

**EXTRACTIVE INDUSTRIAL
REGULATORY ORDINANCE
TYRONE TOWNSHIP, MICHIGAN**

ord. no. 21 eff. May 12, 1979, revised Dec. 28, 2010

40.101 Sec. 1. **TITLE.**

This ordinance shall be known and cited as the “**Tyrone Township Extractive Industrial Regulatory Ordinance.**”

40.102 Sec. 2. **PURPOSE.**

The purpose of this ordinance is to promote and safeguard the public health, safety, morals, prosperity and general welfare of the residents of Tyrone Township by imposing certain regulations and restrictions regarding sand and gravel deposits within the Township and the extraction thereof. The purpose of this ordinance is to provide for the utilization of the resources in a manner compatible with nearby areas, and to insure complete reclamation of the sand and gravel areas ready for another land use at the conclusion of excavation and treatment. This ordinance is intended to supplement and be read in concert with the Tyrone Township Zoning Ordinance No. 36.

40.103 Sec. 3. **ENABLING AUTHORITY.**

This ordinance is adopted pursuant to Act 246 of the Public Acts of 1945, of the State of Michigan, as amended. Said enabling Act covering Township Ordinances is hereby made a part of this ordinance.

40.104 Sec. 4. **DEFINITIONS.**

A. All words used in the present tense shall include the future; all words in the plural number include the singular number; the word building includes the word structure, and dwelling includes residence; the word person includes corporation, co-partnership, and association as well as an individual; the word **shall** is mandatory and directory. Terms not herein defined shall have the meaning customarily assigned to them.

B. APPEAL. Any entreaty or demand for hearing and/or review of facts and/or actions.

C. BOARD OF APPEALS. As used in this ordinance, the term Board of Appeals means the Township of Tyrone, Livingston County, Michigan Zoning Board of Appeals.

- D. DISTRICT.** A portion of the unincorporated area of the Township within which certain regulations and requirements or various combinations thereof, apply under the provisions of this ordinance, and are not in conflict with the provisions of the Tyrone Township Ordinance No. 36.
- E. EXCAVATION.** Any breaking of ground, except common gardening and ground care, or any agricultural operation.
- F. EXTRACTION.** Extraction of sand and gravel.
- G. GREENBELT.** The strip of land not less than fifteen feet in width which is planted and maintained with trees and shrubs acceptable as to species and density, to the Planning Commission for the Township of Tyrone.
- H. HIGHWAY.** Any public thoroughfare dedicated and maintained for the operation of the vehicular traffic.
- I. MINING.** Mining of deposits of limestone or other similar material.
- J. PROCESSING.** Processing of sand and gravel, including but not limited to washing, sorting and grading.
- K. USE.** The lawful purpose for which land or premises of a building thereon is designed, arranged, intended, or for which is occupied, maintained, let or leased.

40.105 **Sec. 5. INTENT.**

The Extractive Industrial Regulatory Ordinance is designated with the recognition that the sand and gravel deposits within the Township's land area are unrenewable natural resources necessary and beneficial to the economy of the Township and the regional area about it, and the welfare of its citizens. To provide for the utilization of this resource in a manner compatible with nearby residential area, and to insure complete reclamation of the sand and gravel areas ready for another land use at the conclusion of excavation and treatment, this Regulatory Ordinance with respect to excavation and sand and gravel operations within the Township is adopted.

40.106 **Sec. 6. CONDITIONAL REQUIREMENTS.**

The removal of sand, gravel, limestone or similar materials by excavation, stripping, mining or otherwise taking, and including on-site operations

appurtenant to the taking, and including washing, grading, sorting, grinding operations shall be carried on within the limits of the EI District as set forth in the Tyrone Township Zoning Ordinance No. 36 as amended. All extraction from new or existing pits begun subsequent to the effective date of this Ordinance if washed, graded and further processed and/or stored will be done within the limits of the EI District, and no natural resource extracted outside the limits of the EI District shall be brought in for washing, grading, or further processing, except in the event of a public emergency as declared by the Township Board of the Township of Tyrone, requiring the use of said natural resource. Resource related industries including, but not limited to: concrete batching plants and asphalt mix plants shall not be permitted as a part of the Extractive Industrial District. However, limited crushing of concrete may be permitted, only in conjunction with an approved active, operating sand and gravel extraction or mining operation, and subject to special use approval by the Township Board following recommendation by the Planning Commission in accordance with the provisions of the Township Zoning Ordinance.

40.107

Sec. 7. APPLICATION, REVIEW AND PERMIT RENEWAL PROCEDURE.

A. FILING OF PETITION. Petitions for the granting of permits for extractive industrial operations shall be filed with the Zoning Administrator of the Township by the owners and lease holders, if any, of the land proposed for resources development. Petition shall be submitted on letter form, fully supplemented by data and maps specified, and shall be accompanied by a fee as established by resolution of the Township Board. A permit for such use may be issued for one (1) year period by the Township Board. The permit is renewable for one (1) year periods. If the extractive industrial operation is a new use, the Township Board shall not review a petition under this Section 7. until the Township Board has received site plan, and special land use if required for that use by the Zoning Ordinance, recommendation(s) from the Planning Commission. Petitions shall be accompanied by the following:

1. A five-foot (5') contour interval topographic map of the parcel including the locations of all access drives, parking and loading areas, excavation equipment, streets, building, and existing drainage facilities within two hundred feet (200') of the property line.
2. Report by a qualified soils engineer regarding the effect the proposed operation will have upon the watershed of the area, with

particular attention being devoted to the water table, and if water bodies are to be created, the anticipated permanence of such.

3. A detailed plan for the extraction of the natural resources deposits. Such plan should include a timetable for various stages of the operation and shall be accompanied by a reclamation plan. The reclamation plan shall include:
 - a. Proposed use of restored natural resources area,
 - b. Proposed topography drawn as contours at an interval of two feet (2') and indicating water bodies or other major physical features, and
 - c. Delineation of areas intended to be partitioned or subdivided, including the proposed layout.

B. REVIEW OF PERMIT APPLICATIONS.

1. The Zoning Administrator shall be responsible for receiving and processing all applications for natural resources permits. His office shall accept for filing only applications completely documented as herein required.
2. The Zoning Administrator shall be responsible for coordinating the several separate inspections as required herein.
3. The Township Board shall be authorized to approve the manner and order of reclamation of proposed excavations. So as to assure faithful reclamation of the natural resources area, the petitioner shall deposit with clerk, cash, a certified check, or irrevocable bank letter of credit, whichever the Petitioner selects, or a surety bond acceptable to the Township Board; the amount of such deposit shall be sufficient to finance reclamation of the disturbed area. This deposit shall be submitted by the Petitioner prior to the issuance of any permit, and shall be held in escrow by the Township until reclamation is completed and has been approved by the Township Board. So as to prevent undue hardship, the Township Board may, at its discretion, approve bonds for areas less than the total acreage applied for. However, at no time shall any excavation be undertaken unless and until sufficient bond has been deposited to insure reclamation of the area to be disturbed. In the event of deviation from an approved extractive

and/or reclamation plan, the Zoning Administrator shall notify the permit holder of a violation. Failure to correct said violation within thirty (30) days shall automatically void any permits issued and/or prevent the issuance of new permits until such time as the deviation has been corrected in keeping with requirements set forth by the Township Board. Appeals from a decision of Zoning Administrator, shall in regard to an alleged violation, be directed to the Township Board.

- C. **DEVIATIONS.** The Township Board by majority vote may in its discretion, allow deviations from the strict application of the specific operating requirements of Section 8 of this ordinance upon making a finding that the applicant for the permit would suffer substantial undue economic hardship or that the area covered by the request for the permit exhibits a substantial pre-existing nonconforming condition which is practicably impossible to correct. Before granting any deviation, the Township Board shall also find that the public health, safety, prosperity and general welfare of the township residents shall not be substantially impaired by allowing the deviation. Any deviation allowed shall be noted upon the permit; shall be valid for the term of the permit as outlined in Section 7 (A). Renewal of deviations previously granted shall be considered the same as an original request for the allowance of the deviation. Violations of allowed deviations shall be handled in the same manner as other violations as set forth in Section 7 (B) (3) of the within ordinance.

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Sec. 8. SPECIFIC OPERATING REQUIREMENTS.

- A. **SETBACK.** Excavation, washing and stockpiling of extracted material shall not be conducted closer than two hundred feet (200') to the outer boundary of any EI District. The setback area shall not be used for any use in conjunction with a natural resources operation, except access roads, public notice signs identifying occupation. Greenbelt plantings and landscaping shall be provided in the setback area as required by the Township Board. Said setback may be modified by the Township Board upon the recommendation of the Planning Commission when the outer boundary of the EI District abuts a body of water or wetlands or in consideration of surrounding topography and land uses. In granting the modification, the Township Board shall establish a specific setback so as to secure public safety.

- B. BUILDING LINE FOR OPERATION STRUCTURES.** To reduce the effects of airborne dust, dirt and noise, all equipment for sorting, crushing, loading, weighing and other operations structures shall not be built closer than four hundred feet (400') from any public street right-of-way or from any adjoining residentially zoned district.
- C. FRONTAGE AND ACCESS.**
1. Each tract of land for extractive development shall have a minimum frontage of at least 250 feet (250') on a County primary road designated as a haul route, except that the Township Board may approve:
 - a. A lesser frontage minimum if written consent of owner in fee of adjoining property is first secured;
 - b. If tract has no frontage but is fronted by an active natural resource operation, properly zoned, if written permission for access to primary or secondary road is first secured from owner in fee and leaseholder, if any.
 2. All means of access to the property shall be from primary or secondary road and shall not be held from residential streets.
 3. Each tract of land for extractive development shall have access to a County primary road via an approved single use private road or driveway. That private road or driveway shall have a minimum right-of-way of 66 feet.
 4. A truck haul route shall be designated and subject to Township approval. Roadways and driveways used by the trucks shall be regularly cleaned by the excavation owner so as to maintain a clear surface for the safe transport of people and goods on the roads. At the discretion of the Township, a schedule for cleaning and other necessary maintenance of roadways at the point of access may be required. Trucks hauling sand, gravel, mined or crushed materials to or from the site shall be loaded and covered in accordance with all State, County and local regulations.
- D. FENCING.** Any excavation which operation results in, or produces for a period of one (1) month, collections of water or

slopes as described below, shall be subject to the following safety requirements:

1. Where slopes steeper than thirty (30) degrees exist for a period of one (1) month or more, access to such slopes shall be barred by a cyclone fence or similarly effective barrier at least six feet (6') high; at least fifty feet (50') outside the edge of the excavation, with suitable gates controlling access to the excavation area.
2. Where collections of water are one foot (1') or more in depth for any period of at least one (1) month, and occupying an area of two hundred square feet (200 sq. ft.) or more, access to such collections shall be similarly fenced, as required in "1." above, for slopes.
3. In those instances where the Extractive Industrial District is situated in marginal land areas consisting of swamp land or is bounded by natural bodies of water, the fence shall be required only on those sides accessible to public rights-of-way or as the Township Board may determine as requiring fencing so as to secure safety. The Township Board may require the posting of signs "**Keep Out – Danger**", as needed.
4. The installation of a six foot (6') high fence around the entire site with suitable gates shall be considered as compliance with the requirements of 1. and 2. above.

E. NOISE AND VIBRATION. Noise and vibration are to be minimized in their effect on adjacent properties by the proper use of berms, walls and planting screens. In addition, all equipment used for the production of sand and gravel shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity. A person, industry, corporation, firm or business shall not emit, cause, or allow to be emitted, sound from any source or combination of sources other than a motor vehicle registered for use on public highways, which exceeds the limits set in the Township Zoning Ordinance #36, Section 21.16 NOISE. Further, sound shall be measured and regulated in accordance with the provisions of said Section 21.16.

- F. AIR POLLUTION.** Air pollution in the form of dust and dirt shall be kept at a minimum. All equipment used for the production of sand and gravel mining and crushing shall be operated in such a manner as to minimize, insofar as is practicable, dust conditions which are injurious or substantially annoying to persons living in the vicinity. Interior roads serving the mining operation shall be paved, treated or watered, insofar as is practicable, to minimize dust conditions.
- G. ACCESS ROADS.** All private access roads shall be treated so as to create dust free surfaces.
- H. SLOPES.** Finished slopes of the excavations shall be no steeper than three (3) feet to one (1) foot (three feet horizontal to one foot vertical). Where ponded water results from the operations, the 3:1 slope must be maintained and extended into the water to a depth of five (5) feet. The time for completion of said slopes shall not extend beyond one (1) year from the date of beginning the reclamation, provided that the Township Board may extend the above one (1) year period to such longer period as satisfactory under the circumstances. Sufficient top soil shall be stockpiled on the site so that the entire area, when excavating operations are completed, may be recovered with a minimum of six (6) inches to top soil, and that the replacement of top soil shall be made immediately following the termination of excavating operations. So as to prevent erosion of slopes, all replaced top soil shall immediately be planted with grass or other plant material acceptable to the Township Board.
- I. EXPLOSIVES.** The use of explosives shall be done in accordance with the "Regulations for Storage and Handling of Explosives", as published by the Michigan State Police, Fire Marshall Division, East Lansing, Michigan.
- J. SITE PLAN REVIEW.** All site plans for any use in EI Districts shall be reviewed by the Township Planning Commission.
- K. STOCKPILES.** Stockpiles of material excavated shall not exceed 50 feet (50') in height. The maximum pile height permitted may be modified by the Township Board upon recommendation of the Planning Commission following review of the surrounding topography, uses, vegetation, setbacks, and other factors so as to ensure protection of the neighbors. All such piles shall be setback no less than two hundred (200) feet from the lot line, and shall otherwise comply with Section 19.07.B. The location, size and maximum height of all piles shall be shown on the site plan.

40.109 **Sec. 9. VIOLATIONS.**

Any firm, corporation or person who is convicted of violation of any of the provisions of this ordinance shall be fined not exceeding \$500.00 or shall be punished by imprisonment in the county jail for a period not to exceed (90) ninety days, or both, at the Court's discretion. Each day a violation occurs shall constitute a separate offense. Any use of land which is begun or changed subsequent to the effective date of this ordinance and in violation of any of the provisions thereof is hereby declared a nuisance per se.

40.110 **Sec. 10. EFFECTIVE DATE.**

This ordinance shall become effective thirty days after its first publication.

Adoption date: November 16, 2010
Publishing date: November 28, 2010
Effective date: December 28, 2010