

**CHARTER TOWNSHIP OF IRONWOOD  
SAND/GRAVEL PIT ORDINANCE**

**ORDINANCE NO. 50**

THE CHARTER TOWNSHIP OF IRONWOOD, GOGEBIC COUNTY,  
MICHIGAN, ORDAINS:

Section 1: Title.

This Ordinance shall be known and cited as the Charter Township of Ironwood Sand/Gravel Pit Ordinance.

Section 2: Purpose.

An Ordinance to promote the public health, safety and general welfare of the residents and property owners of the Charter Township of Ironwood, to preserve natural resources and prevent creation of nuisances and hazards to public health, safety and welfare, to encourage the use of lands in accordance with their character and adaptability, to regulate the operation of sand and gravel pits within the Township, to establish administrative requirements and prescribe procedure to obtain permit for operation of sand and gravel pits, to establish remedies, provide for enforcement and penalties for violation and to establish a registry of sand and gravel pits operating within the Township.

Section 3: Rules of Construction.

The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

The word "dwelling" includes a "residence" and any part thereof.

Words and phrases not otherwise defined in this Ordinance shall have the meaning customarily assigned to them.

Section 4: Definitions.

As used in this Ordinance, the following words and terms have the meaning stated herein:

- a. Applicant: an individual, corporation, limited liability company, partnership, trust, firm, association or any other entity who submits an application as set forth in this Ordinance.
- b. Dwelling: a place of residence or abode; a structure or apartment used as a home for a family unit.
- c. Nuisance: an offensive, annoying, unpleasant or obnoxious thing or practice, a course or source of annoyance, especially a continuing or repeated

invasion of any physical characteristics of a use of activity across a property line, which can be perceived by or affects a human being or his/her property adversely. Nuisances include, but not limited to: noise, odor, erosion, etc.

d. Sand and gravel pit: any tract or parcel of land used for the purpose of searching for or the extraction of and/or removal of sand, gravel, stone, marl, peat, topsoil or similar material, including stripping and pit-type operations.

Section 5: Permit Requirement.

No individual, corporation, limited liability company, partnership, trust, firm, association or any other entity shall operate a sand and gravel pit, as herein defined, within the Charter Township of Ironwood, without having first obtained a special use permit from the Planning Commission of said Charter Township of Ironwood.

Section 6: Procedure for Special Use Permit.

The following procedures shall be followed for application of special use permit.

- A. Application submitted to the Planning Commission: Written application addressed to the Planning Commission, with the applicable fee, shall be submitted through the Township Clerk. It shall include all pertinent plans and other data upon which the applicant intends to rely for a special use permit.
- 1) Authority to File Application: Application shall be submitted by the owner, or any other person having a recognized interest in the land for which the development is proposed.
- B. Data Required in Application: Application shall be made listing the following information:
- 1) Name and address of applicant.
  - 2) Name and address of the owner(s) of the land which operations will take place.
  - 3) Name and address of person, firm or corporation who will be primarily responsible for conducting operations.
  - 4) Full legal description of the property. Attach copy of recorded deed.
  - 5) Site Plan. Scale drawings of the total property involved, which includes boundaries, aerial extent of property, proposed footprint showing location of the proposed development site, all abutting streets, and public utilities, location of all existing and proposed access roads, structures, parking facilities, water and sewer systems, the types of buildings and their uses. The proposed location of crusher, asphalt plant, and stockpiles. In addition, the site plan should show the location

of all residential dwellings within two thousand five hundred (2,500) feet of the perimeter of the site.

- 6) The existing land uses of all property within two thousand five hundred (2,500) feet of the proposed development.
- 7) Describe the general ground water conditions and possible impact of excavation operations upon adjacent ground water levels.
- 8) The proposed roads and types of road surfaces that will serve the site.
- 9) The proposed haul route for vehicles to and from the site.
- 10) The estimated amount of vehicular traffic generated by operations.
- 11) The proposed dust control methods.
- 12) The proposed method of operation and general description of machinery and equipment utilized.
- 13) The proposed hours of operation.
- 14) Type of deposit to be extracted, or deposited, showing existing topography, geological composition and depth of mineral deposit.
- 15) Identification of wetlands on site.
- 16) Biological information regarding wildlife usage – including white tailed deer, bear, grouse, fox, woodland song birds.
- 17) The depth of private wells within two thousand five hundred (2,500) feet of proposed development site.
- 18) The location of surface water, existing drainage patterns, and whether operations call for water impoundment.
- 19) Estimate length of time the pit will be in operation, based on estimated reserves and production rates.
- 20) Estimate acres from which excavation will take place.
- 21) A detailed plan of operation for stripping topsoil, overburden, stockpiling, excavation, rehabilitation and reclamation, including final land use, topsoil redistribution, re-vegetation, grading, final topography and drainage patterns. A site reclamation plan shall be submitted with the application.

- C. Fee: Each application for special use permit shall be accompanied by a permit fee of Two Hundred (\$200.00) Dollars paid to the Township Treasurer, which fee may be modified, from time to time, by the Township Board. All publication costs shall be the responsibility of the applicant. No application shall be processed until the applicable fee has been paid.
- D. The Zoning Administrator shall file his recommendations with the Planning Commission.
- E. Review by the Planning Commission: The Planning Commission shall review the application and decide each application on the basis of whether or not the proposed operations will constitute a nuisance, cause “very serious consequences,” be detrimental to the public health, safety or general welfare of residents of the Township, be harmonious with the character of adjacent properties and surrounding area, in compliance with the general objectives of the Charter Township of Ironwood Master Plan and Zoning Ordinances, the standards and procedures set forth in this Ordinance, and Federal, State, local laws, rules and regulations.
- F. Notification of the Public: Upon receipt of an application for a special use permit, the following steps will be taken by the Planning Commission:
- 1) One (1) notice of the public hearing on the request for a special use permit shall be published in the Ironwood Daily Globe or other newspaper of general circulation in the Township.
  - 2) Notice shall also be sent by mail or personal delivery to the person(s) who made the application, in addition to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property being considered for a special use permit and to the occupants of all structures within three hundred (300) feet of the property. If the name of an occupant is not known, the term “occupant” may be used in the notice.
  - 3) The notice shall be given not less than fifteen (15) days before the application will be considered for approval.
  - 4) The notice shall:
    - a) Describe the nature of the request.
    - b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
    - c) State when and where the application will be considered.
    - d) Indicate when and where written comments will be received concerning the request.

5) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager.

G. Public Hearing: The Planning Commission shall hold at least one (1) public hearing on an application for issuance of a special use permit. A hearing may be requested by the Zoning Administrator, the Planning Commission, or upon the request of the applicant, property owner or occupant of a structure located within three hundred (300) feet of the property under consideration.

Burden of Proof. The burden of demonstrating that an application complies with applicable standards is on the applicant.

H. Decision: The Planning Commission may, by majority vote of its members, deny, approve or approve with conditions the application.

If approved, the Planning Commission and applicant shall enter into a written agreement concerning exact plans, specifications and conditions to be met by the applicant in accordance with the approval. If the Planning Commission denies a request, it will submit in writing to the applicant, notice of such denial and the factual basis for its decision. The decision shall be incorporated in a statement of findings and conclusions, which specifies the basis for the decision and any conditions imposed.

If the application is denied, a similar application for all or part of the same land shall not be considered for a period of one (1) year after the final decision in the matter.

I. Appeal: A person aggrieved by the decision of the Planning Commission may appeal to the Zoning Board of Appeal. An appeal must be in writing and submitted to the Township Clerk within thirty (30) days after the Planning Commission approves the minutes of its decision.

The special use permit shall be valid for a period of one (1) year from the date of issuance, unless a longer time period is set by the Planning Commission, and may be extended, for additional periods, subject to review of past performance, and payment of the Two Hundred (\$200.00) Dollar annual inspection fee, which fee may be modified, from time to time, by the Township Board.

The permit shall expire automatically at the end of said period without any further action or notice by the Planning Commission unless an extension is requested in writing, by the permit holder, and granted by the Planning Commission.

Permits are non-transferrable, except upon advance written approval of the Planning Commission.

Section 7: Performance Standards.

The following requirements shall be mandatory:

1. Site development requirements:

- A. Minimum lot area: Twenty (20) acres.
- B. Site security: Where an excavation in excess of five (5) feet will result from such operations, the owner/operator shall erect gates, which gates shall be locked during non-operation hours.

The Planning Commission may require a berm or fence around the entire permitted area of operation.

The owner/operator shall place appropriate AKEEP OUT-DANGER@ signs around the premises not less than two hundred (200) feet apart.

- C. At no time shall slopes on previously excavated areas be left at greater than thirty (30) degrees pending rehabilitation. Finished grade shall be consistent with state statutes, and sloped to minimize erosion.

D. Minimum Setback:

- 1) One hundred fifty (150) feet from any road right-of-way.
- 2) One hundred fifty (150) feet from any public utility.
- 3) Two hundred (200) feet from any lot line common to the property.
- 4) One thousand five hundred (1,500) feet from any dwelling.

Screening, crushing, loading, weighing or other processing operations may not be located within one thousand five hundred (1,500) feet of any dwelling, or within three hundred fifty (350) feet of any road right-of-way, public utility, or common property line.

Upon written consent of the adjoining property owner the Planning Commission may reduce or eliminate the required setbacks. However, adequate lateral support of adjoining lands shall be maintained at all time.

The Planning Commission may require such greater setbacks to adequately protect adjoining properties.

No part of the operation may take place within the minimum setback area, excepting one access road. The location of the access road shall be approved by the Planning Commission.

E. Nuisances. Adequate measures shall be taken to minimize noise and dust, including, but not limited to:

1) Hours of operation: Hours of operation shall be limited to the following times:

6:00 a.m. to 8:00 p.m. Monday through Friday

8:00 a.m. to 8:00 p.m. on Saturday

No operations shall be allowed on Sundays and legal holidays.

Any extension of operations beyond said hours shall require advance written approval by the Township Supervisor.

2) Dust Control: All roads used for the purpose of ingress or egress to site shall be kept dust free by hard topping with cement, bituminous substance, water or chemical treatment. The owner/operator shall be responsible for dust control on all gravel roads utilized by trucks hauling within the permitted site. The Township shall have the right to require dust control on any haul route within the Township. The owner/operator shall clean up, carryout and trackout on paved public shoulders/roads.

The Planning Commission with input from the Gogebic County Road Commission, may set maximum speed limits, size of truck, and routes of traffic to and from the extraction site as a condition of this permit. When necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition of said permit.

3) Lighting: There shall be no light trespass.

4) Odor: The emission of noxious, toxic or odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air as to produce a public nuisance or hazard beyond lot lines, is prohibited.

5) Gases: The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful.

6) Sound: The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

<u>In Decibels</u>	<u>Adjunct Use</u>	<u>Where Measured</u>
80	Residential	Common lot line
90	Commercial	Common lot line
90	Industrial	Common lot line

7) Drifted Airborne Material: The drifting of airborne transmissions beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful.

F. Buffer Strip: A buffer strip not less than fifty (50) feet wide may be required along all property lines which face, abut or are adjacent to a residential dwelling. This buffer strip may consist of earth berms and vegetation, including planting of trees and shrubs. Good faith efforts should be made to maintain the original vegetation within the buffer strip.

The Planning Commission may require sight barriers along all boundaries of the site which lack natural screening which may consist of earth berms, planting of evergreen trees and shrubs.

G. Water Quality: The use must not cause adverse impact to ground water, private wells, private septic systems, or Wellhead Protection Zone. The Planning Commission may require a hydrographic study and/or environmental impact study.

H. The use must be reasonably related to existing uses of land and character of surrounding area.

I. The use must not adversely impact property values in the vicinity of the proposed excavation site and along the proposed haul route serving the property.

J. The use must not create an excessive burden on existing parks, schools, structures and other public facilities and utilities that serve or are proposed to serve the area.

K. The use must not cause traffic hazard in the vicinity of the proposed excavation site and along the proposed haul route serving the property.

L. No sand, gravel, stone, marl, peat, topsoil or similar material shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so the surface water drainage is not interfered with.

M. The dumping of any construction waste material, including soil, sand, clay, gravel, stone, blacktop, concrete or similar materials on any parcel of land within the Township is prohibited, except as approved by the Planning Commission.

N. The filling of any parcel of land within the Township with rubbish, garbage or other waste matter is prohibited.



- O. Sufficient soil occurring naturally in the area shall be stockpiled on the entire site, when stripping operations are completed, may be recovered to a depth to support vegetation. The removal and sale of topsoil is specified except as approved by the Planning Commission.
- P. Financial Guarantee. The Planning Commission shall require prior to conditional use permit a financial guarantee in the form of a cash deposit, letter of credit or surety bond to ensure compliance, proper rehabilitation and reclamation. In determining the amount of such financial guarantee, the Planning Commission shall take into account the size and scope of the proposed pit, probable cost of rehabilitation, and such other factors deemed relevant. In no event shall such financial guarantee be less than \$10,000 per acre proposed to be excavated.
- Q. Liability Insurance. The owner/operator shall be required to carry personal injury and property damage insurance, in the amount of not less than \$500,000 for each person or property injured or damaged, and not less than \$1,000,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk.
- R. Entrance Requirements. All means of access to the property shall have direct access to a "county" road approved by the Gogebic County Road Commission. Vehicular access shall be designed and located as to create a minimum interference with traffic on the surrounding public street. No more than one (1) driveway, not to exceed thirty (30) feet in width, shall be permitted. The Planning Commission shall consider topography, safety, traffic and existing land use.
- S. Explosives. The use of explosives shall be done in accordance with the regulations for storage and handling of explosives as published by the State Police, Fire Marshall Division, State of Michigan.
- T. Approved containment pad must be installed prior to storage of any fuel on-site or leak-proof fuel tanks.
- U. The Township Zoning Administrator shall have the right to inspect property at all times and as often as necessary to assure compliance with this Ordinance.
- V. The proposed use will not be in violation of Federal, State or local laws, rules or regulations.
- W. The Planning Commission may require such other performance standards it deems necessary for the protection of the health, safety and general welfare of the citizens of the Township.

Section 8: Registry.

The owner/operator of a sand and gravel pit within the Township shall register with the Township Clerk, specifying name, address, and legal description of the property.

Section 9: Site Reclamation.

Reclamation and rehabilitation shall be accomplished as soon as practicable following excavation of an area. Reclamation and rehabilitation shall be commenced immediately upon the termination of excavation operations. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of excavation activity. Inactivity for a twenty four (24) month consecutive period shall constitute termination of excavation activity.

1) The following standards shall control reclamation and rehabilitation:

a) The banks of all excavations shall be sloped to the water line in a water-producing excavation and to the pit floor in a dry operation at a slope which shall be consistent with state statutes. Grading shall be completed in a manner that prevents pooling of water on the reclaimed surface.

b) Soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water. Soil shall be applied to a minimum depth to support vegetation.

c) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.

d) Upon cessation of operations by abandonment or otherwise, the owner/operator, within a reasonable period of time, not to exceed twelve (12) months, shall remove all plant structures, foundations, buildings, stockpiles, and equipment.

Section 10: Revocation of Special Use Permit.

The Planning Commission may, at its discretion, revoke the special use permit if performance standards are not complied with. Upon learning of a violation, the Township Zoning Administrator shall provide written notice of non-compliance to the holder of the permit, who shall have thirty (30) days from the date of notice to remediate the violation. Failure of the holder of the permit to remediate the non-compliance will result in automatic revocation of the special use permit.

Section 11: Exemptions.

a. The provisions of this Ordinance are not applicable to extraction and/or removal of sand, gravel, stone, marl, peat, topsoil or similar materials carried on for the purpose of "landscaping", provided however, not more than one hundred fifty (150) yards of material shall be removed from the site, within a five (5) year period, unless and until a

special use permit shall first have been issued.

b. The provisions of this Ordinance are not applicable to extraction and/or removal of sand, gravel, stone, marl, peat, topsoil or similar material from a construction site pursuant to a duly issued building permit issued by the Building Inspector for the Charter Township of Ironwood, provided, however, not more than two thousand (2,000) yards of material shall be removed from the site, unless and until a special use permit shall first have been issued.

c. The provisions of this Ordinance are not applicable to non-ferrous mining activities authorized by the Michigan Department of Environmental Quality under Part 632 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended.

d. The provisions of this Ordinance are not applicable to lands enrolled under the Michigan Commercial Forest Program under Part 511 of Public Acts of 1994, as amended.

#### Section 12: Non-Conforming Use-Discontinued.

Any non-conforming use of land which is discontinued through vacancy, lack of operation or otherwise for a period of more than twenty four (24) months shall be construed as abandonment of use, following which any further use thereof shall conform to this Ordinance.

#### Section 13: Existing Sand and Gravel Pit.

A sand and gravel pit lawfully existing at time of adoption of this Ordinance shall be allowed to remain in operation, provided that:

- a. The owner/operator of the sand and gravel pit shall submit to the Planning Commission, through the Township Clerk, the legal description of the property (permit site), including copy of current Soil Erosion Permit;
- b. The owner/operator of the sand and gravel pit applies for and receives a special use permit (renewal process) from the Planning Commission within one (1) year of the effective date of this Ordinance;
- c. The operation of the sand and gravel pit does not constitute a nuisance. The operation of said pit is prohibited until such nuisance has been remedied; and
- d. The continued operation of the sand and gravel pit complies with the performance standards set forth in Section 6 of the Charter Township of Ironwood Sand/Gravel Pit Ordinance – Ordinance No. 50 adopted by the Township Board on June 28, 2010.

Any expansion of operations beyond the permit site will require advance approval of the Planning Commission, and compliance with the performance standards set forth in this Ordinance.

Section 14: Renewal Process.

The permit holder shall file a written request addressed to the Planning Commission, with applicable fee, with the Township Clerk requesting an extension of the permit. A Two Hundred (\$200.00) Dollar annual inspection fee shall be paid to the Township Treasurer, which fee may be modified, from time to time, by the Township Board. The Planning Commission shall issue an extension provided the holder of the permit has been in substantial compliance with the terms of the previously issued permit, the operation does not constitute a nuisance, and issuance of the permit would not be detrimental to the public health, safety or general welfare of the residents of the Township. The permit may be extended for additional periods up to five (5) years each, at the discretion of the Planning Commission.

Section 15: Enforcement and Penalties.

This Ordinance shall be enforced by persons who shall be so designated by the Township Board.

Any extraction and/or removal of sand, soil, gravel, stone or similar material, including filling, stripping and pit-type operation in violation of this Ordinance shall constitute a nuisance per se.

A violation of this Ordinance shall be deemed to be a municipal civil infraction and any person, corporation, partnership, firm or entity found responsible therefore shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars for each offense. In addition, the Township specifically reserves the right to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

Section 16: Severability.


The several sections of this Ordinance shall be deemed severable, and should any section, clause or provision thereof be declared unconstitutional or contrary to the law of the State of Michigan, and therefore voided by any Court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part or section so declared to be unconstitutional or invalid.

Section 17: Repeal.

All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance, to the extent of a conflict, are hereby repealed.

Section 18: Effective Date.

This Ordinance shall take effect in accordance with applicable law. This Ordinance was adopted by the Township Board of the Charter Township of Ironwood, County of Gogebic, and State of Michigan, at its regular meeting held on June 9, 2014.

  
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ALAN BARON  
Township Supervisor

STATE OF MICHIGAN     )  
  ) ss  
COUNTY OF GOGEBIC    )

I hereby certify that the above Text Amendments to Ordinance No. 50, being the Sand/Gravel Pit Ordinance of the Charter Township of Ironwood, Gogebic County, Michigan, was duly adopted by the Ironwood Township Board at a regular meeting of the Board held on the 9<sup>th</sup> day of June, 2014, with the following vote therein:

AYE: Boyd, Brunello, Salmi, Olson-DeRosso, Baron.  
NAY: Maki, Lyons  
ABSENT: \_\_\_\_\_

  
\_\_\_\_\_  
GAYLA SALMI  
Township Clerk