

Ordinance No. 9

New Scandia Township Ordinance
Controlling the Removal of Sand,
Gravel, Rock, Soil and Other
Natural Deposits

Section 1. Purpose

For the health, welfare, safety, and optimum land development, it is necessary to regulate the removal of sand, gravel, rock, soil and other natural deposits in the Township of New Scandia.

Other purposes include the following:

- a. To provide for the economical availability of sand, gravel, rock, soil, and other materials vital to the continued growth of the community.
- b. To establish reasonable and uniform limitations, safeguards, and controls in the community, for the future production of sand, gravel, rock, soil, and other natural resources.
- c. To control noise, dust, hazards, effect on adjacent property, and other factors related to the active mining and/or excavating operation.
- d. To provide for control of the extent of excavation compatible with the surroundings; and for the restoration of the mining area after termination of the removal operation to make the site compatible with the surroundings.
- e. To provide control of pollution by erosion or sedimentation.

Section 2. General Considerations

1. The extraction of sand, gravel, rock, soil, or other material from the land and the removal thereof from the site shall be mining.
2. Mining shall be permitted only upon issuance of a special use permit following a public hearing.

Section 3. Annual Permit Required

It shall be unlawful for any person, firm or corporation to remove, store, or excavate rock, sand, dirt, gravel, clay or other material within the Township of New Scandia without first having applied for and obtained a permit therefore from the Township of New Scandia. Such permit shall be issued only after a public hearing following 10 days posted and published notice, except that the public hearing may be waived at the discretion of the governing body for a renewal permit, or for issuance of an initial permit for an area that was already being legally used on or before the effective date of this Ordinance, or the removal of black dirt for a depth of no more than two feet below the original ground level prior to any removal. Permits must be secured annually and will be issued on a calendar year basis.

A permit will not be required for

- a. The excavation, removal or storage of rock, sand, dirt, gravel, clay or other material for the purpose of the foundation, cellar or basement of some immediately pending structure to be erected, built, or placed thereon

at the same time, or immediately following such excavation, removal or storage, providing a building permit has been issued.

b. On an approved plat the moving of dirt for construction of roads or to provide for surface water drainage as shown on an approved plat or the moving of dirt for landscaping purposes on a lot already occupied by a residential structure.

c. Sewer and water mains and highway construction.

d. Minor agricultural, conservation items, and sod removal.

Section 4. Application

The application for the permit required in Section 3 hereof shall be filed with the Township Clerk for presentation to the council or board. A fee of \$10.00 shall accompany each application to be returned to the applicant if the permit is refused. A fee will be required of both the owner and operator, unless they are one and the same. Application for each permit must be made forty-five days prior to the anticipated time of issuance, but the Township may issue a permit within a shorter time.

I. The application shall contain:

- a. The name and address of the operator and of the owner of the land.
- b. The correct legal description of the premises where the excavation, removal, or storage of rock, sand, dirt, gravel, clay or other material shall occur.
- c. Existing topography and land area involved.
- d. The purpose of the removal, storage or excavation.
- e. The estimated time required to complete the removal, storage, or excavation.
- f. Plan of operation including soil processing (any operation other than direct mining and removal), nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
- g. Travel routes to and from the site.
- h. Plans for drainage, water and wind erosion control, sedimentation control and dust control.
- i. A map or plat of the proposed pit or excavation to be made showing the confines or limits thereof together with the proposed finished elevations based on sea level readings. Where the finished elevations prohibit natural drainage, certified soil borings shall be required through the proposed excavation to a depth showing feasibility of Item j.
- j. A comprehensive plan showing that suitable provision will be made for the restoration of the excavated area so that it will not become a health or safety hazard or a nuisance, such plan to include anticipated

final elevations and slope and plan for the return of sub-soil and top soil. Where the Township deems it practical and necessary such plan shall include adjoining related areas where excavations have previously been made and remain under the control of the owner of the land on which the excavating is to be done or under the control of the person or party to do the excavating.

II. The applicant will abide by one of the two following land rehabilitation practices and pattern 4Ij above in compliance with one or both of the following:

- a. Excavations made to a water producing depth must meet the following requirements:
 1. The depth must not be less than 3 feet measured from the low water mark;
 2. All banks shall be sloped to the water line at a slope which shall not be steeper than three feet horizontal to one foot vertical;
 3. All banks shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least 3 inches, or to the depth of that of the topsoil on land areas immediately surrounding.
 4. Such topsoil as required by Section II a. 3 shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where revegetation is possible.
- b. Excavations not made to a water producing depth, but which must be graded or back-filled, shall meet the following requirements:
 1. Such grading or back-filling shall be made with non-noxious, non-flammable, non-combustible solids;
 2. The graded or back-filled area shall not collect and permit stagnant water to remain therein;
 3. The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall; all banks not to be steeper than three feet horizontal, to one foot vertical.
 4. Such graded or back-filled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least 3 inches or to the depth of that of the topsoil of land areas immediately surrounding.

5. Such topsoil as required by section 4 above shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where re-vegetation is possible.

Section 5. Operating Conditions

1. The applicant will be required to comply with the following:
 - a. Fencing
 1. Properly fence any pit or excavation,
Where collections of water are 1½ feet or more in depth. All access to such collections of water shall be barred with an approved security fence.
 2. Where slopes steeper than one foot vertical to one and one-half feet horizontal exists for a period of five working days, access to such slopes shall be barred by an approved security fence.
 - b. Slope of Excavation
Slope the banks, and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous because of sliding or caving banks.
 - c. Set-back
Mining below grade shall not be conducted closer than 50 feet to the boundary of any zone where such operations are not permitted, nor shall production or processing be conducted closer than 50 feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such property is first secured in writing. Sand and gravel excavating below road grade shall not be made closer than 50 feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road, or highway.
 - d. Insurance
Carry bodily injury and property damage, public liability insurance in the amount of \$100,000.00 for any one person and \$300,000.00 for any occurrence including blasting insurance naming the Town as an additional insured.
 - e. Noise
All equipment used for the production of sand and gravel shall be constructed, maintained and operated in such manner as to eliminate as far as is practicable, noises and vibrations which

are injurious or substantially and living in the vicinity.

All sand and gravel operations shall between the hours of 6:00 A.M. and in the case of public emergency shall whenever any reasonable or necessary equipment are required to be made

f. Dust and Dirt

All equipment used for the production of gravel shall be constructed, maintained in such a manner as to minimize, dust conditions which are injurious to all persons living in the area. Operations shall meet the standards of the Pollution Control Agency.

g. Appearance

All buildings, structures and plants used in the production or processing of sand shall be maintained in such a manner, and according to acceptable standards, to assure that such buildings, structures and plants do not become dangerously dilapidated. Weeds and any other unsightly or objectionable growth shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and seedling on adjoining property.

Within a period of three months after the completion of a sand and gravel operation, the operator shall, after abandonment of such operation, remove all equipment, structures and plants incidental to such operation within three months (or within three months of a sand and gravel permit), all buildings, structures and plants dismantled and removed by, and at the expense of, the sand and gravel landowner, or the sand and gravel operator, except that such buildings, structures and plants may remain operating except that such buildings, structures and plants need not be dismantled and removed if they are legally being used for the production of sand and gravel or for some other purpose in the zone in which they are located.

h. Added Provisions

Such other requirements as the Town Board may determine from time to time for the health, safety and prevention of nuisances in the area.

i. Variance

The standards which apply to the production of sand and gravel shall be varied by the Town Board of New Scandia according to the structure and site.

II. The Town Board of New Scandia Township shall have the authority to require the applicant or the owner of the premises to comply with the following conditions:

a. Bond

A bond, in such form and amount as the Board may require, running to the benefit of the Town of New Scandia, conditioned to pay the

expense of repairing any highways, streets or other public ways and restoration of site within the Township made necessary by the special burden resulting from hauling and transporting thereon by the applicant in the removal of rock, sand, dirt, gravel, clay or other material, the amount of such cost to be determined by the governing body; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to save the Township free and harmless from any and all suits or claims for damage resulting from the negligent excavation, removal or storage of rock, sand, dirt, gravel, clay or other material within the Township borders.

b.

Screening
The applicant or owner shall plant suitable and fast growing screening trees which shall be a minimum of two feet high placed in two rows staggered with trees not more than ten feet apart in each row, when necessary to eliminate unsightly view of the operations. Such planting shall be in accordance with standard nursery procedures, and completed within six months of commencement of the excavation.

c.

Lighting
Set forth the planned lighting of the area and any other equipment or structures that will be installed or built.

Section 6. Inspection and Supervision fee

Gravel owners shall pay to the Town of New Scandia \$2.00 per 1000 yards removed, in excess of 25,000 yards, on an annual basis. The purpose of this fee is to cover costs incurred by the Town regarding inspection and supervision of the gravel operation.

Section 7.

Persons, parties, or corporations now conducting operations governed by this Ordinance, and for which this Ordinance requires a permit may continue such operation but within ten days of the effective date of this Ordinance shall make an application for a permit and failure to do so shall be a violation of this Ordinance, except on request and for cause the Town may extend the time for the initial application to not beyond thirty days.

Failure to comply shall be grounds for termination of the mining operation within 90 days of the passage of this Ordinance.

Section 8.

The governing body after notice given for failure of any person, party or corporation to comply with conditions of a permit granted may proceed to cause such compliance with such requirement and the cost of such work may be taxed against the property on which the pit or excavation is located and become a lien, or the Town may at its option proceed to collect such costs by an action against the person, party or corporation to whom such permit has been issued and the sureties on the bond shall be responsible for such costs.

Section 9. Validity

If any section or part of this Ordinance shall be held by any Court having jurisdiction to be invalid the remaining portions of this Ordinance shall be and remain in full force and effect.

Section 10. Penalty

Any person, party or corporation who shall violate any of the provisions of this Ordinance shall be punished by a fine of not more than Three Hundred Dollars or shall be imprisoned for not to exceed Ninety days or both. Each day of violation shall constitute a separate offense and shall be punished accordingly. The penalty imposed by this Section shall be in addition to remedies that this Ordinance may make available for compliance with its terms after violations.

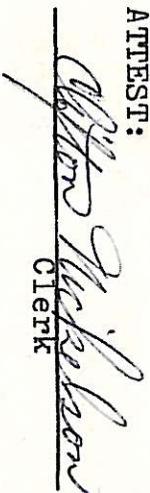
Section 11. Passage

This Ordinance shall be in full force and effect from and after its passage and publication according to law

Passed by the Town Board of the Township of New Scandia

this 18th day of MAY, 1971.

ATTEST:


Clerk


Chairman