

ORDINANCE NUMBER 1216

Mineral Extraction

An ordinance regulating the extraction of sand, gravel and other earthen materials.

THE TOWNSHIP OF CLINTON ORDAINS:

SECTION 1. TITLE

This ordinance shall hereinafter be known and cited as Clinton Township Extraction Ordinance.

SECTION 2. PURPOSE AND AUTHORITY

- 1 **Purpose.** Clinton Township recognizes that sand, gravel and other earthen deposits within the Township's boundaries are nonrenewable natural resources necessary and beneficial to the welfare of its inhabitants and the surrounding region.

To provide for the utilization of these resources in a manner compatible with nearby residential and agricultural uses, to protect human health and the environment, and to insure restoration for another land use at the conclusion of the extraction, it is necessary to regulate and provide procedures and standards for extraction of earthen materials and for the restoration of the land at the conclusion of the extractive operations.

These regulations are required because such extraction operations and the related activities can disrupt or pollute the environment, impair the water quantity and quality, cause noise and dust nuisances, damage the roads, and create conditions that are dangerous to Township residents. Completed mineral extraction operations, if unregulated, can leave land in a condition that is unsightly, polluting, or dangerous. It is in the Township's interest to control cumulative impact within areas of the Township, or the Township as a whole, and to recognize there are limitations within the capacity of the land for this land use. The Township has the authority to regulate extraction operations to protect the public health, safety and welfare pursuant to P.A. 246 of 1945, as amended MCL 41.181, *et seq*. This ordinance is enacted for the purpose of promoting the public health, safety, and welfare of the residents of the Township, to preserve the natural resources, and prevent the creation of nuisances and hazards to the public health, safety, and welfare.

- 2 **Authority.** The Clinton Township Planning Commission shall have the authority to review and recommend approval, approval with conditions or denial of an application for a mineral extraction license or a renewal thereof, but only the Clinton Township Board shall have the authority to approve, approve with conditions or deny an application or renewal to further the above purposes.

- 8 **Fines.** Materials mined from the site passing the no. 200 mesh sieve opening as defined by the National Standard Sieve Size (ASTM-E11) that are a product of any Extraction operations at the site.
- 9 **Ground Water.** Water below the land surface in a zone of saturation.
- 10 **Water Table.** The surface between the zone of saturation and the zone of aeration; that surface of a body of unconfined groundwater at which the pressure is equal to that of the atmosphere.
- 11 **Ground Water Monitoring.** The collection of hydrogeologic data and representative water samples in order to measure the characteristics of the saturated zone.
- 12 **Ground Water Recharge.** The processes involved in the addition of water to the zone of saturation.
- 13 **Ground Water Recharge Area.** Any area on the ground where ground water recharge occurs.
- 14 **Hydrogeologic Report.** A document presenting and interpreting field information or published hydrogeologic conditions and predicting the potential impact on nearby or otherwise affected water and/or water features, including ground water.
- 15 **Interflow.** The lateral movement of water in the unsaturated zone during and immediately after a precipitation event. The water moving as interflow discharges directly to a lake, stream or spring.
- 16 **Licensee.** The term "Licensee" means a person or entity holding or seeking to obtain or renew a mineral extraction license under this ordinance and whether that person is an "owner", or "Licensee" and shall include the tenants, lessees, agents, servants or assigns thereof.
- 17 **Mineral Extraction License / License.** A license granted by Clinton Township authorizing a Licensee to extract earthen materials from land located in the Township pursuant to the terms of this ordinance and to the conditions set forth at the time of the granting of the license.
- 18 **Operations.** A process or action that is part of the mineral extraction process and includes the extraction, storing, processing or transportation of mined materials, as well as related activity necessary to facilitate mining, such as maintenance and restoration.
- 19 **Overburden.** Earthen materials situated below the layer of topsoil and above the materials to be extracted from the site.
- 20 **Part 91.** Soil erosion and sedimentation control requirements of the Environmental Protection Act, MCL 324.9101 et seq., and/or Natural Resources and Environmental Protection Act of 1994 PA 451 as amended, Part 91 Soil Erosion and Sedimentation Control.
- 21 **Planning Commission.** The Clinton Township Planning Commission.
- 22 **Processing.** The washing, sorting, crushing, aggregating, grinding, blending, mixing, conveying or cutting of extracted material from the extraction site.

- 3 **Adherence to Terms of License.** No person or entity to whom a mineral extraction license has been issued pursuant to this ordinance shall engage in any activity on the site contrary to the terms of the license or contrary to the terms of this ordinance.
- 4 **Permits on File.** All required Federal, State, and County permits shall be approved and on file with Clinton Township prior to the commencement of any extraction activity on the site.
- 5 **Registration with State.** The Licensee shall obtain all required licenses, and shall be registered to conduct business in the State of Michigan and provide proof thereof to the Township.
- 6 **No Other Uses Permitted.** A mineral extraction license does not permit other uses, including but not limited to on-site manufacturing operations of any nature, processing of material obtained from off-site, as well as asphalt, cement or other manufacturing operations of any nature.
- 7 **Transferability of License.** Any license for extraction operations issued pursuant to the ordinance shall be transferable by the Licensee with prior Township approval. Approval shall not be unreasonably withheld. Transfers include mergers, reorganization, or acquisition, and similar business actions.
- 8 **Below Ground Extraction.** Extraction of earth materials below the ground water elevation may be conducted if specifically approved by the Township Board and specified in the extraction license issued pursuant to this ordinance and subject to such other terms and conditions deemed appropriate by the Township Board.
- 9 **Dewatering Prohibited.** Mining methods shall not require permanent or on-going dewatering of the site.
- 10 **Term of License.** The term of the extraction license shall be one (1) year from the date of its issuance, and is renewable in accordance with provisions in this ordinance.
- 11 **Qualifications of Experts.** This ordinance references certain documents to be prepared by professionally qualified individuals such as geologists, engineers, architects, environmental scientists and surveyors. In all cases where such a professional is identified, that person shall hold all the necessary licenses, registrations, certificates, errors and omissions insurance and/or other such recordation necessary to practice in the State of Michigan.

SECTION 6. LICENSEE REQUIREMENTS

- 1 **Preliminary Presentation.** If a Licensee so desires, before making a formal application, the Licensee may appear before the Township Board at a regularly scheduled meeting to make a preliminary presentation on the conceptual nature of the proposed extraction activity. The Board will provide the Licensee with a copy of this ordinance, outlining the application process and License requirements.
- 2 **Pre-Application Conference.** Prior to submission of an application, the Licensee must request and attend a pre-application conference with Township officials to discuss licensing requirements and

1. The number of acres on each portion of the site to be mined, and the location of all parcel boundaries on and within the extraction site.
 2. Existing site improvements including buildings and structures, drives, wells, and drain fields.
 3. All servient and beneficial easements, and all easements appurtenant to the property, if any. Indicate the identity by Liber and Page, if any, the origin (e.g., Deed from A to B), if applicable, and nature (e.g., ten foot sewer easement).
 4. The location, dimensions, and nature of all encroachments upon the property.
 5. Existing topography at contour intervals of five (5) feet, obtained from an actual on-site land survey, unless at the pre-application conference the Township engineer deems that a survey interval of less than five (5) feet is necessary for review.
 6. The location and dimensions of drives to and from the property, including abutting streets.
- B. *Site Inventory Map and Assessment* prepared by a licensed surveyor or professional engineer registered in the State of Michigan, clearly showing the locations and types of existing natural features both on the proposed property and areas within a region 100 feet beyond the site property lines. The drawing should delineate:
1. Applicable setbacks for the site and from the extraction area.
 2. Tree fence rows, woodlands and wetlands and an indication on whether such natural features extend beyond the 100 foot margin above.
 3. Watercourse stream banks, pond ordinary high water marks, flood ways, and flood plains, where determinable from public and private records and/or when accessible to Licensee as through aerial photographic interpretation.
 4. Areas of hydric soils, highly permeable soils, ground water recharge areas and topographic slopes.
 5. Landmark trees in the area(s) affected by mining should be located by numbered dots, with an accompanying database table of corresponding species and size listings. All trees 18 inches in diameter or larger, as measured four and a half (4.5) feet above the average surrounding grade, will be considered landmark trees.
 6. An initial flora catalog, i.e. plants species, in the area(s) affected by mining.
 7. The location of all archaeological, historical, or features of cultural significance as determined by any local, state or federal agencies.
 8. The site inventory should contain a written description of the quality, character, and health of the natural features, including but not limited to wetlands, uplands,

grain size analysis and estimates of the hydrologic conducting of major sediment layers.

6. When the subject property contains any of the characteristics listed in Section 7.6(D)(1)-(5), the following is required:
 - a. A delineated boundary describing both size and location.
 - b. Assessment of the impact the proposed operation will have on said features.
 - c. A copy of all test results and other data, however embodied, used for preparation of said report.
 - d. Proposed monitoring devices, including types, locations, number, and specifications for said devices including current calibration requirements, to monitor impact of the proposed operation on said features, and quality thereof.
 - e. When an extraction lake or pond is proposed, the Licensee shall establish the background or base line water quality of any aquifer being affected. Once the lake or pond is created, the water quality of the water body must also be determined and compared to the background water quality of the affected aquifers.
7. When mining below the water table is proposed, the Licensee shall install one or more piezometers near the mining area in order to establish any vertical flow or piezometric pressure of the ground water. Piezometric pressures within the ground water may lead to changes in the levels of the extraction lakes.
8. Extraction lakes must not result in significant changes in the water quality and quantity. Hence, when mining results in the creation of one or more extraction lakes or ponds, the Licensee must demonstrate that the mining operation will not significantly affect upgradient groundwater levels or down gradient groundwater flows or the water supply to adjacent wetlands or surface waters. In addition, operations at the site must not significantly affect the capability of extraction lakes to prevent flow through of the ground water.

E. *Subsurface Information:*

1. *Physical Features Map*, prepared by a professional engineer registered in the State of Michigan or professional geologist. The extent, location and nature of all subsurface materials on the proposed extraction site are to be shown on a topological map including:
 - a. Estimated extent (outline) of deposit limits of extraction materials.

survey of each domestic well located within five hundred (500) feet of the site property line.

- a. The survey will consist of collecting baseline data from well logs, where available, measurement of water level and well depth and standard water quality testing measuring among other factors, including hardness, color, odor, pH, bacteria, nitrates, sulfates, petroleum, and total dissolved solids (tds).
- b. The survey will be limited to those domestic well owners who provide consent to the survey within 30 days of receiving a certified letter request from the Licensee.
- c. Said tests shall determine the following baseline data for comparison with similar data to be monitored during extraction operations.
- d. Copies of existing well logs for all wells located within five hundred (500) feet of the site shall be submitted as part of the application.

3.

Groundwater Testing of all monitoring wells shall take place prior to commencing extraction operations to establish background water quality levels. Testing shall include:

- a. Static water level elevation, total dissolved solids (tds), water temperature, turbidity, specific conductance, pH, dissolved oxygen, redox potential, alkalinity, as well as the concentration level of the following: iron, manganese, magnesium, calcium, soluble phosphorus, nitrate nitrogen, ammonia, arsenic, lead, zinc, chloride, sodium, sulfate, phenols, and total petroleum hydrocarbons. If the total petroleum hydrocarbon levels exceed the federal detection limit (DL), then VOC, SVOC, and MTBE must also be measured as well.
- b. For each aquifer within the extraction zone, the Licensee is to provide a measure of hydraulic conductivity, aquifer flow direction, probable drawdown (based on a slug test or other measure), and probable recharge area.
- c. All laboratory testing shall be conducted by a state-approved lab and in conformance with current applicable U.S. Environmental Protection Agency (EPA) Test Methods, and data shall be compared to Maximum Contaminant Levels (MCL) as set by U.S. EPA.
- d. Licensee may install more groundwater monitoring wells in lieu of sampling the domestic wells annually. The number and placement of such wells shall be approved by the Township's engineer. All of the above testing requirement will apply, if this alternative is chosen.

6. Types of processing activities, such as screening, washing, crushing, settling of fines and blending.
 7. Estimated quantity, use and disposal of fines.
 8. Estimated number and size of settling ponds and sediment basins.
 9. Estimated annual production of sand, gravel, and other minerals in cubic yards.
 10. Estimated type, size and number of trucks hauling material from the site daily, during peak season and annually.
 11. Fuel storage area requirements, if any.
 12. Maintenance and storage area requirements.
 13. Other structures and facilities to be constructed on-site.
 14. Procedures for recording and handling complaints.
 15. Dust control plan.
 16. Roadway mud control plan.
 17. Proposed hours and days of operation.
 18. Perimeter security plan.
- I. *Mining Plans* shall be prepared by a licensed geologist, or professional engineer, registered in the State of Michigan, and shall illustrate the pattern, direction and phasing of earth moving, excavation, land shaping and reclamation activities. The plans shall be of sufficient detail so they can be used to assess the performance of the mine operation during any site inspection, including the following:
1. Location and description of entrance area, processing plant and support areas, and structures, including any weigh stations.
 2. Lane widening's on public roads at intersections with drives.
 3. Division of the site into a series of cells that illustrate the sequence of the proposed extraction activities.
 4. Indicate the size of each cell and estimated dates each cell will be operative.
 5. Sequence of clearing and grubbing, including a description of the disposal methods.
 6. Sequence of construction and installation of facilities.
 7. Sequence of stripping, placement and/or stockpiling of topsoil, including the area to be stripped.

- c. The use proposed in the concept plan must be acceptable based on a review of the zoning district, Township master plan, surrounding land uses, and site characteristics.
 - d. A description of the permits and other legal steps that would be required to implement the proposed end-use, and an estimate of the chance of successfully obtaining said permits and completing said steps.
 - e. A landfill or other disposal or refuse site will not be considered a suitable or satisfactory use.
5. The Licensee shall provide a description of the construction and rehabilitation techniques that will be used, including:
- a. A description of methods and materials to be used in restoring the site.
 - b. The proposed date for completing all extraction operations and handling of all spoils and extraneous materials.
 - c. The date for completing the final restoration.
 - d. A list of all seeding and planting materials, which must include native stock.

6 Supporting Documentation.

- A. *Haul Route Map.* An area map delineating the haul route to be used for the proposed operation, accompanied by a letter of preliminary comments from the Road Commission(s) impacted by the proposed haul routes. Any subsequent changes in haul routes shall be approved by the planning commission.
- B. *Dust Control Plan.* A control plan to alleviate dust resulting from the mining operation, which may include sweeping, paving, spraying water or calcium chloride, or other best management practices. The plan shall include proposed management practices on both access roads and public roads, beyond normal maintenance of Road Commission(s), and will be part of the soil erosion plan. This plan is to be reviewed annually by the Township engineer or environmental consultant.
- C. *Mud Control Plan.* A control plan to alleviate mud resulting from the mining operation, which may include sweeping, paving, spraying water or calcium chloride, or other best management practices. The plan shall include proposed management practices on both access roads and public roads, beyond normal maintenance of Road Commission(s), and will be part of the soil erosion plan.
- D. *Noise Control Plan.* A study and report prepared by a qualified professional estimating the noise levels at the property boundaries containing the extraction operation and at successive stages of the operation. This plan must contain mitigation measures to be implemented when noise levels exceed acceptable standards.

- K. *Excavation Surcharge.* Permit holder shall pay to the Township an amount equal to \$0.03 per ton for each ton of sand or gravel mined from the site. It is understood that the holder does not measure the sand and gravel as it is removed from the earth, but rather it is measured at such a time as the materials are trucked from the site. Consequently, for purposes of computing the amount owed to the Township for any given year, the holder will compute this excavation surcharge based on the number of tons trucked from the site during that year. It shall disclose to the Township the total number of tons trucked from the site and shall provide the Township with any supporting documents necessary to establish the amount owed. This excavation surcharge will be paid twice yearly, on or before June 30 and December 31 with the documentation of the calculation.

7 **Indemnities.**

- A. 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 following factors shall be taken into account:
1. The size and scope of the proposed excavation.
 2. The probable cost of rehabilitating the premises upon default of the Licensee, as recommended by the Township engineer and/or consultant designated by the Township.
 3. Estimated expenses to compel Licensee to comply by court decree.
 4. Other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- B. A proposed liability insurance policy of not less than the amount required by Section 21.2 of this ordinance. The certificate of insurance shall provide that the Township must be given twenty-eight (28) days prior written notice of cancellation of insurance. In case of cancellation, the license shall be suspended.

- 8 **Aerial Photograph.** An aerial photograph of the entire site of oblique prospective, with a scale of not more than one (1) inch equals two hundred (200) feet, is to be submitted to the Township as part of the initial application, and each year as part of the annual report by the Township engineer or by the environmental consultant.

- 9 **Extraction of Samples.** At the time of any inspections, the Township agents, representatives, independent consultants, and engineers are authorized to enter upon the property and may extract from the property such small samples of water, soil and other materials as may be necessary to perform the evaluation.

- 10 **Correlation to Ordinance.** 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.

demonstrated the ability to comply with the standards set forth in Section 8.1C., it shall recommend approval or approval with conditions of the license.

- F. If following the public hearing and after it has completed its review of the application and all supporting documents, the Planning Commission determines that the Licensee has not demonstrated the ability to comply with the standards set forth in Section 8.1C., it shall recommend denial of the license.

- 2 **Final decision by the Township Board.** Following the vote of the Planning Commission recommending approval, approval with conditions or denial of a mineral extraction license the Planning Commission's findings and all supporting documents in its possession shall be transmitted to the Clinton Township Clerk within fifteen (15) days of its decision.

- 3 **Process for Decision by the Township Board.** Within fifty-six (56) days after receipt of the findings and supporting documents from the Planning Commission, the Township Board of Clinton Township shall:

- A. Conduct a detailed review of the application, all supporting documents and the recommendation of the Planning Commission.
- B. Conduct a public hearing.
 - 1. The Township clerk shall give notice of the hearing to the owners of all property within two thousand (2,000) feet of the subject property by first class mail or hand delivery. The notice shall be mailed not later than fifteen (15) days prior to the hearing.
 - 2. The notice shall be published in a newspaper(s) of general circulation in the Township
 - 3. Any party may appear and comment at the hearing in person, by agent, or by attorney.
 - 4. The Township shall keep a record of said hearing.
- C. Approve the license, if after the public hearing the Township Board determines that the Licensee can comply with the standards set forth in Section 8.1C.
- D. Approve the license with conditions, if after the hearing the Township Board determines that the Licensee can comply with the standards set forth in Section 8.1C, subject to additional conditions being imposed.
- E. Deny the license, if after the public hearing the Township Board determines that the Licensee cannot comply with the standards set forth in Section 8.1C.

SECTION 9. ISSUANCE OF LICENSE

- 1 **Issuance.** If an application is approved or approved with conditions by the Township Board, the Township Board shall issue a mineral extraction license in duplicate upon receipt of the required

- 1 **License Required.** Operate only with a license issued under this ordinance and only in compliance with the terms of the license and this ordinance.
- 2 **Escrow for Costs.** The Licensee shall deposit funds into the Operations Escrow account, as defined in Section 18, to be held by the Township to pay for the costs incurred by the Township for hiring any and all experts used in connection with monitoring the mining operation and insuring compliance with the license and the provisions of all applicable local, state and federal regulations. The amount to be deposited into the Operations Escrow Account shall be established by resolution of the Township Board as set forth in Section 18.
- 3 **Hours of Operation.**
 - A. *Extractive and Processing Activities.* Extractive and processing activities shall be permitted only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and between 7:00 a.m. and 12:00 noon on Saturday.
 - B. *Transporting.* No transporting of aggregates or any materials from the site shall be permitted prior to 7:00 a.m. and after 8:00 p.m., Monday through Friday, and prior to 7:00 a.m. and after 12:00 p.m. on Saturday.
 - C. *Sunday Operations.* There shall be no extractive or processing activities or transporting of aggregates permitted on Sundays or legal holidays. The holidays are New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas.
 - D. *Emergency Hours.* Permission for emergency hours of operation shall be granted only upon written request from the Licensee and by written agreement of the Township board. Details of the need for emergency hours shall be within the written agreement.
- 4 **No Processing.** Other than as specified in the application and license, no processing of any nature, shall be conducted at any time on site.
- 5 **Machinery and Building Setbacks.** All machinery, equipment, and buildings and structures shall be located at least 250 feet from any road right of way or lot line, and 500 feet from any existing residence. The greater setback distance as described shall apply.
- 6 **Mining and Stockpiling Setbacks.** No extraction, processing, loading, weighing, stockpiling or other operations or equipment storage or repair shall take place closer than
 - A. 250 feet from any road right of way or the outer boundaries line of the permitted site(s),
 - B. 500 feet from any existing residence,
 - C. 500 feet from any stream, waterway, or wetland, unless otherwise permitted by the MDEQ or other state or federal regulatory agency.
- 7 **Lateral Support.** There shall be no extraction unless there is adequate lateral support for adjoining land, not subject to the permit, as determined by the Township engineer.

- 14 **Posting of Signs.** Where mineral extraction results in a body of water, the owner or Licensee shall place appropriate "Danger Keep-Out" signs around said premises not more than two hundred (200) feet apart.
- 15 **Grading of Non-mined Areas.** All portions of the site not currently being actively mined shall be graded so that the slopes are not steeper than one (1) foot vertical for each two (2) feet horizontal and protected with temporary control measures per the approved Soil erosion plan and/or soil erosion and sedimentation requirements of the Environmental Protection Act, MCL 324.9101 et seq., Part 91 as defined. Should additional measures be required to provide proper control of erosion and sedimentation, they will be installed.
- 16 **Storage of Hazardous Materials.** All fuels, chemicals and other hazardous materials to be contained on-site shall be noted in the application, including material, quantity, use, and method of primary and secondary containment.
- A. All containment structures or devices shall be designed and operated to prevent ground water pollution. Secondary containment facilities for fuels, waste oil, explosives or dust control chemicals are to have roofs.
 - B. The Licensee shall also provide a written spill response plan and reports procedure, in the event a hazardous materials spill occurs on-site. Said plan shall indicate how any and all contaminated material will be collected and disposed.
 - C. The operations shall minimize on-site storage of such materials.
- 17 **Truck Routes.** The Licensee shall notify all trucks entering the permitted site on the appropriate truck routes specified on the license and will use best efforts to obtain compliance with this provision.
- 18 **Mud and Dust Control.** The Licensee shall be responsible for adequately treating against dust/mud, and improving and maintaining, beyond Lenawee County Road Commission responsibility, 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.
- 19 **Ingress and Egress Driveways.** Driveways used for ingress and egress for the extraction operation that are located within three hundred (300) feet of occupied residences shall be kept dust free by:
- A. Hard topping with a concrete or bituminous substance.
 - B. The regular spraying of water and/or calcium chloride.
 - C. If a concrete or bituminous surface is created, a street sweeper must be on-site and used as often as necessary to control dust and debris.
- 20 **Access to Site.**

certification by a qualified independent soil scientist, soils engineer, hydro geologist or geologist, confirming that the material from each source location is not contaminated. The levels of acceptance are to conform to the most stringent proposed land use per the zoning ordinance. Supply the township with all copies of the test results.

- C. Set forth a detailed explanation as to the routing of all vehicles bringing off-site fill material to the site, and their size, weight and frequency of trips.
 - D. All reclamation activities shall comply with the Soil Erosion Plan and the soil erosion and sedimentation requirements of the Environmental Protection Act, MCL 324.9101 et seq., Part 91 as defined, and enforced by the Lenawee County Soil.
 - E. Set forth in detail the contingency cleanup procedures to be utilized in the event of any contamination of the underlying groundwater or surface water
- 5 **Grades.** In general, grades of areas that are not permanently submerged will be gently rolling and shall be blended into existing grades in a harmonious manner similar to the surrounding area.
- A. 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 Township engineer finds that modification of this area is not necessary.
 - B. 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 Township Board finds that residential development is not a feasible future land use for the site and the use proposed does not require a 200 foot area with less steep grades.
- 6 **Submerged 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.
- 7 **Topsoil.** Topsoil shall cover the reclaimed site to a depth of six (6) inches where seeding and planting is to occur, and to a depth of four (4) inches elsewhere. The topsoil shall be drawn from the existing stockpile made during extraction operations. If the stockpiled topsoil is not sufficient to cover the site to the required depth, the Licensee shall import topsoil. Imported topsoil shall be dark loam; shall contain a sufficient amount of organic matter; shall be free from grasses, weed roots, and inorganic materials; and shall be subject to the approval of the Township engineer.
- 8 **Planting.** Seeding and planting shall be performed to provide a permanent vegetative cover in the areas shown on the Reclamation plan.
- A. Every effort will be extended to use species that are native to the surrounding area; invasive species are to be avoided.

- H. A statement regarding conformance to the approved extraction operations and reclamation plans, and compliance with required Federal, State, and County regulations including, but not limited to:
 - 1. The volumes of restoration material stockpiled on-site.
 - 2. The sufficiency of the stockpiled material to restore the then excavated site pursuant to the approved restoration plan.
 - 3. Copies of all permits and required inspections during the year.
 - 4. Any violations and the resolution thereof, during the prior year shall be provided.
 - I. An aerial photograph of the entire site of oblique prospective, with a scale of not more than one (1) inch equals two hundred (200) feet, taken after extraction operations for the year have ceased and prior to the date of the Annual Report required under this license.
 - J. Written evidence that the financial guaranties and liability insurance required pursuant to the ordinance are in full force for a period of not less than twelve (12) months from the date of the annual report.
 - K. Applicable permits and/or reports that may be required from other governmental agencies.
 - L. Failure to provide the required annual reports shall result in a temporary suspension of the mineral extraction license.
- 2 **Additional Meetings.** Following receipt of the annual report, the Township may require meetings with representatives of the Licensee to review the annual report and to discuss any existing or anticipated issues associated with the extraction operation and may, if reasonably necessary, require that additional information, testing or reports be submitted to the Township in order that the Township may address those issues.
- 3 **Inspections.** Appointed representatives of the Township, including, but not limited to the Township engineer and/or consultants, shall conduct not less than one inspection of the site each year. A representative of the Licensee shall accompany the inspectors. The purpose of the inspection is to evaluate the operations in terms of the annual report and compliance with the approved license conditions. At the time of any inspections, the Township representatives may extract from the property samples of water, soil, and/or other material as may be necessary to perform the evaluation. A series of photographs will be taken to establish a historic record of activities and site changes over the life of the extraction operation. An inspection report shall be submitted to the Township and shall include:
- A. An evaluation of the annual report submitted by the extraction Licensee.
 - B. An evaluation of the site and operations in terms of performance and compliance with the extraction license.

complete list of documents which the Licensee must supply to the Planning Commission at least fifteen (15) days prior to the date set for the hearing. The documents which the Township may require the Licensee to provide may include any or all of the following:

- A. A current environmental impact study, prepared by a qualified professional or professional engineer, submitted to the Township, addressing impacts the operation has had on natural features, and flora and fauna, both on the site and adjacent lands, as well as any mitigation measures taken to eliminate or minimize these impacts.
- B. Updates to the information and plans contained in the last extraction license Application. The plans must include mining, reclamation, and erosion control drawings.
- C. Report on the proposed extraction and reclamation activity for the next five (5) years, including any requested modifications to the original plans.

4 **Review Process.**

- A. At the hearing for renewal, the Planning Commission shall undertake the following activities to determine whether or not to recommend renewal of the extraction license:
 - 1. Conduct a public hearing to hear public comments on the past performance and continuation of the extraction operation.
 - a. The Township clerk shall give notice of the hearing to the owners of all property within five hundred (500) feet of the subject property by first class mail or hand delivery. The notice shall be mailed not later than fifteen (15) days prior to the hearing.
 - b. The notice shall be published in a newspaper(s) of general circulation in the Township at least fifteen (15) days prior to the hearing.
 - c. Any party may appear and comment at the hearing in person, by agent, or by attorney.
- B. Review the Licensee's annual reports and the inspection reports received during the term.
 - 1. Review the application for renewal of license.
 - 2. Recommend to the Township Board renewal of the license, adoption of additional conditions for the renewal of the license, or denial of renewal.
 - 3. Following the vote of the Planning Commission recommending approval, approval with conditions or denial of a mineral extraction license the Planning Commission's findings and all supporting documents in its possession shall be transmitted to the Clinton Township Clerk within fifteen (15) days of its decision.
- C. Within twenty-eight (28) days after receipt of the findings and supporting documents from the Planning Commission, the Township Board shall conduct a detailed review of the application, all supporting documents and the recommendation of the Planning

- B. Special meetings;
- C. Attorney fees;
- D. Reports and review by the Township's experts and/or consultants; and
- E. Additional notices of public hearing.

4 **Hearing on Variance.** The Township shall hold a public hearing upon such variance application within forty-two (42) days from its filing.

- A. The Township clerk shall give notice of the hearing to the owners of all property within two thousand (2,000) feet of the subject property. The notice shall be mailed to each such party by first class mail, or hand delivered.
- B. The notice shall be published in a newspaper(s) of general circulation in the Township not later than ten (10) days prior to the hearing.
- C. Any party may appear and comment at the hearing in person, by agent, or by attorney.
- D. The Township shall keep a record of said hearing and shall render a written decision not later than the next regular Township Board meeting, or twenty-eight (28) days after the hearing date, whichever is greater.
- E. 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.
- F. Violation of conditions shall be considered a violation of this ordinance and shall be subject to the penalties stated in Sections 18 and 19.

SECTION 16. COMPLIANCE WITH FUTURE AMENDMENTS TO ORDINANCE

Any Licensee shall be required to comply with the provisions of any future amendments to this ordinance and the extraction license agreement shall contain a provision to that effect.

SECTION 17. AMENDMENT TO LICENSE

- 1 **License Amendments.** Clinton Township recognizes that changes or variations from a mineral extraction license may be needed once a licensed project begins due to the nature of the materials, unexpected variations in the topographical features, equipment restraints or other physical considerations. The Licensee may present proposed changes to the mining plan and/or reclamation plan to the Township Board for approval without applying for a new license.
- 2 **Submission on Proposed Amendments.** The proposal for amending a license requires the submission of the proposed changes to the Township and shall include the following:
 - A. The existing license and supporting documents.

- B. Approve the amendment with conditions.
- C. Deny the amendment based on one or more of the following findings that the Licensee has failed to demonstrate that:
 - 1. The Licensee can comply with this ordinance.
 - 2. The operation will not adversely affect the health, safety, and welfare of the residents of the Township.
 - 3. The site will be restored so it is safe and harmonious with the surrounding land uses.
 - 4. The proposed operation will not adversely affect the water table, water quality, or water supply of any surrounding land.
 - 5. The use proposed in the reclamation plan is acceptable based upon the Board's review of the Township zoning ordinance, Township Master Plan, surrounding land uses and site characteristics.
- D. Extend the period of review for an additional twenty-eight (28) days or to the next scheduled Township Board meeting based on a written determination that additional review is needed. Any revised documents must be submitted two weeks prior to any meeting for review.
- E. A license amendment proposal denied by the Township Board may not be reapplied for, whether the same or modified, for a period of twelve (12) months from the date of denial.

SECTION 18. ESCROW ACCOUNTS

1. Escrow for Application and Renewal.

- A. At the of the filing of the application of a license or the application for renewal, the Licensee shall deposit into an escrow account with the Township an amount, to be set by resolution of the Township Board, to cover the actual reasonable expenses incurred by the Township in reviewing and/or relating to the original application or any renewal thereof, including but not necessarily limited to the cost of:
 - 1. Planning Commission meetings;
 - 2. Special meetings of either the Planning Commission;
 - 3. Attorney fees;
 - 4. Reports and review by the Township's experts and/or consultants; and
 - 5. Additional notices of public hearing.

cancellation or suspension. It may also order a temporary suspension until violations are corrected.

SECTION 20. VIOLATIONS AND PENALTIES

- 1 **Civil Infraction.** Any person violating any provision of this ordinance shall be deemed responsible for a civil infraction. Each day an operation is carried on in violation of the ordinance shall be considered a separate infraction. Fines and costs shall be imposed as set forth in the Section 6 of the Clinton Township Municipal Civil Infractions Ordinance, plus the costs of prosecution.
- 2 **Nuisance Per Se.** In addition to the foregoing, any violation of this ordinance shall be deemed a nuisance per se, permitting the Township Board, its officers, agents or any private citizen to take such action in any Court of competent jurisdiction to cause the abatement of such nuisance, including injunctive relief.
- 3 **Discretion of Township.** The penalties provided for in this section are cumulative and the Township may, in its sole discretion, elect to charge an alleged violator with a civil infraction violation and/or seek such equitable relief to abate a nuisance resulting from a violation of this ordinance.
- 4 **Costs of Enforcement.** In addition to the above remedies, if the Licensee is determined to be in violation of this ordinance or the license, the Licensee shall be liable for all reasonable costs incurred by the Township in the course of any enforcement action. Such costs shall be paid for out the Operations Escrow described in Section 18 of this ordinance.

SECTION 21. APPEAL

- 1 **Right to Appeal.** Any Licensee or affected property owner may appeal a decision of the Township Board under this ordinance to the Circuit Court for Lenawee County.
- 2 **Time for Appeal.** The time for taking an appeal from any decision of the Township Board shall be within twenty-one (21) days of the date of the decision which is being appealed.
- 3 **Permissible Findings.** Based on facts presented at an appeal, the Circuit Court may make findings regarding the decision which is the subject of appeal;
 - A. Affirm the decision of the Township Board.
 - B. Reverse the decision of the Township Board.
 - C. Remand the matter to the Township Board for additional findings and/or redetermination.

SECTION 22. FINANCIAL GUARANTY AND LIABILITY INSURANCE

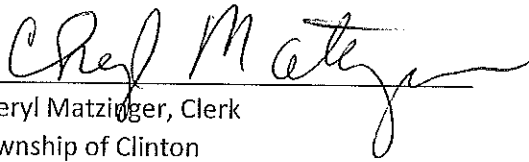
- 1 **Surety Bond, Irrevocable Letter of Credit, or Security Deposit.** The Licensee must provide and maintain a surety bond, irrevocable letter of credit in satisfactory form approved by the Township attorney, or security deposit, in an amount as determined by the Township Board.

ORDINANCE DECLARED ADOPTED ON 12-12-2016

Phillip Reiser, Supervisor
Township of Clinton

CERTIFICATE OF ADOPTION AND PUBLICATION

I, Cheryl Matzinger, the duly elected Clerk of the Township of Clinton certify that the foregoing ordinance is a true and correct copy of the ordinance enacted by the Township Board of the Township of Clinton on _____, 2016 and published in The Daily Telegram, a newspaper, circulated in the Township of Clinton on _____, 2016.



Cheryl Matzinger, Clerk
Township of Clinton