

Cambridge Township Stand-Alone Ordinance Provisions

Chapter 16 - ENVIRONMENT
ARTICLE 14. MINING CONTROL

ARTICLE III. MINING CONTROL

Sec. 16-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the person making application for a permit under this article.

Hazardous waste means a solid waste, or a combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause, or significantly contribute to an increase in mortality, or an increase in serious irreversible, or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Industrial waste means any waste substance or combination thereof resulting from any process of industry, manufacturing, trade, or business, or from the development of any agricultural or natural resource, excluding common rubbish and garbage.

Mineral mining or *mining* means the excavation, stripping, removal or processing of gravel, sand, clay, stones, rock, aggregates, or other soils, including overburden, or the storage or transporting of such minerals and soils on a mining site, or the reclamation of the site after removal, excavation, stripping, and/or processing of the minerals or soil.

Legal holidays means New Year's Day, Memorial Day, Easter Sunday, Independence Day, Labor Day, Thanksgiving, and Christmas Day.

Operator means any person conducting mining operations on a site.

Owner means any person with an ownership interest in the site.

Permit holder or *operator* means the person receiving a permit under this article.

Person means an individual, partnership, corporation, limited liability company, limited liability partnership, trust, the state and any of its agencies or subdivisions, and any body of persons that together hold joint ownership of a site.

Sewage means water-carried human or animal wastes from septic tanks, water closets, residences, building, industrial and municipal establishments, or other places, together with such groundwater infiltration, subsurface water, mixtures of industrial wastes or other wastes as may be present.

Site means a parcel or unit of land on which mining operations have been, are, or are proposed to be conducted.

Sec. 16-27. Permits.

- (a) *Permit requirements.* From and after the effective date of the ordinance from which this article is derived, no person shall own or operate a mineral mining site in the township, except in accordance with a permit issued pursuant to this article and in accordance with the requirements of this article. A permit issued pursuant to this article shall be nontransferable.
- (b) *Compliance with other ordinances and regulations.* The grant of a permit under this article does not relieve the applicant from compliance with, as well as from applying for and receiving any approvals required by, the Cambridge Township Zoning Chapter, or any other applicable law, ordinance or regulation.
- (c) *No permits required.* No permit under this section shall be required for any of the following:
 - (1) Excavations for the construction of buildings and structures for which a building permit has been issued;
 - (2) For the moving, grading or leveling of earth or rock materials by a property owner solely upon his residential property as required for home construction or improvement, landscaping, lawn maintenance, or gardening. Whether or not a permit is required for any activity described in this subsection, any fill should be placed so it will not exceed a minimum slope ratio of four feet horizontal to one foot vertical from any adjacent property owner and not block any natural drainage course;
 - (3) For the filling of land for purposes of construction or land balancing where the land is low (but is not considered a wetland pursuant to applicable law) and in need of fill so long as the fill does not contain any refuse, is not a commercial operation and not more than 1,000 cubic yards of fill are deposited in any calendar year;
 - (4) For the removal of soil when no more than 1,000 cubic yards are removed in any calendar year;
 - (5) Excavations or land balancing in connection with development of property pursuant to a site plan, condominium plan, or subdivision plan previously approved by the township;
 - (6) Excavations or land balancing in connection with the installation or repair of a septic system for which any required permit has been secured from the county health division.
- (d) *Administrative review.* Where a permit is required due to the volume of cubic yards to be distributed yet a minimum impact is apparent, an administrative review performed by the township supervisor, or his designee will be allowed to prevent unnecessary and costly information from being submitted. A minimum administrative review fee, as established by resolution of the township board, will be charged for this review. The township supervisor or his designee may allow the processing of an application with less than all the information otherwise required by this article.

Sec. 16-28. Application procedure for mining permit.

- (a) *Mining permit application procedure.* The following application procedure shall be complied with. The application form shall be obtained from the township clerk.
 - (1) All applicants shall use the form provided by the township clerk, accompanied by the documents listed on that form. All permits are annual in nature and all permits expire on May 15 of each permit year. To be considered for renewal, 15 copies of the proper application with required attachments must be submitted to the township on or before November 30 of the year preceding.
 - (2) Upon receipt of any application, the township engineer shall review the application and attachments, physically inspect the premises to determine compliance with the standards of this article and any previously issued permit and reclamation plans, and report to the township board, which report shall also include feasibility of the reclamation plans, compliance with any previously issued permit and reclamation plan and engineering considerations, an estimate of the cost of reclamation upon

abandonment for bond amount purposes, and general safety, drainage and other engineering considerations of the permit application. The report by the township engineer shall be rendered no later than the regular February meeting of the township board.

- (3) The township board shall make final determination on issuance, renewal or nonrenewal of the mining permit on or before May 15 of the respective year. Failure of the township board to act by the time frames mandated above shall not result in an automatic renewal for a one-year renewal period, but such failure merely results in an extension of the existing annual license for an additional period up to the time of final determination by the township board.

(b) *Application contents.* The contents of an application for a mining permit shall be as follows:

- (1) Name of the owner, or owners, of land from which removal is to be made.
- (2) Name and address of applicant making a request for such permit.
- (3) Name and address of the person who will be conducting the actual removal operation.
- (4) Location, size, and legal description of the area from which the removal is to be made.
- (5) Location of the processing plant and type of plant to be used.
- (6) Detailed statement as to the exact type of materials or resources to be removed, and the estimated number of cubic yards.
- (7) Proposed method of removal, general haul route, and whether blasting or other use of explosives will be required.
- (8) General description of types of equipment to be used.
- (9) Duration of proposed operation, and location, timing, and any other relevant details with respect to the phasing and progression of work on the site.
- (10) Proposed method of filling excavation where mining results in extensive under-surface extension.
- (11) A vertical aerial photograph (submitted on an annual basis), enlarged to a scale to fit on a 24-inch by 36-inch plan sheet, from original photograph flown at a negative scale no smaller than one inch equals 660 feet. The date of the aerial photograph shall be certified and shall have been flown at such time as the foliage shall be off of onsite trees. If there are changes in the topography from the date of the photograph, an accompanying text shall be provided explaining each change. The photograph shall be provided from an aerial flight having occurred within six months prior to the application filing date. The vertical photograph shall cover:
 - a. All land anticipated to be mined in the application, together with adjoining land owned by the applicant;
 - b. All contiguous land which is or has been used by the owner or leasehold applicant for mineral extraction and/or processing and/or storage, and all contiguous land in which the applicant or any affiliate has a current interest;
 - c. All lands within 200 feet of a proposed mining area;
 - d. All private and public roads from which access to the property may be immediately gained;
 - e. Boundary of the entire planned mining area by courses and distance;
 - f. Site topography and natural features including location of watercourses within the planned mining area;
 - g. Means of vehicular access to the proposed operation.
- (12) A mining and reclamation plan incorporating the updated contour base map drawn to a scale of no greater than one inch equals 200 feet and containing elevation contours at a maximum five-foot

-
- interval. The mining and reclamation plan shall show final elevation contours for the entire site and shall identify areas to be mined and reclaimed under the mining year in which a permit is being applied for. The mining and reclamation plan shall contain the following general information:
- a. General area of completely reclaimed land;
 - b. General area of reclamation underway;
 - c. General area currently used for topsoil and overburden storage;
 - d. General area proposed for reclamation during the mining permit year;
 - e. General area proposed for topsoil and overburden storage during the mining permit year;
 - f. The acreage for each area shown on the mining and reclamation plan;
 - g. A description of the methods and materials proposed for reclamation including placement of topsoil and planting materials;
 - h. A schedule for reclamation activities.
- (13) A surety performance bond to cover full reclamation for current and past operations at the site (including any mining activities prior to the effective date of the ordinance from which this article is derived) in an amount approved by the township based upon recommendation of the township engineer, which shall include the costs of inspections and administration of the permit, which bond shall be continued until all property where mining was conducted is fully reclaimed, at which time the bond shall be released. The form and content of the bond shall be approved by the township attorney. As acreage is reclaimed, the permit holder's bonding requirements will be reduced on a per acre basis. Mining activity shall only be permitted in areas of the subject properties for which the bond was posted, and there shall be no mining in any area which was not taken into consideration in the determination of the bond amount. The bond amount shall remain in effect for three years from the date of issuance of the initial permit. The township may review and adjust the bond amount annually.
- (14) An environmental impact study prepared by a qualified professional, addressing impacts the operation will have on natural features, and flora and fauna, both on the site and adjacent lands, as well as any mitigation measures proposed by the Licensee to eliminate or minimize these impacts. The statement shall address at a minimum the following potential impacts:
- a. Noise;
 - b. Dust;
 - c. Stormwater drainage and erosion;
 - d. Viewshed along adjacent roadways;
 - e. Wetland, Floodplain, and impacts to fish and wildlife;
 - f. Impacts to surface waters, ground water, and aquifers;
 - g. Areas and features of historic, archeological and natural significance with reporting of any finds to the Township.
- (15) Any other information deemed necessary by the township board in order to make its recommendation or decision.
- (16) The signature of the owner of the site, consenting to the application and agreeing to be bound by all the provisions of the permit and this article.
- (c) *Fees.* The application and any renewal permits shall be accompanied by a processing fee, to be paid by the applicant in an amount established by the township board.

-
- (d) *Renewal of annual permit.* The mining permit shall be annual in nature and shall expire on May 15 of each year. To renew the mining permit for the parcel or parcels being mined the township board shall receive a report from the township engineer as to compliance with the permit by the applicant. Upon finding the applicant has complied with the plan, another mining permit may be issued, subject to compliance with the provisions of this article.
- (e) *Standards for approval and requirements.*
- (1) The township board shall grant or renew a permit under this article only if it finds that the applicant has demonstrated all of the following:
- a. The proposed or existing mining operation complies with the standards of this article.
 - b. The proposed or existing mining operation complies with the Division 9 Performance Standards of the Cambridge Township Zoning Chapter, and any other applicable law, ordinance or regulation.
 - c. For renewals, that the mining operation is in compliance with the terms of the existing permit.
- (2) If, in the opinion of the township board, approval should be granted, it shall establish the following in the permit:
- a. Identify the person, contractor or subcontractor who will be doing the removal and indicate that no other individuals shall be allowed to work on the site.
 - b. Set a reasonable time limit for all mining and hauling operations and a reasonable time extension for the land to be completely restored.
 - c. Indicate hours of operation.
 - d. Set the amount of the bond to ensure final restoration of the property as provided by subsection (b)(13) of this section.
 - e. Establish the frequency of engineering reports to be prepared by a local engineering firm and to be reviewed by the township engineer.
 - f. Establish the frequency of on-site inspections to be made by the township engineer and establish the amount of cash deposit to be paid by the applicant necessary to cover such on-site inspections.
 - g. Establish any other reasonable conditions and requirements as deemed necessary to adequately protect the general health, safety, and welfare of the township.

Sec. 16-29. Standards, required improvements and reclamation.

- (a) *Setbacks.* All mining activities are to occur at least 100 feet from the nearest property line (exclusive of a common property line with other permit holders or active mining operators), provided all processing and stockpiling shall be conducted at least 200 feet from the nearest property line (exclusive of common property line with other permit holders or active mining operators). Further, all fixed equipment and machinery shall be located a minimum of three hundred (300) feet from any property line.
- (b) *Fencing.* A permit holder shall maintain and install/repair as necessary a four-foot-high farm type fence along the outside perimeter property line of all areas where mining activities have or are to occur. Fencing shall not be required along the common property lines for sites owned by the permit holder. The fencing must be continuous and in good repair so as to secure the subject property from trespassers.
- (1) During the mining and reclamation period, the permit holder shall maintain such fence. Any necessary repairs to the fencing shall be promptly made by the mining operators so as to maintain the integrity and continuity of the fence along the outside perimeter of the mining site properties.

-
- (2) All fenced areas shall be conspicuously posted with "No Trespassing" signs, which shall be of sturdy and rigid material. A permit holder shall promptly replace any missing signs.
- (c) **Screening.** To reduce the effects of airborne dust, dirt, noise and vibration, a berm consisting of natural materials and planted with groundcover of not less than ten (10) feet in height shall be built around the immediate perimeter of all equipment and structures used for sorting, washing, crushing and other similar operations.
- (d) **Hours of operation.** A permit holder may carry on mineral mining and mining activities, during the hours of 8:00 a.m. or sunrise, whichever comes later; to 5:00 p.m. or sunset, whichever comes first; and no such activities shall take place after 12:00 p.m. on Saturday nor all day on Sunday and legal holidays as defined in this ordinance. The term "mining activities," as used in this section, means the operation of mining machinery and the processing plant. Mineral mining and/or trucking activities shall not occur on Saturday after 12:00 p.m. and all day Sunday without advance authorization from the township supervisor or his/her designee. The limitation of operations on legal holidays shall be the same as the limitation applicable to Sundays.

In addition to the above, no mining activities shall take place during weekend (Friday through Sunday) events at the Michigan International Speedway and the U.S. 12 Garage Sale so long as those events are publicly published and/or advertised.

- (e) **Road access.** The proposed mining operation shall have immediate and direct access to a paved road having necessary and appropriate load bearing and traffic volume capacity in relation to the proposed intensity of the use. For each ingress and egress, a paved driveway of not less than one hundred (100) feet in length, with a minimum width of twenty-two (22) feet in width shall be provided extending from the edge of the street. A crushed stone driveway at least two hundred (200) feet in length and twenty-two (22) feet in width shall be located from the terminus of the paved driveway into the site. Said driveways shall be constructed and maintained to support the maximum weight of vehicles.
- (f) **Road maintenance.** Access roads, excluding roads under the jurisdiction of the Lenawee County Road Commission, to and within the subject properties shall be maintained by the permit holder so as to maintain the roads in adequate condition for access purposes and to minimize the dust arising from the use of such roads. Such maintenance shall be accomplished through the application of chloride, water, and/or similar dust retardant material. In the event notification is received from any other county and/or state agency having jurisdiction over the affected public roadway regarding maintenance requirements, the notified mining operators shall promptly take whatever appropriate action is necessary to address the agency's requirements.
- (g) **Operation of use.**
- (1) All equipment and facilities used in the production, processing, or transportation of sand, gravel, or stone on the subject properties by the permit holder shall be constructed, maintained, and operated in such a manner as to eliminate, insofar as practicable, noises, vibrations, noxious odors, smoke, fumes, or dust which interfere with the reasonable use and enjoyment of surrounding property and be confined within the lines of said lot. Where feasible, the processing plants and accessory equipment shall be located below the average grade of the surrounding parcels so as to effectuate screening from sight, noise, dust, and vibration.
 - (2) Only materials mined from the property which is subject to this permit may be crushed on the premises.
 - (3) If mineral mining activities create a body of water, the owner, operator and/or permittee shall place appropriate "KEEP OUT" "DANGER" signs around said premises not more than two hundred (200) feet apart.
- (h) **Noise standards.** The permit holder shall not operate any equipment on the subject properties at any time or under any condition so as to cause a level of sound which exceeds that noted by Code section 36-548(1). The

township supervisor/designee may grant a temporary waiver of this requirement for a period not in excess of 30 days after review and recommendation of the Township Board at a regularly scheduled Board meeting.

- (i) *Lighting.* All lighting used on the site to illuminate the mining area, access roads, stockpile area, and similar use area shall comply with Code section 36-548(6) Glare.
- (j) *Drainage.* Proper drainage shall be provided at all times on the subject properties by the permit holder to prevent the collection and stagnation of water, and surface water shall at all times be directed in such a manner so as not to create an adverse impact to the adjoining properties; provided, however, that the maintenance of the natural flow of surface water shall not be deemed an adverse impact. There shall be no creation of an adverse impact to the water table in the area.
- (k) *Soil erosion.* Where substantial natural vegetation is not expected within one (1) year of where erosion is occurring, or where the Township finds erosion likely to occur, which results or may result in injury or damage to fish and wildlife, the pollution of air or water, or which is causing or might cause injury to the person or property of others, surface overburden stockpiles shall be stabilized by planting with vegetative cover, or by other treatment to prevent erosion, pollution, or injury.
- (l) *Termination and reclamation.* The mining sites shall be reclaimed in a manner such that no final slopes shall have grades in excess of one foot vertical to three feet horizontal except with regard to submerged slopes which shall be graded from the water's edge at a grade not in excess of one foot vertical to seven feet horizontal for a distance of not less than ten feet, nor more than 50 feet. In such cases as the reclamation plan provides for a permanent water area, excavations shall be made to a water depth of at least ten feet below the low water mark, for at least 80 percent of the entire water area. All mining activities are to occur at least 100 feet from the nearest property line (exclusive of a common property line with other permit holders or active mining operators), provided all processing and stockpiling shall be conducted at least 200 feet from the nearest property line (exclusive of common property line with other permit holders or active mining operators). Reclamation activities shall consist of the grading necessary to effectuate a smooth transition in site grades and stabilization of all disturbed areas with topsoil, seed, and mulch and may extend up to the 25-foot setback line. The submitted mining and reclamation plan shall include turf establishment specification acceptable to the township engineer.
- (m) *Excavation filling.* In the event filling of the mined area is necessary in the course of reclamation, the fill material shall be inert materials only and shall not consist of and/or contain any organic waste, hazardous waste, radioactive waste, agricultural waste, industrial waste, or sludges and sewage residues, whether or not compounded, mixed, combined, bound, or contained within any other material through any chemical or physical process or a combination thereof, or in any other fashion; and moreover, such fill material shall not contain any other material which will, or is likely to, impair or harm the air, water, and natural resources, and public trust therein, and/or the public health and safety.
- (n) *Cessation of mining.* Upon cessation of all mining operations, except stockpiles, the operator within a reasonable period of time not exceeding 12 months thereafter, shall remove all plant structures, buildings, stockpiles, and equipment unless such building or structures can be lawfully used in the district in which the structures, buildings, stockpiles and equipment are located. Storage and stockpiling of mined products after cessation of mining activities may be permitted by the township board by annual permit for that purpose only. In no event shall any additional materials be allowed to be added to these stockpiles and such a permit shall not interfere with or excuse reclamation as provided by this article.
- (o) *Monitoring.* Three times during each mining year, upon seven days' notice provided to the owner, permit holder, or designated agent, the township engineer may inspect the mining sites with the permit holder and his representative present if possible. The detail of the inspection shall be determined in a reasonable exercise of discretion by the township engineer. All efforts shall be made toward mutual cooperation during such inspections, toward the ends of allowing such inspection to be expeditiously and accurately undertaken and minimizing interference with the operation. The township engineer shall be responsible for inspections hereunder, and shall, at all times, have the right to peaceably enter upon the subject property for the purpose of conducting inspections to ensure compliance. In the event the township engineer shall determine

that a violation of any of the provisions of this article exists, notice of such fact shall be sent to the permit holder with a copy of such notice to the township board. Such monitoring by the township engineer shall in no way limit access to the mining sites by authorized township personnel, subject to applicable laws and ordinances, in the exercise of their official township duties.

- (p) *Failure to implement reclamation plan.* In the event the permit holder fails to implement the reclamation plan in accordance with the approved reclamation schedule, then upon 15 days' notice to the owner and the permit holder, the township shall be entitled to enter onto the subject property and take all actions necessary to comply with the reclamation plan. The township may use any or all of the bond's proceeds to accomplish the reclamation. In the event the township is unable to utilize the bond proceeds for any reason, or if the bond proceeds are insufficient to complete the restoration, the township shall have a lien against the site to recover all of the township's expenses in reclamation, including any court costs, fees, attorney fees and engineering fees, which lien shall be enforceable in the same manner as provided by law for the collection of special assessments, or using the then applicable provisions of state law for foreclosure of mortgages by advertisement, or by suit against the permit holder and/or the owner. The election of any remedy shall be at the sole option of the township and election of one remedy shall not be deemed to be a waiver of any other remedy.
- (q) In the event of a conflict between subsections (b), (c), or (f) and sections of the Cambridge Township Zoning Chapter, the subsections above shall control, even if the zoning chapter has more restrictive provisions.

Sec. 16-30. Operational requirements during mining activities; authority to direct future action.

- (a) In the preparation of this article, it is recognized that it is impossible to foresee all of the activities in connection with the mining operation which could potentially result in hazards to the public health, safety and welfare. Therefore, the township board shall be authorized to direct that actions of the permit holder be taken or ceased in order to prevent immediate and identified harm to the public health, safety and welfare in connection with the mining operation. The permit holder shall comply with such directive. However, in the event such a directive is given, the permit holder shall:
 - (1) Be entitled to a written notice identifying the reason for the directive, and specifying the action which is to be taken or ceased; and
 - (2) Be entitled to a hearing before the township board upon request.
- (b) Such hearing shall be conducted at the next regular township board meeting, or at a special meeting the supervisor/designee may call for this purpose. Without limitation, hazards which could trigger the application of this section would include the effect of the mining operation on the water table of the subject property and surrounding and adjacent properties, including effects on private wells in the area.

Sec. 16-31. Violations and penalties; revocation of permit; nuisance as municipal civil infraction.

- (a) *Revocation of permit.* The township supervisor/designee or the township engineer as authorized by the township board, may at their discretion notify the owner and/or operator of any violation of the permit and/or of this article and upon failure of the owner and/or operator to abate such violation within a reasonable time stated in the notice after mailing of such notice, such mineral mining site may be summarily closed, and the permit therefor, suspended or revoked, and resort had to the bond for restoration. Any owner and/or operator aggrieved by any notice sent pursuant to this article may file a written request for a hearing before the township board. The request should set forth why the operation site should not be summarily closed, the permit suspended or revoked, and/or resort had to the bond. If a request for a hearing is received by the township board, the board shall accord rudimentary due process to the owner and/or operator who requested the hearing by giving such owner and/or operator notice of the time and place of

the hearing, an opportunity to be heard through counsel or otherwise, and shall make an impartial determination of whether a violation of this article has occurred and whether the health and safety of persons and/or property require the suspension or revocation of such permit. Upon receipt of a request for a hearing, the township board may, at the request of the township supervisor/designee or engineer properly authorized by the township, summarily close the site pending the hearing, if it is determined that the health and safety of person and/or property require such action.

- (b) *Nuisance; municipal civil infraction.* Any violation of this article is hereby determined to be a nuisance per se, and the township may institute suit to have such nuisance abated. A violation of this article is deemed to be a municipal civil infraction.

Sec. 16-32. Interpretation, conflicting regulations, restrictions.

The provisions of this article shall be liberally interpreted in order to promote and accomplish the purposes of this article as set forth in the preamble to the ordinance from which this article is derived. Any limitations set forth in this article shall be construed as the minimum limitations. Whenever any provision of this article imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other ordinance or law, then the provisions of this article shall govern. In the event of a conflict between the provisions of this article and the environmental performance standards of the zoning chapter, those provisions which are deemed more restrictive shall apply, except as provided in section 16-29(n).