

**BIG RAPIDS TOWNSHIP**  
**ORDINANCE NO. 38**  
**MINERAL MINING CONTROL ORDINANCE**  
**AN ORDINANCE TO ESTABLISH OPERATIONAL, MAINTENANCE,**  
**PERFORMANCE, AND RECLAMATION STANDARDS FOR MINING SITES**

THE TOWNSHIP OF BIG RAPIDS ORDAINS:

Because of the noise, dirt and dust emitted in the mining of sand, gravel and other minerals, and because of the permanent changes in the topographical and geological characteristics of the Township as a result of said mining, and because of the dangers inherent in said mining and said changes by virtue of steep hillsides, shifting earth, standing water and other like considerations, and for the purpose of protecting the health, safety and welfare of the residents of Big Rapids Township, and further protecting the property of said residents, this Ordinance is enacted. This Ordinance is enacted by the Big Rapids Township Board pursuant to the authority vested in it by Act 246 of the Public Acts of the State of Michigan for 1945, as amended.

Section 1. Title.

This ordinance shall be known as the “Big Rapids Township Mineral Mining Control Ordinance” and may elsewhere be referred to as “this Ordinance”.

Section 2. Interpretation, Existing Operation and Restrictions.

It is not the intention of this Ordinance to repeal, annul, or in any way repeal any existing law or ordinance unless expressly so stated in the Ordinance. Further, it is not the intention of this Ordinance to interfere with operations already existing except that this Ordinance sets forth minimum standards which shall apply to such operations. To the extent that any restrictions or standards imposed by this Ordinance are more stringent and restrictive than existing restrictions or standards, this Ordinance shall control.

Section 3. Definitions

For the purposes of this Ordinance, the terms defined in sub-sections A through E shall have the meanings ascribed to them in those subsections.

- A. Mineral Mining or Mining. The excavation or removal or processing of peat, gravel, sand, clay, or other soils, including overburden, or the storage or transporting of such items on a mining site, or the reclamation of the site after removal or excavation of such items. For the purposes of this Ordinance, the following excavation activities are not included within the definition of mineral mining or mining and are exempt from the licensing requirement of this Ordinance.
1. Excavation approved by a governmental body or competent jurisdiction in conjunction with the installation or maintenance of publicly owned operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
  2. Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, septic tanks, swimming pools, graves, etc.
  3. 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.
  4. Other excavations where the Township Board determines, in its sole discretion, that the proposed excavation is unlikely to unreasonably

interfere with the enjoyment of life or property and will not expose any person or property to the types of dangers inherent in mineral mining sought to be prevented by this Ordinance. The Township Board's determination may be based on a review of the purpose, location, extent or duration of the proposed excavation and other factors which may bear on the potential of any excavation activity to adversely affect the public health, safety, or general welfare of the community.

- B. Site: A parcel or unit of land.
- C. Township: Big Rapids Township.
- D. Township Board: Big Rapids Township Board.
- E. Mining Administrator: Administrator of the Big Rapids Mineral Mining Control Ordinance.

Section 4. License Required.

From and after the effective date of this Ordinance, no person shall operate a new mineral mining site in the Township except in accordance with a license issued under this Ordinance. A license issued pursuant to this Ordinance shall be nontransferable. All existing mineral mining operations as defined by this Ordinance shall obtain a license and comply with the requirements herein no later than ninety (90) days after the effective date of this Ordinance.

Section 5. Licensing Procedure.

Compliance with the following application procedure shall occur prior to the commencement or continuation of any mining which exists or is proposed as of or after the effective date of this Ordinance.

- A. All applicants shall use forms provided by the Mining Administrator, accompanied by the documents enumerated on that form. Licenses shall have a term of two (2) years computed from February 10 of the year in which the license is issued. To be considered for renewal, eight copies of the proper application with required attachments must be submitted to the Mining Administrator on or before December 1 of the year preceding the year in which the license expires. Upon receipt of the 8 copies of the fully and properly completed application form with the required documents attached, the Mining Administrator shall retain an official copy in the Administrator's office and shall forthwith distribute the remaining copies as follows: one copy to the Township Engineer, one copy to the Township Attorney, and five copies to the Township Board.
- B. Upon receipt of an application, the Township Engineer shall review the application and attachments, physically inspect the premises to determine compliance with the prior reclamation plans and operational plans, and report to the Mining Administrator on such compliance. The Township Engineer shall also estimate the cost of reclamation upon abandonment for bond amount purposes, and make such additional comments regarding general safety, drainage, equipment removal, and other engineering considerations pertaining to the license application as appropriate. The report by the Township Engineer to the Mining Administrator shall be rendered no later than thirty (30) days after receipt of a complete application.
- C. The Mining Administrator shall make a final recommendation on the approval or disapproval of the submitted reclamation plan and operational plan on or before January 20<sup>th</sup> in the case of renewals and within thirty(30) days of receipt of the Township Engineer's report in the case of original applications and shall report forthwith its recommendation concerning the reclamation plan and/or operation plan to the Township Board. The

Township Board shall make a final determination on or before February 10<sup>th</sup> in the case of renewals and within thirty (30) days of receipt of the recommendation of the Township Engineer in the case of original applications. Failure of the Township Board to act within such time frames shall not result in an automatic license issuance or renewal, but such failure merely results in an extension of any existing license for an additional period up to the time of final determination by the Township Board.

Section 6. Application Contents.

- A. Name of the owner, or owners, of land from which removal is to be made or upon which operation will take place.
- B. Name and address of applicant making a request for the license.
- C. Name and address of the person, firm or corporation who will be conducting the actual removal application.
- D. Location, size, and legal description of the area from which the removal is to be made.
- E. Type of materials or resources to be mined, stockpiled, or hauled away.
- F. Proposed method of removal and general haul route.
- G. General description of types of equipment to be used.
- H. The estimated number of years to complete operations and number of phases where appropriate.
- I. The applicant shall post a surety performance bond naming the Township as the Beneficiary thereof in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder; provided, however, that in no case will the sum of the surety bond be less than One Thousand (\$1000) Dollars for each acre or fraction thereof of land. The condition of such bond being that if upon completion of applicant's activities on the parcel described in the application, the land has been reclaimed to the satisfaction of the Township Board, the bond shall be void; otherwise, the Township shall have the right to use the bond proceeds to the extent necessary to reclaim the parcel. This bond shall be kept in effect by the applicant until the parcel or parcels have been restored as required by this Ordinance and until such time that the Township, and its agents and contractors are hereby granted a license to go on the applicant's premises to fulfill the bond requirements. In fixing the amount of surety performance bond, the Township Board shall take into account the size and scope of the proposed operation, current prevailing cost of reclaiming the premises upon default of the operator, and other such conditions and factors as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application. The applicant shall notify the bonding company and provide proof thereof that the Township be notified in the event of any lapse in the effectiveness of the bond. For each acre restored and reclaimed in accordance herewith, or otherwise, said bond may be reduced pro-rata as determined by the Township Board. The amount of the bond will apply to all lands occupied by mining areas, roadways, storage areas, equipment, stockpiles, and similar elements.
- J. As a part of the application, the applicant shall submit a plan of operation and will be expected to comply with such a plan during the year the license is issued for. Said plan of operation shall include a topographic survey of the existing parcel drawn to a scale of 1 inch = 100 feet and prepared by a registered civil engineer or registered land surveyor with contour intervals not to exceed 10 feet based upon U.S.G.S. datum. The drawing shall also clearly

show the area to be mined, including existing areas and roads within 500 feet of all property lines, setbacks, areas for stockpiling, maintenance areas, berms fencing, drainage structures, location of utilities, location of equipment, and similar use areas. The plan of operation shall be accompanied by a projected schedule of mining operation, including the following specific dates:

1. Commencement and completion of mining operations as provided by the plan of operation;
2. Commencement and completion of erosion and drainage control measures to be instituted during mining operations; and
3. Commencement and completion of fencing, roads, utilities, or any other structures or improvements to be located on the site as provided by the plan of operation.

K. The applicant shall also prepare a plan of reclamation. The plan of reclamation shall be submitted in three parts:

1. A recent aerial photograph with a general plan of reclamation as an overlay or as a separate drawing;
2. A reclamation contour plat;
3. A description of reclamation methods and materials proposed for renewal of topsoil and replanting. The general plan of reclamation shall be presented at the same scale as the aerial photograph and shall provide the following information:
  - a. The general area of completely reclaimed land.
  - b. The general area of reclamation under way.
  - c. The general area currently used for topsoil and overburden storage.
  - d. The general area proposed for reclamation during the one year period of the license.
  - e. The general area proposed for topsoil and overburden storage.
  - f. The acreage for each item shown on the overlay or separate drawing.
  - g. A reclamation contour plat with contour intervals not to exceed two feet indicating the general grade and slopes to which excavated areas are to be reclaimed.
  - h. A description of the methods and materials proposed for restoration of topsoil to the required fertility and the amount of any type of planting as a part of the reclamation plan.
  - i. The projected schedule of reclamation operations, including the following specific dates:
    - 1.) Commencement and completion of reclamation operations as provided by the reclamation plan;
    - 2.) Commencement and completion of erosion and drainage control measures to be instituted under the reclamation plan; and
    - 3.) Commencement and completion of final grading, top-soil replacement, and replanting or landscaping as

provided by the reclamation plan.

- L. Mining operational and reclamation plans shall be prepared to clearly depict and describe the sequence of mining operations including existing conditions, mining underway, mining completed, reclamation underway, reclamation completed, mining proposed, reclamation proposed, stock piles, roadways, and similar land use elements.
- M. All mining , operational and reclamation plans shall be reviewed by the Township Engineer and Mining Administrator, and subject to the Township Board's approval or disapproval.

Section 6A. Fees.

All applications shall be accompanied by a processing fee to be paid by the applicant in an amount established by resolution of the Township Board which fee shall approximate the cost of monitoring, considering and issuing the license.

Section 7. Issuance of License.

Upon finding the applicant has complied with the terms and conditions of this Ordinance and with the terms and conditions of prior licenses and prior submitted plans, if any, a license shall be issued.

Section 8. Conditions in License.

Upon the issuance of renewal of a license, the Township Board may impose as conditions of the license any reasonable restrictions or requirements related to the location, design, or operation of a mining site, as required to secure the public health, safety, and general welfare of the community or to ensure that the mining operations will not create a nuisance or unreasonably interfere with the enjoyment of property. Such license conditions may be in addition to the express requirements of this Ordinance.

Section 9. Fencing and Screening.

- A. All excavated and mined areas shall be fenced with a four (4) foot high fence and shall be posted so as to indicate the danger of trespassing in the area. The minimum specifications for said fencing shall be as follows: #9 gauge top wire; #12 gauge bottom wire with spacing of 6 inches by 12 inches. All stays shall be of 14 gauge wire with spacing of support posts to be no greater than 16 feet apart.
- B. All active mining excavations shall be visually screened from view of all adjacent public highways and residentially used parcels to a person standing on the paved portion of the public highway or from the lot line of adjacent residentially used parcels. The following methods are acceptable for screening of mining areas:
  - 1. Construction of a raised earth berm area on the mining site along boundary lines thereof where such lines abut a public highway or abut privately owned property which is improved and occupied for residential purposes. This provision with regard to lands improved and occupied for residential purposes shall be applicable to any land upon which dwellings are built and occupied subsequent to the date of this Ordinance. The berm shall be sufficient in length and height to screen the mining area. During the planting season next following the placement of the berm and as often as may be necessary to assure the existence of a vegetative ground cover, the applicant shall seed or plant the berm in a manner suitable for the area and soil conditions so as to provide vegetation to check erosion and to provide a visible ground cover substantially similar to the vegetation cover growing in adjacent fields. Where the topography of the area acts as a screen, the Township Board may waive the berm requirement. The berm shall have slopes not in excess of one foot vertical to two feet horizontal.

2. Planting of coniferous trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining area.
3. To the extent that the foregoing is not practical, the proposed licensee may submit alternate proposals.
4. The amount and extent of required screening shall be reasonable and practical as determined by the Township Board.

Section 10. Hours of Operation.

Maximum hours of operation of the mining operation shall be 7 a.m. to 7 p.m. No hours of operation shall be permitted on Sundays and legal holidays. In emergency situations this time period may be modified by the Township Supervisor provided such emergency shall not be effective for more than 72 hours.

Section 11. Road Access.

All sites licensed under the provisions of this Ordinance shall have direct access to a County road having a minimum right-of-way width of 66 feet and improved to the specifications of the Mecosta County Road Commission. When the operation of a licensed area results in the mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the licensed operator to remove such material immediately.

Section 12. Road Maintenance.

Access roads within the licensed site shall be maintained by the operator so as to minimize the dust arising from the use of said roads. Such maintenance shall be accomplished through the application of chloride, water and/or similar dust retardant material. Application of oil shall be prohibited. A paved road from the entrance and exit, a distance of not less than three hundred (300) feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway. Entrances and exits shall be securely locked during hours of operation.

Section 13. Operation of Use.

All equipment and facilities used in the mining of sand, gravel, and stone shall be conducted, maintained, and operated in such manner as to eliminate insofar as practicable, noises, vibrations, or dust which interfere with the reasonable use and enjoyment of surrounding property.

Section 14. Noise Standards.

Mining sites shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses. Equipment on licensed sites at any time or under any condition shall not be operated so as to result in noise exceeding the following levels for specified adjacent land uses when measured at the common property line nearest the active work area:

Adjacent use Maximum Sound Level

Residential 75 dBA

Commercial 85 dBA

Industrial and other 90 dBA

The Township shall monitor noise levels using weighted decibel measurements (referenced to 20 micropascals) with a type of audio output meter approved by the United States Bureau of Standards.

Section 15. Transportation Vehicle Standards.

All vehicles used to transport excavated material shall be required to be loaded in such

manner that the material may not unintentionally be discharged from the vehicle. Vehicles shall be cleaned of all material not in the load-bed prior to entering the public streets.

Section 16. Lighting.

All lighting used to illuminate the mining area, access roads, stockpile area, and similar use areas shall be directed away from all surrounding property. Shielding of lighting may be required by the Township Board where such lighting shines directly toward a residential use and/or a county road.

Section 17. Drainage.

Property drainage shall be provided at all times to prevent the collection and stagnation of water, and surface water shall at all times be directed in such a manner so as not to interfere with the adjoining property owners; provided, however, that the maintenance of the natural flow of surface water shall not be deemed an interference. There shall be no interference with the water table in the area. Any water areas, retention ponds, settling ponds, or similar water areas shall be fenced in accordance with Section 9 of this Ordinance. Erosion control measures shall be instituted to comply with Act No. 347 of the Public Acts of 1972, as amended.

Section 18. Termination and Reclamation.

Upon termination of mining operations, the owner of the premises shall be responsible at its cost to reclaim the site in accordance with reclamation plans previously submitted. If the owner fails to reclaim the site, the Township through the provisions of this Ordinance and by administrative proceedings provided herein, or through the judiciary, may come upon the site and reclaim the land in accordance with the reclamation plan provided under this Ordinance and approved by the Township Board and may utilize the bond proceeds provided pursuant to this Ordinance to defray the costs thereof.

Section 19. Excavation/filling.

All excavation of mining areas shall be made either to a water-producing depth of a least 10 feet below the low water mark for at least 80 percent of the water area, or shall be graded or back-filled with noxious-free, non-inflammable, non-radioactive, non-hazardous, and noncombustible materials, to assure:

- A. That the excavated area shall not collect and permit to remain therein, stagnant water; and
- B. That the surface of any area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, and so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.

Section 20. Bank Slopes.

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 to a degree not less than that required to prevent accelerated erosion and to a degree sufficient to maintain vegetation, and said banks shall be reclaimed with vegetation in a manner hereunder.

Section 21. Vegetation.

Vegetation shall be reclaimed by the use of sufficient soil and overburden and by appropriate seeding of grasses or planting of shrubs or trees in all parts of said reclaimed area where such area is not to be submerged under water or within 25 feet of the shoreline as herein above provided.

Section 22. Fill Material.

In the event filling of the mined area is necessary during reclamation, said fill material shall be inert material only as defined by the Michigan Solid Waste Management Act, Act No. 641 of the Public Acts of 1978, as amended.

Section 23. Cessation of Mining.

Upon cessation of all mining operations, except stockpiles, and within a reasonable period of time not exceeding twelve (12) months thereafter, all tanks, buildings, stockpiles, and equipment shall be removed unless such building or structures can be lawfully used in the zoning district in which the same are located. Storage and stockpiling of mined products after cessation of mining activities may be permitted by the Township Board by annual license for that purpose only. In no event shall any additional materials be allowed to be added to these stockpiles and such a license shall not interfere with or excuse reclamation as provided by this Ordinance.

Section 24. Violations, Penalties, Suspension/Revocation of License.

If the Mining Administrator notifies the licensee of any violation of the license or of this Ordinance and upon failure of the licensee to abate said violation within fifteen days after mailing of said notice, said mineral mining site may be summarily closed, and the license therefore suspended or revoked, and resort had to the bond for restoration. Any licensee aggrieved by any notice sent pursuant to this section may file a written request for a hearing before the Township Board. The request should set forth why the mining site should not be summarily closed, the license suspended or revoked, or resort had to bond. If a request for a hearing is received by the Township Board, the Township Board shall provide to the licensee notice of the time and place of the hearing, an opportunity to be heard, and shall make an impartial determination of whether a violation of the Ordinance has occurred and whether the health and safety of persons or property require the suspension or revocation of said license. Upon receipt of a request for a hearing, the Township Board may summarily close the site pending the hearing, if it is determined that the health and safety of persons or property require such action.

Section 25. Municipal Civil Infraction.

- A. Any person who violates any provision of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each violation (as authorized by Section 21 of Act No. 359 of the Public Acts of 1947, as amended, and the Big Rapids Township Municipal Civil Infraction Ordinance).
- B. Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section, below. As used in this Section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this Ordinance (i) committed by a person within any 90 day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
  1. The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.
  2. The fine for any offense which is a second repeat offense, or any subsequent repeat offense, shall be not less than \$500.00 each, plus costs.
- C. Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense subject to separate sanctions.
- D. The Mining Administrator is hereby designated as the authorized township official to issue municipal civil infraction citations for violations of the Ordinance, as provided by the Big Rapids Township Municipal Civil Infraction Ordinance. As used in this Ordinance, Mining Administrator means the township official, employee, agent or other entity appointed by resolution of the Township Board to perform the functions and tasks assigned by this Ordinance to the Mining Administrator.
- E. In addition to any remedies available at law, the township may bring an

action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.

Section 26. Penalties.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than Five Hundred (500.00) Dollars or shall be imprisoned in the Mecosta County Jail for not more than ninety (90) days or both such fine and imprisonment at the discretion of the Court. Each day of the existence of the violation shall be deemed as a separate offense.

Section 27. Remedies.

In addition to any other remedy available at law, the Township may bring an action for an injunction or other process against a person, or an agency of a person, to restrain or prevent any violation of the provisions of this Ordinance.

Section 28. Severance.

This Ordinance and each section, subsection, paragraph, subparagraph, or any provision thereof shall be deemed severable. If any section, subsection, paragraph, subparagraph, or any other provision is adjudged by a Court of competent jurisdiction to be invalid or unenforceable or unconstitutional for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 29. Effective Date.

This Ordinance was approved and adopted by the Township Board of the Township of Big Rapids, Mecosta County, Michigan, on September 1, 1999 and is ordered to take effect on October 7, 1999 said date being thirty (30) or more days after publication in the Pioneer, a newspaper having general circulation in the Township of Big Rapids, pursuant to the provisions of Act 78 of the Public Acts of 1989 as amended.

I hereby certify that this is a true and complete copy of Big Rapids Township Ordinance No. 38, adopted by the Big Rapids Township Board at a regular meeting held on September 1, 1999 and published in the Pioneer on September 7, 1999.  
Effective Date: October 7, 1999.

Vivian Smith  
Big Rapids Township Clerk