around the site which lack natural screening. The screening shall consist of one or any combination of the following:
 - i. Earth berms constructed to a height of 6 feet above the mean elevation of the centerline of the adjacent highway or 6 feet above the general level of the terrain along the interior property lines, whichever is higher. Such berms shall have slopes that are not in excess of 1 foot vertical to 3 feet horizontal and shall be planted with grass, trees or shrubs.
 - ii. Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than 4 feet in height at the time of the planting and which grow to not less than 6 feet in height at maturity and sufficiently spaced to provide effective sight barriers when 6 feet in height.
 - iii. Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than 6 feet and maintained in good repair.
- r. Where an excavation leaves standing water with a depth of greater than 4 feet, the applicant shall erect a fence completely surrounding the portion of the site where the body of water extends, said fence to be not less than six (6) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on.
- s. Where quarrying operations result in a body of water, the owner or operator shall place appropriate "Keep-Out-Danger" signs around said premises not more than two hundred (200) feet apart.
- t. All portions of the site not currently being mined (without mining activity for forty days) shall be graded so that slopes are not steeper than one (1) foot vertical for each two (2) feet horizontal and shall be adequately covered and planted to prevent erosion.
- u. All fuels, chemicals and other hazardous materials to be contained on site shall be noted in the application, including material, quality, use, and method of primary and secondary containment. All containment structures

or devices shall be designed and operated to prevent groundwater or surface water pollution. The applicant shall also provide a written spill response plan, in the event that a hazardous materials spill occurs on site. Said plan shall indicate how any and all contaminated material will be collected and disposed.

- v. All regulations or directives of the Menominee County Health Department applicable to the operation set forth in the license.
- w. Only equipment or vehicles owned or leased by the operator shall be stored on the site overnight.
- x. The operator must require that the drivers of all vehicles prior to exiting the site, clean thoroughly the license plates of their vehicles, and the failure to do so shall be a violation of this ordinance.
- y. Materials will only be loaded onto trucks reaching and leaving the site on truck routes specified on the license. Truck traffic shall be allowed off site from 7:00 a.m. to 7:00 p.m. Monday through Saturday only.
- z. Be responsible for adequately treating against dust and improving and maintaining to Menominee County Road Commission standards the public roads. Bridges and culverts directly servicing the site; as necessitated by the truck traffic over the haul route to or from the site. Any roads used for the purpose of ingress and egress to said excavation site which are located within three hundred (300) feet of occupied residences shall be kept free of dust and blowing debris and shall be hard topped with cement, bituminous substance or chemical treatment.
- aa. Maintain a record or copy of the load ticket for each truck departing with extracted minerals from the site. These records must include driver and truck/trailer identification, date, time, and load; and must be made available to the Township upon demand for inspection and copying.
- bb. Potable water supply and sanitary sewage disposal systems shall be approved for the site by the County Health Department.
- cc. No material from outside the site shall be brought in for processing or storage.
- dd. The operators must maintain the liability insurance approved with the license and annually provide proof of that insurance to the Township.
- ee. No explosives shall be used on the site, unless demonstrated to be necessary and approved by the Mineral License Board after consultation with the Township Engineer and such other consultants deemed necessary by the Mineral License Board.

9. RECLAMATION

Reclamation in accordance with the following restoration standards must begin as soon as the mining of any area of the site is completed or mined to the limits shown on the application (whichever comes first);

- a. The reclamation shall be in accordance with the license.
- b. Ponding shall be avoided in all areas except in designated lake areas. This shall be accomplished by all excavation being either to a water-producing depth or shall be graded or backfilled to ensure that the excavated area will not retain or collect stagnant water. For the purposes of this subsection, a water-producing depth shall be defined as not less than ten (10) feet below the average summer level of water in the excavation.
- c. In the event filling of the mined area is necessary in the course of reclamation, the fill material shall consist only of soil material, which is brought into the site in compliance with the following:
 - i. A detailed statement indicating the quantities of material to be disposed of, and the exact locations from which the material will be brought.
 - ii. A report specifying in detail the testing to be undertaken by the applicant at each source location to ensure that the material being brought on site is not contaminated. The report shall include an opinion by a qualified independent soil scientist, soils engineer, hydrogeologist or geologist, confirming that the material from each source location is not contaminated.
 - iii. Set forth in detail the arrangement and nature of all operations, including the quantity of each type of material to be brought on site and the location from which it will be brought.
 - iv. Set forth a detailed explanation as to the routing of all vehicles bringing material to the site, and their size, weight and frequency of trips.
 - v. Set forth in detail the precautions taken to ensure against any soil erosion or sedimentation control problems.
 - vi. Set forth in detail the contingency cleanup procedures to be utilized in the event of any contamination of the underlying groundwater or surface water.
- d. In general, grades of areas which are not permanently submerged will be gently rolling to minimize soil erosion and shall be blended into existing

grades in a harmonious manner. No unsubmerged grade shall exceed one (1) foot vertical to four (4) feet horizontal, unless an unmodified area remains on site that has a natural grade in excess of 1:4 and the Mineral License Board finds that modification of this area is not necessary. In addition to the above, the reclamation plan shall show an internal future development area of 200 feet from the site property lines. Within this area, site grades shall be reduced to a sufficient slope to support an internal road on residential lots fronting on at least one side of the road. This area may be reduced to 100 feet where the Mineral License Board finds that residential development is not feasible future land use for the site and the use proposed does not require a 200 foot area with less steep grades. Grades of all areas that are permanently submerged shall not exceed one (1) foot vertical to five (5) feet horizontal from the shore to the depth of five (5) feet below the annual low water elevation. Notwithstanding the above, the maximum depth shall not exceed fifty (50) feet.

- e. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, roads or other structures. The depth of topsoil over the entire site shall be sufficient to allow sod to grow.
- f. Naturally occurring or native vegetation shall be restored by the appropriate seeding of grasses and the planting of trees and shrubs to establish a permanent vegetative cover on the land surface, to minimize erosion, and ensure long term stability of any sloped areas.
- g. Reclamation must be completed within 12 months of cessation of mining operations. All plant structures, buildings, stockpiles and equipment shall be removed; provided, however, 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 the property is located may be retained. No further mining shall be permitted on a site when an area within the site subject to reclamation has not been restored within this time limit.
- h. As part of the reclamation process, all site debris including tree stumps, man-made materials, etc. shall be removed from the site and properly disposed. The holder of a mineral extraction license shall adjust annually the surety bond, irrevocable bank letter of credit, or security deposit to assure sufficient funds will be available to reclaim the site and remediate any contamination of the air, surface water, or groundwater. The surety bond, irrevocable bank letter of credit, or security deposit shall remain in effect following cessation of mining until the Mineral License Board determines all reclamation has been completed in accordance with the mining and reclamation plan and the environmental protection plan for a minimum period of 20 years.

10. REVOCATION/SUSPENSION

The Township Supervisor, in the case of a violation of this ordinance, may temporarily revoke a license issued under this ordinance for up to 30 days where the public health, safety or welfare may be affected. Otherwise revocation shall only occur after a warning, notice and a hearing before the Mineral License Board which has the authority to permanently revoke the license or temporarily suspend it where conditions are found to exist which indicate the licensee is operating in violation of the terms of the license, or this ordinance, or in a manner adversely affecting the health, safety, or welfare of the residents of the Township.

11. APPEAL

Any applicant or affected property owner may appeal a decision of the Mineral License Board under this ordinance.

- a. An appeal shall be decided by the Township Board after adequate notice, and a public hearing.
- b. Based on facts presented at an appeal, the Township Board may make findings redetermining compliance with Section 5 of this Ordinance and remand the application to the Mineral License Board for granting of the license or other final disposition of license, extend time limits of this ordinance, and restore a revoked license.

12. EXEMPTIONS

This ordinance shall not apply to the following:

- a. Operations that involve the removal of 100 cubic yards or less of material per year.
- b. Usual and customary excavation associated with the construction of structures or septic tanks/fields under a permit from the Township and/or County.
- c. The usual and customary balancing of land by cutting and filling on a site in preparation for a development approved by the Township in accordance with all Township ordinances and regulations. This exemption shall not permit the removal of more than 100 cubic yards of material from the site.
- d. Usual and customary excavation of land in the public right-of-way, when associated with a public utility or public facility improvement.
- e. Ponds constructed in accordance with applicable provisions of any Zoning Ordinance enacted by the Township.

13. VIOLATIONS

- a. Persons violating this ordinance may be fined \$500.00 and imprisoned for 90 days for each violation. Each day an operation is carried on in violation of the ordinance shall be considered a separate violation.
- b. An official designated by the Township Board shall be responsible for investigating violations of this Ordinance, distributing notices of violations, and other related administrative functions. In general, when a violation has been identified and confirmed, the enforcement official shall issue a Notice of Violation to the owner and operator of the facility, advising a 15 day period to cease the violation and come into compliance with the Ordinance. If the violation continues, the enforcement official shall contact the Township Supervisor to schedule a hearing to be held by the Township Board to determine if the matter should be referred to the Township Attorney for immediate remedy through a court of competent jurisdiction. A Notice of hearing including date, time, and place of the hearing shall be sent to the owner and/or operator at least 10 days prior to conducting the hearing. Upon review of findings of fact, the Township Board shall take appropriate action to ensure the ordinance standards and plan of approval is met. In the event that the violation poses an imminent harm to the public and requires immediate action in a court of competent jurisdiction, the Township Board may refer the matter to the Township Attorney for action without giving notices set forth above. The Township Attorney may seek injunctive or other appropriate relief.

14. EFFECTIVE DATE

This ordinance shall take effect 30 days after the date of publication of the notice of adoption. Beginning with that date all persons or forms wishing to commence mineral extraction operations must comply with the ordinance.

15. SEVERABILITY

It is the intention that if any portion of this ordinance is found, for any reason, to be invalid, the remainder of the ordinance shall remain in effect.

16. VARIANCES

When there are practical difficulties in the way of carrying out the strict letter of ordinance, the Township Board shall have the power to vary or modify the application of the provisions of this ordinance, in accordance with this section, so that the intent and purpose of the ordinance shall be observed, public safety secured, and substantial justice done.

Any applicant may apply for a variance from any provision of this ordinance by filing an application for variance with the Township Clerk and paying a variance application review fee. The Township shall hold a public hearing upon such

application within forty-five (45) days from its filing. The Township Clerk shall give notice of the hearing to the owners of all property within one thousand (1,000) feet of the subject property. The notice shall be mailed to each such party by first class mail or hand delivered and shall be published in a newspaper of general circulation in the Township not later than seven (7) days prior to the hearing. The Township Board may attach reasonable conditions in granting the variance from any provision of the ordinance to insure that the standards and intent of the ordinance are met. Violation of conditions shall be considered a violation of the Ordinance and shall be subject to the penalties stated in Section 13.

17. RELATIONSHIP TO OTHER LAWS


Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulators or restrictions imposed by this or any other governmental authority through legislation, rule or regulation, the regulations, rules or restrictions which are more restrictive or which impose higher standards or requirements shall govern. However, wherever there is a conflict in determining which is the more restrictive or imposes the higher standard, the standards of this regulatory ordinance shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal control or environmental protection law or regulation.

18. ADOPTION

This Ordinance is adopted by the Lake Township Board at a meeting held on 12/08, 2004. This Ordinance, or a summary of it together with a location in the Township where a true copy of the Ordinance can be inspected or obtained, shall be published in the (within 30 days of adoption. The Ordinance shall take effect 30 days after the date of publication of the notice of adoption.

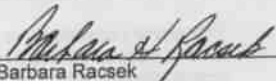
Ayes:
Nays:
Absent:

Ordinance Declared Adopted on December 08, 2004.


Robert Desjarlais
Township Supervisor for the
Township of Lake

CERTIFICATE OF ADOPTION AND PUBLICATION

I, Barbara Racsek, the duly elected Clerk of the Township of Lake certify that the foregoing ordinance is a true and correct copy of the ordinance enacted by the Township Board of the Township of Lake on December 08, 2004 and published in the (, a newspaper circulated in the Township of Lake on December 23, 2004.



Barbara Racsek
Township Clerk for the
Township of Lake