

TOWNSHIP OF UPPER DEERFIELD

ORDINANCE

AMENDING SECTION 405-3, SECTION 405-42 AND SECTION 405 ATTACHMENT 2 OF THE CODE OF THE TOWNSHIP OF UPPER DEERFIELD

BE IT ORDAINED by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland and the State of New Jersey as follows:

Section 1.

Section 405 – 3 is hereby amended as follows:

The definition of “Earth Extraction” is hereby deleted.

The definition of “Resource Extraction” is hereby deleted and replaced with the following:

Resource Extraction - means the dredging, digging, extraction, mining and quarrying of sand, gravel, clay, or ilmenite for commercial purposes, and/or the removal of soil, from any lot in Upper Deerfield Township.

Section 2.

Section 405-42 is hereby deleted in its entirety and replaced with the following:

405-42 Resource Extraction.

A. Resource Extraction and the removal of sand, gravel, rock, earth, minerals, clay or other burden shall not be permitted in any zone in Upper Deerfield Township except as otherwise provided in Subsection B hereof.

B. The following activities are not precluded by the provisions of Subsection A above:

- (1) The excavation stockpiling and moving of soils as may be permitted activities on commercial farms pursuant to the Right to Farm Act provided for in N.J.S.A. 4:1C-1 and regulations promulgated thereunder;
- (2) The extraction use movement and removal of soils and earth materials as may be necessary pursuant to approved and validly existing construction permit and/or valid site plan approval subject to the requirements of the Cumberland Soil Conservation District.
- (3) Excavations and grading for yards, sidewalks, drainage ditches, sewage disposal systems or other minor yard improvements.

- (4) All existing approved sanitary landfill operations which are in conformance with all applicable federal, state and local statutes, regulations and ordinances.
- (5) New streets, roadways or driveways where regulated by other ordinances.
- (6) Excavations made by Upper Deerfield Township, the County of Cumberland or the State of New Jersey or by their agents, servants and/or employees as part of construction of public improvements, such as streets, highways, drainage, sewers, water lines or other similar projects.
- (7) Underground utility lines within the bounds of the public streets and roadways.
- (8) Resource Extraction activities for validly existing prior nonconforming uses as more particularly defined in subsection C that are in compliance with the requirements set forth in Subsection D below.

C. Activities qualifying for continuation as valid, preexisting, nonconforming resource extraction uses.

- (1) For resource extraction operations to qualify for continuation pursuant to the provisions of Subsection D below, it:
 - (a) Shall have been in operation prior to the date upon which this Ordinance was adopted; and
 - (b) Shall have obtained conditional use and site plan approvals from the Upper Deerfield Land Use Board prior to the date of the adoption of this Ordinance; and
 - (c) Shall have been operated in compliance with all prior approvals and permits; and
 - (d) Shall have paid all fees and monies due Upper Deerfield Township for permits, site plan applications and escrows as required by the Ordinance in effect at the time of approval; and
 - (e) Shall not have been abandoned.

D. Continuation of Valid Pre-existing Resource Extraction Operations.

- (1) The continuation of Valid Pre-existing Resource Extraction Operations, as defined herein, shall be subject to the following requirements.
 - (a) Periodic Review and Approval by Upper Deerfield Township Planning Board.
 - [1] As required by Ordinance Section 405-42D.2, and as a condition of the issuance of the permits by Township Committee pursuant to that Section, the landowner shall have made application to, and received the approval of the Upper Deerfield Township Planning Board within three (3) years of the date of the last Planning Board Review and/or Approval confirming that the continued operations meet the requirements of the prior approvals and this Ordinance.
 - (b) No Expansion of Resource Extraction Operations.
 - [1] The resource extractions operation shall be limited to those areas approved prior to the adoption of this Ordinance, and shall not be expanded beyond

those areas approved on the parcel subject to the approval, and shall not expand into any contiguous parcel.

(c) Abandonment.

[1] The right to continuation of the resource extraction operation shall cease upon the abandonment of those operations. The operations shall be deemed abandoned if the landowner fails to obtain permits for two (2) consecutive years.

(2) Application Requirements for Planning Board Periodic Review.

(a) Requirements for submission to the Planning Board of an Application for Periodic Review shall include the following:

[1] The name and address of the applicant; if the applicant is a partnership, the partnership name, business address, together with the names of all partners and their residential addresses and the date and state under which organized; if the applicant is a corporation, the name of the corporation, the place of business of such corporation, the date and state of incorporation, the names and addresses of all officers and the positions held in such corporation, together with the names and addresses of all directors of such corporation, the names and addresses of all stockholders holding ten percent (10%) or more of the stock of the corporation and the name and address of the legal representative of the corporation. If a foreign corporation, whether the same is authorized to do business in the State of New Jersey.

[2] If the owner is not the applicant, written consent of the owner to the application and proposed excavation and soil removal shall be submitted with the application as well as a statement of the relationship between the owner and the applicant. The name and business address of the owner, if an individual; the name, residence and business address of each partner, if a partnership; the name, date and state under which organized, if a corporation, and if a foreign corporation, whether the same is authorized to do business in the State of New Jersey. A corporate applicant shall indicate the names of directors, principal officers and local representatives and their business addresses.

[3] A detailed description of the premises and its location, together with the Upper Deerfield Township Tax Map, block and lot number or numbers and current zoning designation.

[4] Four (4) copies of a survey and site plan of the premises for which the Periodic Review approval is sought, prepared by a licensed engineer and surveyor licensed by the State of New Jersey at a scale of not more than one hundred (100) feet to the inch, showing the following information:

- [a] Property boundaries, existing topographical contour lines of the land involved and abutting lands and roads within five hundred (500) feet
 - [b] A copy of the United States Geological Survey quadrangle sheets showing topographical information within one (1) mile of the premises; the proposed topographical contour grades which will result from the intended soil removal; all roads and buildings, streams and bodies of water within five hundred (500) feet of the premises
 - [c] The names and addresses of adjoining landowners within three hundred (300) feet
 - [d] Existing water drainage conditions and water levels depicting on-site drainage collection and distribution
 - [e] All wooded areas
 - [f] The limit of the area or areas on the premises within which the soil operations or removal is to be conducted and the dimensions of the premises or lot
 - [g] The existing elevations of the lands, buildings, structures, streets, streams, bodies of water and watercourses on the premises or lot and the proposed final elevations at each point where existing elevations are shown on the map which are to be changed as a result of completion of the proposed work
 - [h] The proposed slopes and lateral supports at the limits of the areas, upon completion of the excavations and soil removal operations
 - [i] The proposed provisions and facilities for water drainage of a requisite on-site sedimentation pond which shall collect all drainage from the site
 - [j] The location and approximate quantities of topsoil stockpiles
 - [k] The location of any existing wetlands or stream encroachment lines
 - [l] An accurate cross-section or sections showing the location or locations and quantities, in cubic yards, of soil to be removed.
- [5] Plans showing the place or places where the entrances or exits to the excavation or area of soil removal operation fences or buildings are to be located. The plan should contain a map indicating the planned routes for all trucks entering or leaving the facility. The map shall identify routes through the Township to reach major thoroughfares in or around Upper Deerfield Township. The proposed routes shall be selected with safety in mind, but shall attempt to minimize truck traffic through or around residential developments, recreation areas or narrow (less than twenty-four (24) feet wide roads. Truck routes will be distributed at least quarterly to all truck drivers or operators. Post a permanent sign at the entrance and/or

exit which states "Designated Truck Routes Must Be Obeyed". This information may be included on the survey and site plan.

- [6] A statement of the type of equipment and apparatus to be used in the excavation and soil removal operations.
- [7] The applicant's best estimate of the total cubic yards of soil to be removed pursuant to the permit and the number and location of acres to be mined during the permit year.
- [8] The applicant's best estimate of the period of time for which the excavation or soil removal operations will be conducted and the removal completed.
- [9] A Reclamation Plan for the eventual rehabilitation and use of the site covered by the permit after the resources have been removed, which conforms to the terms of this chapter. Such a plan, at a scale of not less than one (1) inch to one hundred (100) feet, showing topographic contour intervals at not less than ten (10) feet, should be adaptable to the particular surroundings and in general agreement with the Township Master Plan, as adopted. The plan shall show the proposed treatment of the channel of any stream within the rehabilitation area and limits of excavation which will protect, as much as is reasonably possible, the natural or improved channel and any adjacent wooded areas considered vital to the function of the rehabilitated area.
- [10] A twenty-four (24) hour telephone number for use in case of emergency and the name, address and phone number of the person having direct charge or supervision of the operation.
- [11] A copy of the Soil Erosion and Sediment Control Plan which has been approved by the Cumberland County Soil Conservation District pursuant N.J.S.A. 4:24-39 et seq. No action shall be taken on any application prior to the submission of this approved plan.
- [12] An environmental impact statement in conformance with §405-42D(2)(a)[15] of this Ordinance.
- [13] A buffer/landscape Plan in conformance with §405-42D(4)(a)[10] of this Ordinance.
- [14] Notice to Property Owners within two hundred (200) feet of the boundaries of the property for which the Periodic Review approval is sought in accordance with the provisions of N.J.S.A. 40:55D.
- [15] An Environmental Impact Statement prepared in accordance with 42 U.S.C. § 4331 et seq. in the following form and including the following information.
 - [a] Purpose. The environmental impact statement shall provide a full and fair discussion of significant environmental impacts. Statements shall be concise, clear and to the point and shall be supported by evidence that the applicant has made the necessary environmental analysis.

[b] Implementation. To achieve the purposes in Subsection A, applicants shall prepare environmental impact statements in the following manner:

- (1) Environmental impact statements shall be analytic rather than encyclopedic.
- (2) Impacts shall be discussed in proportion to their significance. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.
- (3) Environmental impact statements shall be kept concise. Environmental impact statement shall include a four-season study of the impact and effect of the operation on the environment and shall include a twenty-year projection and impact analysis.
- (4) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed applicant's actions.
- (5) All factual representatives contained in the statement shall be under oath or affirmation.
- (6) Timing. An applicant shall commence preparation of an environmental impact statement as close as possible to the time the applicant will submit his application for renewal of a permit so that preparation can be completed in time for the final renewal statement to be included with the permit application.

[c] Writing. Environmental impact statements shall be written in plain language and may use appropriate graphics so that decision makers and the public can readily understand them.

[d] Applicants shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives included in the proposed action. The following format should be followed unless there is a compelling reason to do otherwise:

- (1) Cover sheet
- (2) Summary
- (3) Table of contents
- (4) Purpose of report
- (5) Affected environment
- (6) List of unavoidable adverse impacts
- (7) List of preparers
- (8) Index
- (9) Appendices (if any)

[e] Cover sheet. The cover sheet shall not exceed one (1) page. It shall include:

- (1) The title of the proposed action that is the subject of the statement.
- (2) The name, address and telephone number of the person who can supply further information.
- (3) A designation of the statement as a draft, final or draft or final supplement.
- (4) A one-paragraph abstract of the statement.

[f] Summary. Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, adverse impacts and the issues to be resolved. The summary should normally not exceed ten (10) pages.

[g] Affected environment. The environment impact statement shall succinctly describe the environment of the area(s) to be affected. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated or simply referenced. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

[h] Unavoidable adverse impacts. This discussion will include the environmental impacts of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term impacts on the immediate site environs and the maintenance and enhancement of long-term productivity and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. It shall include discussions of:

- (1) Direct effects and their significance.
- (2) Indirect effects and their significance.
- (3) Possible conflicts between the proposed action and the objectives of local land use plans, policies and controls for the area concerned, including a discussion of possible conflicts between the proposed action and the objectives of the New Jersey Department of Environmental Protection.
- (4) Energy requirements and conservation potential of various alternatives and mitigation measures.
- (5) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(6) Means to mitigate adverse environmental impacts.

[i] List of preparers. The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement. Where possible, the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified.

[j] Appendix. If an applicant prepares an appendix to an environmental impact statement, the appendix shall:

(1) Consist of material prepared in connection with an environmental impact statement.

(2) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(3) Normally be analytic and relevant to the decision to be made.

(3) Zoning Standards Applicable to Continued Use.

(a) The zoning standards applicable to the continued operations of resource extraction activities shall include the following, except where an existing resource extraction operation has been granted site plan approval by the Upper Deerfield Township Planning Board, wherein the approved site plan shall control:

[1] The site is designed so that no area of excavation, sedimentation pond, storage area, equipment or machinery, or other structure or facility is closer than:

[a] One hundred fifty (150) feet to any property line.

[b] Five hundred (500) feet to any residential dwelling existing on the date the permit is issued.

[2] The site is at least 25 acres in size, unless it is contiguous to lands already used by an active land mining operation, in which case the coordination of restoration plans between the new and existing uses will be required. When considering such coordination, the Planning Board shall require that both tracts involved are in the same ownership or that binding agreements exist between property owners to assure such coordination.

[3] The site has sufficient arable topsoil stored on site for restoration. Such topsoil stockpiles shall be treated, planted and graded so as to protect the same from wind and water erosion.

[4] The site is fenced or blocked so as to prevent unauthorized entry into the resource extraction operation area.

[5] The site is designed so that surface runoff will be maintained on the parcel involved in a manner that will provide for on-site recharge to groundwater.

- [6] The operation will be carried out in accordance with an excavation schedule which depicts an anticipated sequence, as well as anticipated length of time, that each twenty-five-acre unit of the parcel proposed for excavation will be worked.
- [7] The plan includes restoration of disturbed areas at the completion of the resource extraction operation in accordance with the provisions of Section 405-42D(4)(a)[23] herein.
- [8] The plan will not involve clearing adjacent to ponds in excess of 20 acres or an area necessary to complete scheduled operations or will not involve unreclaimed clearing exceeding 150 acres for surface excavation at any time.

(4) Design and Performance Standards Applicable to Continued Resource Extraction Operations.

- (a) The continued resource extraction operations pursuant to the terms of this Ordinance and Chapter 312 of the Township Code shall meet the following design and performance standards, except where an existing resource extraction operation has been granted site plan approval by the Upper Deerfield Township Planning Board, wherein the approved site plan shall control:

- [1] Appearance. Permitted excavations shall be operated in a neat and orderly manner, free of junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Weeds shall be cut as frequently as necessary to eliminate fire and health hazards, and non-operative vehicles and equipment shall be safely stored for periods not exceeding six (6) months. Storage or placement of materials on-site other than subsoil and topsoil which originated from the lot shall only be as allowed and approved by the Planning Board Engineer. Such storage of materials shall be identified on the topographical map submitted with the Periodic Review application pursuant to Section 405-42D(2)(a)[4]. Storage of such materials shall not interfere with the timely stabilization or final restoration of the site.
- [2] Control of dust. Permitted excavations shall be operated so as to reduce dust to a minimum. Unless otherwise specified by the Township Engineer, operations shall be conducted in accordance with the following standards:
- [3] Access roads shall be maintained in a reasonably dust-free condition. In order to minimize dust, access roads shall be paved. Areas used for the movement of haulage vehicles and mobile equipment closer than one hundred (100) feet to the point at which haulage vehicles are to be loaded shall be sprinkled with water as frequently as necessary to reduce the stirring of dust and soil to the minimum level possible.
- [4] The owner and operator of a Land Mining, Earth and Resource Extraction Operation shall be responsible for cleanup of any earth, dust or other accumulation deposited upon the public roadways by any motor vehicle,

truck or common carrier traffic picking up or discharging extracted resources. The Township Public Works Department may conduct such cleanup and assess costs of the same against the owner and/or operator of the Operation after giving three (3) days' notice to the owner and/or operator that cleanup of the roadway is required for the health, safety and welfare of residents and travelers upon the roadway. Failure to pay the cost of removal within thirty (30) days of billing shall be a further violation of this section and shall be a cause for suspension of a permit pursuant to Chapter 312 of the Township Code.

- [5] The owner or operator of a Land Mining, Earth and Resource Extraction Operation shall insure that, vibration and dust occurring from the extraction of resources or from the operation of equipment or structures incident to the same are properly maintained and operated so as to utilize muffling or insulating devices to minimize vibration and conducted in such a way as to reduce or eliminate dust, including the spraying of water on and at the extraction point in dusty conditions.
- [6] Noise and vibration. Excessive noise is prohibited. All activities shall conform to the applicable state noise regulations under the Noise Control Act of 1971 N.J.S.A. 13:1G-1.
- [7] Machinery utilized in the daily operations at the mine will feature "white noise" reverse beepers.
- [8] Idling and Standing By. The owner and operator of a Resource Extraction Operation shall clearly mark all entranceways to the premises sufficiently to give warning to any and all motor vehicle, truck or common carrier traffic picking up or discharging extracted resources that idling or standing prior to the hours of operation listed in Section 405-42.D(5) of this Ordinance is prohibited. The owner and operator a motor vehicle, truck or common carrier traffic picking up or discharging extracted resources shall not idle or stand at the entrance to a Land Mining, Earth and Resource Extraction Operation prior to the hours of operation listed in Section 405-42.D(5) of this Ordinance.
- [9] Protection of streams and water-bearing strata. Permitted excavations shall be conducted in a manner so as to keep adjacent streams, percolation ponds and water-bearing strata free from undesirable obstruction, silting, contamination or pollution of any kind, and shall not involve excavation below the seasonal high-water table. If the permit holder and Planning Board Engineer cannot agree on soil erosion and sediment control measures to be followed, any controversy shall be referred to the New Jersey Soil Conservation Service for resolution.
- [10] Buffer and Landscaping. The owner and permit holder shall maintain a protective buffer zone for the duration of the mining operation, which

shall consist of a strip of land not less than seventy-five (75) feet in width adjacent to all property lines designed as follows.

[a] The buffer adjacent to public roads shall be designed as follows:

- (1) All portions of a frontage landscape strip shall be planted in trees, shrubs, grass or ground cover, except for those ground areas that are mulched. Trees may be clustered for decorative effect following professional landscaping standards for spacing, location, and design. An earth bank or berm may be a part of the protective landscaped buffer zone.
- (2) Trees shall be provided within the frontage landscape strip at the rate of one tree for every 25 to 40 feet of street frontage, or portion thereof (excluding driveways) depending on tree height at maturity. Trees must be of a type that is suitable to local growing conditions.
- (3) Upon planting, new trees shall have a caliper of no less than 2.5 inches, and may be clustered for decorative effect and environmental benefit following professional landscaping standards for spacing, location, and design.
- (4) Trees and shrubs in the frontage landscape strip are not to extend into the street right-of-way, nor interfere with the sight triangle requirements specified in §405-18 of the Zoning and Development Code for street and driveway intersections.
- (5) Shrubs are to be provided within the frontage landscape strip at the rate of 10 shrubs for every 60 feet of street frontage, or portion thereof (excluding driveways). Shrubs must be at least 18 inches tall at the time of planting.
- (6) Trees planted in the frontage strip shall not be located beneath overhead electrical wires.

[b] The buffer adjacent to side and rear property lines shall be designed as follows:

- (1) Buffers may be comprised of earth berms, fences, and landscaping, which shall be of a sufficient quantity, species and size to add some protection from noise, dust, fumes and the like. The buffering shall be designed to insure a year-round high and low visual screen and consist predominantly of native evergreen and deciduous trees and shrubs. Any physical barriers to be constructed, such as fencing, shall be constructed within the buffer area.

- (2) Two or more species of evergreen and deciduous trees are to be provided to reduce the effects of potential tree disease and to provide a more naturalized buffer.
- (3) If shade trees are to be installed, they shall be provided in the buffer at the rate of one tree per 1,000 square feet of buffer area.
- (4) Landscaping buffers shall be designed to block 75% of all views from one side to the other within five years after planting.
- (5) An earth bank or berm may be a part of the protective landscaped buffer zone. The Planning Board Engineer shall approve the design of the earth bank or berm and same shall be landscaped, stabilized and maintained.

[11] The Planning Board Planner shall approve all items to be installed or planted.

[12] Blasting. Blasting shall not be permitted in conjunction with any approval issued under this chapter.

[13] Erosion. Throughout the duration of the mining operation, the owner and permit holder shall construct and maintain an earth bank or berm or whatever is necessary in the determination of the Planning Board Engineer and in compliance with the Soil Erosion and Sediment Control Permit, to prevent any erosion which may occur from being carried onto public roads or watercourses or property of others during the extent of the removal operation.

[14] Tracking and spillage. The owner and permit holder shall take reasonable precautions, including, but not limited to the covering of the material in the vehicle and installation of tracking pads, to prevent the spilling of mine materials from and/or tracking of same by vehicles used in conjunction with the mining operation onto public roads or property. All such precautions shall conform to the standards of the Soil Conservation Service.

[15] Road Maintenance. The permittee shall repair, restore and repave that portion of the public road at the drive access from time to time in accordance with the specifications and requirements of the Township Engineer.

[16] Fences.

[a] In the case of any open excavation, there shall be a fence, with suitable gates, completely enclosing the portion of the property on which the excavation is located.

[b] All such fences shall be of durable construction and at least six (6) feet in height. All such fences must be approved by the Planning

Board Planner. The fence shall be located at all points forty (40) feet or more distant from the edge of such excavation.

[c] All barriers and gates employed by the owner or permit holder for the purpose of blocking and/or restricting access to ingress and egress points at mining operation sites shall conform with the following standards:

- (1) Fences located within seventy five (75) feet of a public right-of-way shall be black vinyl-coated chain link.
- (2) A reflective strip a minimum dimension of six (6) inches in height shall be positioned across the entire face of the barrier or gate. The reflective strip shall consist of alternating diagonal stripes of white and international orange.
- (3) The use of ropes, wires, chains, cables and similar-type materials are prohibited for barrier or gate usage.

[17] Sedimentation pond. Each owner and permit holder shall maintain an on-site sedimentation pond which shall collect all drainage from the site. The design of the sedimentation pond shall conform to the standards of the Soil Conservation Service. The owner and permit holder shall also provide for the adjustment of the pH of the collected waters to conform to the Standards of the Soil Conservation Service and the New Jersey Department of Environmental Protection and Energy. The design of the pond and the provisions for the treatment of the collected water shall be subject to the approval of the Planning Board Engineer.

[18] Acreage markers. During the term of any permit, the limits of the acreage included in the permit shall be prominently marked at the site of operation by markers at least five (5) feet in height above ground levels and painted a color to be designated by the Planning Board Engineer so that the limits of the permit area shall be readily identified. The lateral interval between said markers shall not exceed four hundred (400) feet in distance. No mining operation shall be conducted without the above markers being in place. The Planning Board Engineer may waive portions of this requirement when he deems it impractical to mark the entire perimeter of the permit area.

[19] Interim grading and stabilization. Any area of a lot which was previously mined or disturbed but not completed and which is not part of an area covered by a current mining permit issued pursuant to Chapter 312 of the Township Code, shall be graded and stabilized within six (6) months of the issuance of the current mining permit. Interim grading shall be as approved by the Planning Board Engineer

and shall include sufficient topsoil to establish a temporary vegetative cover.

[20] Acid soil (generally a pyrite-bearing material). In order to provide suitable conditions for growth of vegetation and to prevent the acidifying of drainage water with resultant damage and destruction to aquatic life in those areas underlain with acid formations with pH below four point zero (4.0), the following requirements shall be met:

[a] Grading shall be such that a minimum of acid formation shall be exposed.

[b] All exposed acid materials shall be covered with a minimum of twelve (12) inches of suitable subsoil in addition to a minimum of five (5) inches of topsoil which shall be sufficient to support a vegetative cover. Topsoil shall have an organic content as specified herein. The Planning Board Engineer may require the addition of lime to the remaining topsoil to support vegetative growth, in his discretion.

[c] Brooks and ditches with acid formation exposed shall be surfaced with trap rock or other suitable material to prevent water from flowing in contact with the acid material.

[d] Ponds with exposed underwater acid formation shall be treated with lime and phosphate as needed to establish a suitable pH, and provisions shall be made for neutralization maintenance as required.

[21] Interim slopes and temporary grading. In the removal of subsoil, the permit holder shall conduct the operations in such a manner so that there shall be no sharp downward slopes, pits or depressions. In order to eliminate dangerous slopes, faces and excavations which may create conditions harmful to the health, safety and welfare of the public, temporary grading and backfilling is required on a daily basis.

[22] Standards relating to production and processing.

[a] All mining operations shall be conducted in a manner not inconsistent with the rehabilitation plan and in such a manner that the objectives of the plan may be realized after the sand and gravel have been removed.

[b] If overburden is stockpiled in either windrows or concentrated piles, it shall be stabilized in a manner so that it does not become a source of dust and dirt to adjacent property owners. Topsoil, when practicable, shall be stockpiled separately from the rest of the overburden.

[c] No operation shall accumulate or discharge beyond the property lines any waste matter in violation of the applicable standards of the New Jersey State Department of Health.

- [23] Standards relating to land restoration.
- [a] The parties to the permit for extraction mining, including any applicant, owner or operator are responsible for the rehabilitation of the area is substantial compliance with the restoration plan on file with the Township Planning Board.
 - [b] Dry-pit restoration. The dry pit may be backfilled with sand, gravel, overburden, topsoil or other non-noxious, nonflammable, noncombustible solids. For excavations backfilled and restored, the following requirements shall be met:
 - (1) The graded or backfilled area shall not permit stagnant water to collect or remain therein.
 - (2) The finished topography and surface of the area shall be in such a manner as to not be uncomplimentary with the surrounding area and shall be consistent with the finished topography and surface of adjacent lands and area to all practicable extent.
 - (3) The finished final condition of the area shall be in substantial compliance with the restoration plan.
 - (4) Topsoil shall be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated. Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated, but in no case shall the finished final condition of the area permit stagnant water to collect.
 - (5) Any sedimentary pond or stormwater management basin created by the resource extraction operation shall be restored to the maximum extent practical to the conditions existing at the time the resource extraction operation was initiated and in accord with the restoration plan.
 - (6) All equipment, machinery and structures, except for structures that are usable for any other use authorized for the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed.

[24] Hours of operation. Unless modified by the Planning Board, no Land Mining, Earth and Resource Extraction Operations pursuant to this Ordinance shall be conducted before six o'clock (6:00 a.m.) in the morning nor after four-thirty o'clock (4:30 p.m.) in the evening Monday through Friday, nor before seven o'clock (7:00 a.m.) in the

morning nor after one o'clock (1:00 p.m.) on Saturdays. There shall be no operations of any kind on Sundays or on the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day.

(5) Inspections.

- (a) The owner and operator of a Resource Extraction Operation shall permit a minimum of two inspections per year of the premises by the official charged with enforcement of this Ordinance for the purpose of determining whether or not the owner and operator is in full compliance with its permit as well as full compliance with all applicable Ordinances, statutes, and relevant administrative rules and regulations. At least four (4) days prior to conducting said inspection, the official charged with enforcement shall provide the owner and operator with written notice of their intent to conduct inspection. Said inspections of the premises shall be permitted at any reasonable time by such person or persons assigned to conduct such inspections. Such inspections may include the depth of the pit, area already mined and extent to which area not being mined is being reclaimed and/or stabilized. The owner and operator shall pay any cost thereof, which costs shall be included as part of the escrow fee which is deposited with the Township or as guaranteed by a letter of credit.
- (b) The inspector shall issue an inspection report, in writing, to both the Planning Board and to the owner and operator within twenty (20) days of any inspection pursuant to Subsection (5)(a) above, and may, identify any conditions requiring correction and abatement. The inspector shall provide a copy of the inspection report to Township Committee. Upon receipt, the Township Committee may take such action as it deems appropriate to cure the violation and/or suspend or revoke the Resource Extraction Permit.

Section 3.

A. Repeal of existing ordinance provisions.

- (1) In addition to the repeals to Section 405-3 and Section 405-42 identified in Section 1 and Section 2 of this Ordinance, the following ordinance section is hereby repealed:

- (a) Section (2)(e) of the Schedule of District Regulations Agricultural District (405b).

BE IT FURTHER ORDAINED by the Township Committee of the Township of Upper Deerfield that in all other respects the provisions of Chapter 405 of the Code of the Township of Upper Deerfield shall remain as heretofore and unaltered by the provisions hereof.

BE IT FURTHER ORDAINED by the Township Committee of the Township of Upper Deerfield that all ordinances or portions thereof inconsistent with this Ordinance are repealed to the extent of such inconsistency.

If any portion of this Ordinance is declared to be invalid by a Court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance which shall remain in full force and effect.

This Ordinance shall take effect in the time and manner prescribed by law.

NOTICE

Notice is hereby given that the foregoing proposed Ordinance was introduced and passed by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held on January 18, 2018, and will be further considered for final adoption at a public hearing to be held by said Township Committee on Thursday, February 15, 2018 at 7:00 P.M., then prevailing time, at the Municipal Building, Seabrook, New Jersey.

Township Clerk
Roy Spoltore

James Crilley, Chairman

Finally Attested:

Roy J. Spoltore, Township Clerk

First Reading:

Publication:

Publication of Final Adoption:

November 22, 2017