

KINROSS CHARTER TOWNSHIP QUARRYING ORDINANCE

ORDINANCE NO. 1.137

Adopted: March 17, 2014

Effective: April 1, 2014

CHARTER TOWNSHIP OF KINROSS

COUNTY OF CHIPPEWA, STATE OF MICHIGAN

An ordinance to adopt provisions to regulate the quarrying of sand, gravel, and similar materials within the Charter Township of Kinross and to repeal Kinross Charter Township Quarrying Ordinance No. 47A.

THE CHARTER TOWNSHIP OF KINROSS ORDAINS:

TITLE:

This Ordinance shall be known and cited as the Kinross Charter Township Quarrying Ordinance, Ordinance No. 1.137.

PURPOSE:

To provide standards for the granting of a permit and regulations for the removal of sand, gravel, and similar materials within the Charter Township of Kinross.

DEFINITIONS

QUARRY: An open excavation from which any topsoil, and/or, gravel, soil, peat, clay or similar materials are extracted.

EXCAVATION SITE: Any excavation exceeding five (5) feet in depth, also including but not limited to the stockpiling and processing thereof, and all tanks, buildings, and equipment, except those excavations specifically excluded in this ordinance and except those areas successfully reclaimed as approved by the Planning Commission pursuant to this ordinance and the reclamation plan submitted.

FENCE: As defined in this ordinance, "fence" shall mean a properly maintained structure or natural barrier, which is sufficient to impede intruders.

Section 1. EXCEPTIONS

- 1.1) It shall be unlawful to operate a quarry, as defined herein without first obtaining a permit from the Township or designated township official, as well as all applicable State and County Permits governing such operations, however, the following excavation activities are not included within the definition of quarrying and are exempt from the requirements of this ordinance:
- (1) Excavation in conjunction with farming operations conducted in accordance with generally accepted agricultural practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property.
 - (2) Excavation, which by its nature is of limited scope and duration and which is undertaken solely for the immediate use and development of the land excavated, such as for the purpose of construction or installation of a building, septic tank, swimming pool and similar limited excavations.
 - (3) Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drains, roads or other improvements where the excavation is limited to the site of the public utility or improvement.

The Zoning Administrator shall determine whether any other excavation is or is not exempt from the requirements of this ordinance, however, the determination shall remain subject to the appeals provisions of this ordinance.

Section 2. PERMIT APPLICATION

A permit application, pursuant to this ordinance and the Kinross Charter Township Zoning Ordinance, shall be submitted upon request for a special use public hearing for first time applicants or expansion of quarry sites.

A permit application, pursuant to this ordinance, shall be submitted annually for renewal.

- 2.1) Shall identify the quarry and operator.
- 2.2) Shall identify the proposed work hours, workdays, work months, work seasons and/or years, and the expected life duration the quarry operations are to take place.
- 2.3) Shall identify the steps the operator intends to use/undertake to secure the quarry site during both work operations and dormant periods, such as, but not limited to fencing, berms, signs, etc.
- 2.4) Shall indicate the proposed quarry operations to take place and the expected types of materials to be extracted.

2.5) Shall include a site plan in accordance with this ordinance.

2.6) Shall include a reclamation plan for the quarry site in accordance with this ordinance.

Section 3. **SITE PLAN**

The site plan shall require the following information:

3.1) Proposal as to method of operation, and the estimated period of time such operation will cover if the excavation site is within three hundred (300) feet of an occupied structure.

3.2) A statement as to exactly what type of deposit(s) is proposed to be extracted.

3.3) Such other information as may reasonably be required by the Planning Commission, governing body or designated official.

3.4) North point, scale, and date.

3.5) A written legal description or record of survey of the property and extent of area to be excavated.

3.6) Location, width and grade of all utility and road easements or right of ways on or abutting the property and means of dust control for all ingress and egress roads abutting paved roads with occupied structures within three hundred (300) feet.

3.7) A map showing all intended access routes to the nearest arterial road.

3.8) Location of all structures on the property and within three hundred (300) feet of the excavation site.

3.9) Proposed fencing, gates, berms, screening, parking, and signs as deemed necessary by the appropriate officials and this ordinance.

3.10) Processing and storage areas.

3.11) Shall include copies of permits from Department of Environmental Quality, MSHA, the Department of Natural Resources, and the Chippewa County Soil Erosion Control Officer.

Section 4. **PIT OPERATIONS**

The following requirements shall be mandatory when operating within three hundred

(300) feet of an occupied structure, however, special considerations may be given to existing quarries when pre-existing conditions warrant and would be cost prohibitive to correct in the opinion of the Planning Commission.

Where an excavation in excess of five (5) feet will result from operations and excavation site is less than three hundred (300) feet from an occupied structure, the applicant shall create a berm to adequately protect the portion of the site where the excavation extends, said berm to be not less than five (5) feet in height, including gates at all access points, which shall be kept locked when operations are not in progress. Where an excavation site is within three hundred (300) feet of an occupied structure, the governing body or designated official shall also require the erection of a fence, no less than four (4) feet in height, complete with gates which shall remain locked when operations are not in progress, however, excavation sites with abutting excavation site lines are exempt from the requirements of section 4.1 along the abutting portion of the property line.

Any roads used for the purpose of ingress and egress to said excavation sites that abut a paved road and which are located within three hundred (300) feet of occupied structures, shall be kept free of dust by hard topping with cement, bituminous substance, or chemical treatment.

Within three hundred (300) feet of an occupied structure, the slopes of the banks of the excavation shall not, exceed three (3) feet horizontal to one (1) foot vertical where a fence has not been erected and shall, in no event, exceed one (1) foot horizontal to one (1) foot vertical, and where ponding water results from operations, the slopes of the banks shall not exceed three (3) feet horizontal to one (1) foot vertical, this slope must be maintained and extended into the water to a depth of five (5) feet. A wire woven fence may also be required when operations are within three hundred (300) feet from an occupied structure, or when exceeding the (3) feet horizontal to one (1) foot vertical slope except along property lines where the adjoining property is owned by a licensed quarry owner.

No cut or excavation shall be made closer than fifty (50) feet from any property line, right-of-way line, or easement, provided, however, that the governing body or designated official may prescribe stricter requirements in order to give sub lateral support to surrounding property where soil or geographic conditions warrant.

Sound generated at the quarry property will not exceed eighty-five (85) decibels at any site along the boundary line of the subject property. The governing body or designated official shall require such other performance standards where, because of peculiar conditions, they deem it necessary for the protection of health, safety, morals and well being of the inhabitants of the Township.

Section 5. REGULATIONS FOR ALL OPERATIONS

5.1) No soil, sand, clay, gravel or similar materials shall be removed in such a manner as

to cause water to collect except as prescribed by the soil erosion control officer, or to result in a place of danger or a menace to the public health.

- 5.2) Soil shall be stockpiled on said site. When stripping operations are completed, the entire site shall be covered with sufficient soil to maintain plant life after reclamation, excepting areas intended to be permanently submerged under a body of water.
- 5.3) The governing body or designated official shall require such other provisions as is deemed necessary in the interest of the public health, safety, morals, and general welfare of the inhabitants of the Township of Kinross.
- 5.4) Where quarry operations result in a body of water or the slopes exceed three (3) feet horizontal to one (1) foot vertical, the owner or operator shall place appropriate "KEEP OUT DANGER" signs around said premises not more than two hundred (200) feet apart.
- 5.5) A "quarry plant," as that term is defined under the Kinross Charter Township Zoning Ordinance, shall not be constructed or operated on the same site as a quarry, unless the quarry plant has been granted special approval by the Planning Commission under the terms of the Kinross Charter Township Zoning Ordinance. The construction or operation of a quarry plant in violation of this provision shall be grounds for permit suspension and revocation under Section 10 of this Ordinance.

Section 6. RECLAMATION PLAN

The reclamation plan shall require the following information:

- 6.1) A statement of planning reclamation, including methods of accomplishment, phasing, timing, and itemized cost. It shall also include the name, address, and signature of the property owners and applicant.
- 6.2) The final grade of the excavation not to exceed four (4) feet intervals, any water features included in the reclamation, and methods planned to prevent stagnation and pollution, as well as landscaping or vegetation to be planted, and areas of cut or fill, showing where sufficient soil shall be placed so that the entire site, when stripping operations are completed, may be covered with sufficient soil and the replacement of such soil shall be made within one (1) year following termination of the stripping operations and the slopes of the banks of the excavation shall be returned to a three (3) feet horizontal to one (1) foot vertical, except within the waterways which shall extend into the water to a depth of five (5) feet, at three (3) feet horizontal to one (1) foot vertical. Sufficient plant life shall be established within two (2) years of reclamation. The failure to establish plant life shall require the reclamation process to be repeated over the effected

areas as many times as necessary to establish plant life before the reclamation process may be considered successful.

- 6.3) A phasing plan, if the excavation of the site is to be accomplished in phases throughout the life of the quarry. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
- 6.4) The method of disposing of any equipment or structures used in the operation of excavation upon completion of the excavation.
- 6.5) A written legal description or record of survey of the property.
- 6.6) All applicable State, County, and local approvals and/or permits.

Section 7. **PERMITS**

- 7.1) The governing body or designated official shall determine whether or not a permit will be issued based upon finding that the issuance of the permit, would not detrimentally affect the public health, safety, morals and general welfare of the inhabitants of the Charter Township of Kinross and the requirements of this Ordinance and the Kinross Charter Township Zoning Ordinance have been met.

Section 8. **REVIEW STANDARDS FOR APPROVAL**

The Planning Commission shall consider the following factors in their review of the quarrying permit application.

- 8.1) The need for the removal and alternate solutions not requiring removal.
- 8.2) The impact of the removal process and methods of removal on adjoining areas.
- 8.3) The extent and amount of removal of valuable topsoil and the destruction of land uses by the removal as well as additional uses created, if any, from the reclamation process.
- 8.4) The increased hazards to neighbors, water, land and/or air.
- 8.5) The proposed plan complies with existing applicable County and State soil erosion and waste management plans and standards.
- 8.6) Whether the spirit and intent of the objectives of this ordinance would be preserved or promoted.

Section 9. **RENEWAL STANDARDS**

- 9.1) Past and present compliance with all provisions of this ordinance as well as any

conditions of previous permits.

- 9.2) Compliance with all applicable State, County, and local regulations and permits.
- 9.3) A copy of the original site and reclamation plan with any changes clearly noted including approval and signatures by the appropriate official(s).
- 9.4) Compliance and co-operation with Zoning Administrator during regular, unscheduled, site visits.
- 9.5) Permit for license renewal shall be submitted no later than June 30th of each year of operation.
- 9.6) License renewal may be approved by the Zoning Administrator if changes are not necessary to the site or reclamation plan and the quarry has followed strict adherence to this ordinance over the previous license period.
- 9.7) Site Plan and Reclamation review shall be submitted no later than January 1st of the first year of operation and every five (5) years thereafter through the Zoning Administrator for review by the Planning Commission.

Section 10. **LICENSE REVOCATION**

- 10.1) The Zoning Administrator shall have the authority to suspend any permit for non-compliance with this ordinance. The Zoning Administrator shall submit a written warning to the permittee and an order of correction of the violation(s) and forward a copy to the Chairman of the Planning Commission. If the corrections have not been made within the fourteen (14) days, the Zoning Administrator shall suspend the operator's permit to quarry. However, the sound, dust, and time provisions in this ordinance shall not require fourteen (14) days notice. The suspension shall remain in effect until the Planning Commission has held a show cause hearing to consider whether or not the permit should be permanently revoked.

Section 11. **PERMIT FEES**

- 11.1) A fee, depending on size and scope of the operations, as established by the Township Board, to defray the cost of engineering services, investigations, publication and other miscellaneous administrative expenses shall accompany application for quarrying permit.
- 11.2) Permits issued by the Planning Commission or designated official shall be for a period of one (1) year, ending June 30th of each year, and such permit may be

renewed pending review and compliance standards set forth in this Ordinance, as well as by the payment of an annual inspection fee as may be established by the Township Board by resolution.

Section 12. **PENALTY**

12.1) Any person, firm, or corporation violating any of the provisions of this Ordinance shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment in the county jail for a period not to exceed ninety (90) days or both, such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

Section 13. **SEVERABILITY**

13.1) The provisions of this Ordinance are hereby declared to be severable and if in any clause, sentence, work section or provision is declared void or unenforceable, for any reason, by a court of competent jurisdiction, the remaining portions of said Ordinance shall remain in force.

Section 14.
repealed.

Section 15. **EFFECTIVE DATE**

A summary of the regulatory effect of this Ordinance shall be published in a newspaper of general circulation in the Township within 15 days after adoption. This Ordinance shall become effective upon such publication.

Passed and adopted by the Township Board of the Charter Township of Kinross, County of Chippewa, Michigan on March 17, 2014, and approved by me on March 17, 2014.

James R. Moore, Supervisor
Charter Township of Kinross

ATTEST:

Sheila M. Gaines, Clerk
Charter Township of Kinross

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Charter Township of Kinross, County of Chippewa,

State of Michigan, at a regular meeting held on March 17, 2014, and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.