

Chapter 328

RESOURCE EXTRACTION

GENERAL REFERENCES

Uniform construction codes — See Ch. 133. Land use and development — See Ch. 245.
Construction debris removal — See Ch. 139.

§ 328-1. Short title.

This chapter may be referred to as the "Resource Extraction Chapter."

§ 328-2. Permit required.

No person shall engage in the extraction of sand, gravel, or other soils or minerals for commercial purposes on any parcel of land in the Township without first having obtained permission from the Township Council. Such activities shall include excavation or other removal of sand, gravel or other soil or minerals, sale or stockpiling of soils, and transport of materials from the premises from which the material has been taken. The requirements of this chapter shall not, however, apply to excavation in connection with development approved by the Township Planning Board or Zoning Board for which a soil permit has been issued, provided that not more than 10,000 cubic yards of material is removed from the premises or in connection with agricultural activities. The issuance of a resource extraction permit by the Township shall not in any way alter the necessity to comply with the requirements of other local ordinances; county, state, federal or other laws; or to obtain permits, licenses or approvals required thereunder.

§ 328-3. Application requirements.

Application shall be made by submitting a written request for approval to the Township Clerk. Such request shall be accompanied by seven sets of the following items and information which shall constitute a complete application:

- A. A statement containing the following details with respect to the application:
 - (1) The applicant's name and address and the name and address of any individual or entity which owns 10% or more of the stock or partnership interest in the applicant. Where any such entity, so disclosed, is a corporation or partnership, the application shall list the name and address of any person which owns 10% or more of the stock or partnership interest in such corporation or partnership until the name and addresses of the noncorporate stockholders and individual partners exceeding the ten-percent ownership criteria have been listed;

- (2) The property owner's name and address, if different from the applicant, and the name and address of any individual or entity which owns 10% or more of the stock or partnership interest in the applicant. Where any such entity, so disclosed, is a corporation or partnership, the application shall list the name and address of any person which owns 10% or more of the stock or partnership interest in such corporation or partnership, together with the owner's written consent to the filing of the application until the names and addresses of the noncorporate stockholders and individual partners exceeding the 10% ownership criteria have been listed;
 - (3) The description of the subject property including tax block and lot numbers and street address, if any;
 - (4) A brief written description of the present and proposed usages of the subject property.
- B. Proof that no taxes or assessments for local improvements are due or delinquent on the property in question;
- C. Evidence of payment in full of the permit application fee;
- D. Evidence of payment of a deposit against estimated professional review fees to be placed in escrow;
- E. A USGS quadrangle map, with the boundaries and dimensions of the property clearly marked, showing an area extending in all directions at least 1,000 feet beyond the property boundaries;
- F. A resource extraction proposal which sets out the limitations within which the permit holder will conduct extraction operations and containing the following elements, the required contents of which are set forth elsewhere in this chapter:
- (1) An ultimate land form plan showing, for the entire tract, the general conditions that will exist at the conclusion of all resource extraction operations;
 - (2) An operational limit statement describing the limitations which will be imposed on various operations to mitigate or ameliorate any undesirable effects;
 - (3) A Tract Map delineating areas for the purpose of planning and implementing various resource extraction and site rehabilitation activities;
 - (4) An extraction schedule which hits the component plans for each area delineated on the Tract Map for which approval is sought during the permit period.

G. Component plans, as follows, for active areas delineated on the Tract Map and listed on the extraction schedule, the required contents of which are set forth elsewhere in this chapter:

- (1) Area clearing plans indicating proposed removal of vegetation or topsoil for all areas to be cleared during the permit period;
- (2) Area excavation and processing plans indicating the proposed physical conditions for each area intended for extraction, processing, storage or ponding activity and other areas with existing or proposed buildings during the permit period;
- (3) Rehabilitation plans showing current conditions and proposed reuse or revegetation of areas intended for extraction and remedial activity for all areas previously cleared.

§ 328-4. Action by Township Clerk.

Within 10 days of receipt, the Clerk shall either forward copies of the application to the Township entities listed below with a certification that all required items have been submitted or return the application to the applicant with a statement as to the items which have not been submitted. The Clerk shall forward two copies of the application to the Township Engineer and one copy to the Township Planning Board. One copy shall be retained as the Township's record and one copy shall be retained for return to the applicant upon approval.

§ 328-5. Reports to Council.

Within 45 days of receipt of a complete application by the Clerk, the Township Planning Board and the Township Engineer shall report their separate findings and recommendations to the Township Council for their review and action.

§ 328-6. Waiver of requirements.

Where an application includes a request for omission of one or more of the required contents of a resource extraction proposal or component plan and the Engineer determines that the information is not necessary to render a decision, the requirement may be waived. Where the required information or any additional information is deemed necessary to render a decision, the applicant shall be notified of such deficiency and provided the opportunity to furnish the necessary information.

§ 328-7. Action by Township Council.

The Township Council shall take action on the resource extraction proposal and any component plans after examining the documents constituting the application and any supplements or amendments thereto and after reviewing the reports of the Township Planning Board and of the Township Engineer and such other parties as the Council may deem appropriate. The

Township Council shall take no action on an application until the use has been determined to be in compliance with Township zoning.

§ 328-8. Approval of applications.

Approval may be granted where the proposed activities and limitations contained in the resource extraction proposal and component plans are sufficient to achieve the objectives required by this chapter. The following documents shall be deemed to be in conformance with this section and shall be accepted without modifications or alterations.

- A. Soil erosion control plans approved by the Ocean County Soil Conservation District shall be accepted as satisfying the dust/mud control and erosion control requirements of this chapter.
- B. Landfill plans approved by the New Jersey Department of Environmental Protection shall be accepted in lieu of area clearing plans, area excavation and processing plans and rehabilitation plans for portions of the tract to be used for landfill.
- C. Site plans and major subdivision plats approved by the Manchester Township Planning Board or Zoning Board shall be accepted in lieu of rehabilitation plans for those portions of the tract to be developed for nonextraction uses.

§ 328-9. Denial of approval.

Where the proposed activities and limitations are not sufficient to achieve the objectives of this chapter, approval may be denied. Approval may be withheld for the entire application or for individual component plans. Components for which approval has been denied may be resubmitted for further consideration.

§ 328-10. Conditions of approval.

The Township Council may attach conditions to the approval of the resource extraction proposal or any component plans where reasonable and necessary to ensure satisfactory compliance with the requirements of this chapter.

§ 328-11. New site, standby and renewal applications.

Exceptions or additional requirements which are warranted by special circumstances shall apply as follows.

- A. New site applications which propose excavation on new sites may defer submission of the component plans for individual operational areas until such time as a resource extraction proposal for the entire tract is approved.
- B. Standby applications which propose no active excavation operations may omit the component plans, except that a rehabilitation plan shall

be submitted for those areas which have not been rehabilitated in accordance with this chapter.

- C. Renewal applications. Applications for renewal which seek approval of a previously approved component plan or element of a resource extraction proposal may omit the component or element and substitute a statement referencing the document by type of element or component and by the area number referenced. Applications for renewal of permits should be submitted not later than November 1 of the year in which the permit expires. The decision of the Township Council may take into consideration the applicant's record of compliance with prior permit requirements.

§ 328-12. Issuance of permit.

After a resource extraction proposal or component plan has been approved by the Township Council, a copy of the approved elements of the resource extraction proposal or component plans shall be annotated to certify approval and returned to the applicant and a permit shall be issued by the Township Clerk upon submission of the following items:

- A. A report of the Township Engineer indicating satisfaction of all conditions of approval or indicating that a conditional permit may be issued excluding specific elements of the resource extraction proposal for which approval has been withheld;
- B. A report of the Township Engineer that a performance guarantee in a form approved by the Township Attorney has been posted in favor of the Township in an amount equal to 120% of the cost, as estimated by the Township Engineer, of completion of all work necessary under the rehabilitation plans;
- C. Evidence that all professional review fees have been paid;
- D. Evidence of payment of periodic inspection fees.

§ 328-13. Continuing requirements.

Throughout the period of the permit, a permit holder shall satisfy the obligations of the approved resource extraction proposal and component plans and shall be subject to the following requirements.

- A. No clearing activities may take place anywhere on the tract except in accordance with an approved area clearing plan for that location.
- B. No excavation activities may take place anywhere on the tract except in accordance with an approved area excavation and processing plan for that location.
- C. All permit holders shall maintain, on premises and available for examination by the Township Engineer, the following:

- (1) A log recording the volumes excavated, shipped and received each month and comparing them with the limits established for each type of material by the approved operational limit statement and certifying that such volumes are in compliance;
 - (2) Proof on a quarterly basis that no taxes or assessments for local improvements are due or delinquent on the property in question;
 - (3) Evidence that all periodic inspection fees have been paid.
- D. All permit holders or applicants for permits shall permit entry of the subject premises by the Township Engineer for the purpose of making required inspections.
- (1) The Township Engineer shall visit the premises upon receipt of a permit application to verify existing conditions.
 - (2) The Township Engineer shall visit the premises during the fifth, 10th, 15th and 20th months of the permit period to inspect the facilities and operations within active operational areas, to determine whether operations are proceeding in accordance with the approved resource extraction proposal and component plans and to examine the reports which the permit holder is required to maintain for the purpose of verifying compliance with the limits on materials excavated, shipped and received.
 - (3) The Township Engineer may visit the premises for the purpose of investigating conditions which may constitute violations of an approved resource extraction proposal and component plans or this chapter.
- E. All permit holders shall provide the Township with copies of documents relating to actions or pending actions of state or federal agencies on licenses, permits or other authorizations.
- F. No land subdivision or other development subject to approval by the Planning Board or Board of Adjustment shall take place without a developer's agreement to undertake rehabilitation of previously cleared or excavated areas in need of rehabilitation. The acreage required to be rehabilitated shall be equal to the acreage of clearing required for proposed site development or 85% of the area of proposed new lots without specific development plans.

§ 328-14. Release of performance guarantee.

Any performance guarantee posted by an applicant shall be released upon request in accordance with procedures established pursuant to N.J.S.A. 40:55D-1 et seq. for land development, provided that:

- A. The Township Engineer inspects the improvements covered and finds that they have been satisfactorily completed;
- B. Performance guarantee inspection fees have been fully paid; and

C. A maintenance guarantee has been posted for a two-year period.

§ 328-15. Permit period.

Any permit so issued shall be for a period of two years ending on December 31 of the second year.

§ 328-16. Contents of resource extraction proposal and component plans.

Documents submitted as part of a proposed resource extraction proposal or component plan shall contain the following information or, in lieu of a specific item, a request for its omission stating the reason why the item is not essential for the review and approval of the resource extraction proposal or component plan. Where the information to be provided is found by the Township Engineer to be insufficient, inadequate, unclear or inaccurate, the Township Engineer may request supplementary material or resubmission of revised documents.

A. All drawings. Drawings shall be 24 inches by 36 inches or larger and show the following items:

- (1) The name, address, telephone number and title of the civil engineer, planner, surveyor, or landscape architect preparing the drawings,
- (2) North point, graphic scale, and date,
- (3) A key depicting the representation of the following required elements:
 - (a) Topographic contours (indicating elevations at two-foot intervals but increased to one-foot intervals where slopes are less than 4% or decreased to ten-foot intervals where slopes are greater than 10%);
 - (b) Streets or roads (whether on or abutting the property, with their name, location, pavement type, width and grade, and right-of-way width);
 - (c) Easements or utility rights-of-way (whether on or abutting the property, with their purpose; location and width),
 - (d) Structures;
 - (e) Important natural features, including:
 - [1] Wetlands and required transition areas;
 - [2] Water bodies, watercourses, flood hazard areas and other drainage features with flow directions indicated;
 - [3] Significant vegetation, forest associations and wildlife habitats;

(f) Benchmarks.

- B. Ultimate land form plan. An ultimate land form plan shall provide a map with a key depicting the representation of the following required elements:
- (1) Proposed arterial or collector roads and their connection to present public roads;
 - (2) Permanent lakes, ponds, or streams proposed within the reclaimed area and their connections to streams or drainageways beyond;
 - (3) Proposed works of man within the reclaimed area (dams, buildings, etc.);
 - (4) A narrative description of the nature and degree of flexibility considered to be needed in execution of the plan.
- C. Operational limit statement. An operational limit statement shall include:
- (1) A statement as to the date after which operations are expected to cease;
 - (2) A schedule of the proposed limits on hours of operation by day of the week for each type of operation;
 - (3) A schedule of the monthly limits on the volumes of material to be stripped, excavated, stockpiled and shipped with volumes transported to or from the site specified by truck, and by other means, and with materials specified by topsoil, fill, and all other materials;
 - (4) An inventory of equipment and structures proposed to be used in the operations, with the proposed method of their disposal upon completion of the excavation;
 - (5) An appendix containing the documents intended to inform the operators agents and employees as to the restrictions on activities intended to mitigate undesirable effects which will be employed in addition to the physical controls proposed to be established by the component plans, including but not limited to:
 - (a) Methods for the removal and disposition of vegetation, overburden or topsoils;
 - (b) Operating practices proposed to be used to minimize noise or vibration;
 - (c) Proposed methods to prevent pollution of surface or underground water;
 - (d) Proposed methods to prevent air pollution;

- (e) A testing schedule for all required environmental monitoring;
 - (f) Proposed surface treatment of on-site roads and means to limit dust or mud on off-tract streets, including contingency measures;
 - (g) Off-tract routes to be used to travel between the property and the nearest arterial road.
- D. Tract Map. A Tract Map shall depict the entire property at a scale of not more than 400 feet per inch, and show:
 - (1) A schedule of the operational areas delineated for each type of operation, including clearing, excavation, processing, storage, ponding or site rehabilitation proposed during the permit period, along with areas proposed to remain inactive (each area is to be serially numbered and keyed to individual component plans);
 - (2) A table summarizing the sequence and ultimate limits of large areas of future expansion into undisturbed or inactive areas;
 - (3) A key depicting the representation of the following required elements:
 - (a) Buffers;
 - (b) The roads to be used for ingress and egress and for access to operational areas;
 - (c) Existing or proposed sanitary facilities to be used;
 - (d) Existing or proposed potable and process water facilities to be used.
- E. Extraction schedule. An extraction schedule shall contain a table showing the various operational areas depicted on the Tract Map showing:
 - (1) The acreage of each area;
 - (2) The component plan or plans that will control activities in each area;
 - (3) The anticipated period that the component plan will be in effect.
- F. Area clearing plans. Area clearing plans shall include:
 - (1) Identification of the operational area as depicted and labeled on the Tract Map;
 - (2) A key depicting the representation of the following required elements:
 - (a) Delineation of the area to be cleared;

- (b) Delineation of approved wetlands jurisdictional limits and transitional areas;
 - (c) Property lines within 200 feet based on a current certified boundary survey.
 - (3) A narrative description of the methods of removal and disposal of vegetation and locations for stockpiling topsoil and overburden.
- G. Area excavation and processing plans. Area excavation and processing plans shall include:
- (1) Identification of the operational area as depicted and labeled on the Tract Map;
 - (2) A key depicting the representation of the following required elements:
 - (a) Delineation of the area to be excavated or utilized for processing activities;
 - (b) Proposed limits on the extent and maximum depth of excavation;
 - (c) Locations of at least one boring for each 10 acres of area to be excavated accompanied by a report which shows soil conditions and indicates the groundwater elevation when encountered to a depth five feet below the proposed excavation or to such other depth as may be warranted by site conditions;
 - (d) Delineation of approved wetlands jurisdictional limits and transitional areas;
 - (e) Property lines within 200 feet based on a current certified boundary survey;
 - (f) Principal service or processing buildings or enclosures;
 - (g) Settling basins, process water ponds and overburden storage areas;
 - (h) Screening berms, fencing, gates, parking and signs (with construction details showing dimensions and materials).
- H. Rehabilitation plans. Tract rehabilitation plans shall include:
- (1) Identification of the operational area as depicted and labeled on the Tract Map;
 - (2) An assessment of post-extraction conditions with reference to the objectives of any restoration, reuse, development or redevelopment efforts completed or underway;
 - (3) A statement of planned rehabilitation, including methods of accomplishment, phasing, and timing, with reference to:

- (a) Specific plans for regrading to control erosion or eliminate hazards;
- (b) Specific plans for correcting or controlling stagnation or water pollution;
- (c) Specific plans for landscaping and replanting;
- (4) For any area to be restored, a restoration plan including:
 - (a) A key depicting the representation of the following required elements:
 - [1] Delineation of the area to be restored;
 - [2] Proposed grading and final elevations.
 - (b) Landscape schedule showing:
 - [1] Topsoil material application and preparation;
 - [2] Type, quantity and age of vegetation to be used;
 - [3] Fertilizer application including method and rates.
 - (c) A depiction of planting method details;
 - (d) A maintenance requirements schedule.
- I. A detailed estimate of costs based on documented prevailing costs for similar work.

§ 328-17. Siting of operational areas.

All operational areas should be situated to minimize impacts on the value and desirability of adjoining properties and shall be situated such that:

- A. They are to be conducted on a tract which encompasses at least 20 contiguous acres;
- B. All new operations are at least 200 feet from any property line;
- C. All new operations are at least 500 feet from any residential or non-resource-extraction-related commercial use which is in existence on the date the permit is issued;
- D. Operational areas designated for clearing or excavation are limited to stages in which the area of any individual stage shall be not more than 20 acres;
- E. All operational areas designated for clearing or excavation be limited to not more than 100 acres at any time;
- F. All topsoil that is necessary for rehabilitation will be retained on the site.

§ 328-18. Operational controls and limitations.

Operations shall be governed by an operations statement which provides for employment of operational practices designed to prevent undesirable effects and includes:

- A. Reasonable limits on monthly shipment volumes of various types of material to prevent traffic congestion or unduly accelerated road wear;
- B. Reasonable hourly limits set for each day of the week for various operations for those operations or those delineated areas which could adversely impact nonindustrial land uses;
- C. Monitoring procedures to detect the emergence of undesirable conditions.

§ 328-19. Conditions at conclusion of operations.

The physical conditions planned to exist after extraction has been concluded shall provide for reasonable reuse of the subject property and provide for:

- A. Securing site plan approvals from the Planning Board or Zoning Board for any structures or facilities remaining six months beyond cessation of extraction operations in accordance with zoning requirements for a change in land use from extraction to open storage or other use;
- B. Areas of upland to be of such size and configuration as to be suitable for redevelopment;
- C. Soil conditions in upland areas to be suitable for redevelopment;
- D. Topsoil to be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated;
- E. Drainage systems to be restored to the maximum extent practical to conform to those existing at the time the resource extraction operation was initiated;
- F. Stormwater management facilities with sufficient capacity to accommodate the increase in stormwater runoff generated due to the change in surface coverage from natural pre-disturbance conditions to post-disturbance conditions (rehabilitated immature growth unless otherwise developed) designed in accordance with the design standards for subdivisions and site plans.

§ 328-20. Noise and vibration levels.

The siting of equipment, routing of vehicles and the employment of other mitigating devices and control practices shall be designed to ensure that off-site noise and vibration levels emanating from on-site activities conform with the standards of the Township's Chapter 275, Noise, Article I, Noise Control.

§ 328-21. Traffic.

Traffic routing and control practices shall be designed to minimize undesirable effects and provide for:

- A. Safe and convenient access and egress to the public street system;
- B. On-site and off-site traffic is routed so that no alternative route would have a lesser impact on sensitive residential areas;
- C. Minimal impact on road/bridge durability and that contributions are made for the permit holders' pro rata share of any costs due to accelerated frequency of road or bridge replacement compared to developed industrial areas.

§ 328-22. Hazard mitigation.

Reasonable safety practices shall be employed to restrict and control access to active areas, including:

- A. Measures for control of unauthorized entry into the resource extraction operation through access roads;
- B. Measures to block entry to active areas;
- C. Provisions for all equipment, machinery and structures to be secured after the resource extraction operation is terminated.

§ 328-23. Aesthetic enhancement.

Appropriate measures shall be employed to prevent visually blighting conditions.

- A. Appropriate preservation practices shall be employed along scenic road or stream corridors and near historic/cultural landmarks where such corridors or landmarks are identified by state, county or municipal master plans.
- B. Clearing, excavating and processing operations shall be screened in such a manner that they are not readily visible from residential and other nonindustrial uses. Screening measures shall conform with the following minimum requirements:
 - (1) All screening shall be designed, installed and maintained as necessary in order to minimize visibility from the areas intended to be protected.
 - (2) Screening may be installed along the perimeter of the visible portion of an operational area, along the interior of an undisturbed buffer area or along a perimeter property line.
 - (3) Required screening shall be installed prior to commencement of operations.

- (4) All screening shall consist of solid masonry walls, solid wood fences, landscaped earthen berms or dense evergreen plantings or any combination thereof. If, 24 months after commencement of operations in the area to be screened, the Township Engineer determines that the plant materials installed have not formed an opaque screen, a fence or other form of solid screen shall be established.
- (5) The required screen shall have a total height of not less than six feet. Where there is a difference in elevation on the opposite side of the screen, the height shall be measured from the highest elevation.
- (6) Required screening shall be set back at least 20 feet from the point of intersection of:
 - (a) A vehicular accessway or driveway and a street;
 - (b) A vehicular accessway or driveway and a sidewalk; and
 - (c) Two or more vehicular accessways, driveways, or streets.

§ 328-24. Dust/mud control.

Appropriate practices shall be employed to prevent off-site accumulations of mud or dust, including street cleaning provisions when necessary.

§ 328-25. Erosion control.

Appropriate erosion control practices shall be employed concentrating on removal of overburden, including:

- A. Limitation on clearing adjacent to ponds to not more than 20 acres;
- B. Provisions that stockpiles will be protected from wind or water erosion.

§ 328-26. Water table protection.

Practices shall be employed to ensure that excavations penetrating below the seasonal water level do not lower the water table on adjoining properties and that aquifer recharge is not diminished due to clay settling, including:

- A. Diversion of surface runoff to provide for on-site recharge to groundwater;
- B. Limitations on excavation beyond a depth exceeding 65 feet below the natural surface of the ground existing prior to excavation, unless it can be demonstrated that a depth greater than 65 feet will not result in significant adverse impact relative to the proposed final use or off-site areas.

§ 328-27. Water quality.

Practices shall be employed to ensure that excavation or fill operations do not degrade surface or subsurface water quality.

A. Practices shall include:

- (1) Provisions ensuring that fill used in pits will be nontoxic;
- (2) Provisions ensuring that soil particle sizes used to fill pits will not disrupt groundwater hydrology;
- (3) Provisions for water quality to be periodically checked for toxicity;
- (4) Provisions or pretreatment of any process water to be discharged to pits or streams.

B. Sedimentation control facilities shall conform to the following minimum requirements:

- (1) Settling ponds shall be constructed of sufficient capacity and character to essentially remove sediment and reasonably clarify the water used in the extraction process before such water is discharged into the stream.
- (2) Bottoms of settling ponds shall be scarified and accumulations of silt removed at times when the water level is low or ponds are dry in order to provide a maximum previous condition.
- (3) Dikes shall be constructed as necessary to impound the silt-laden water. All dikes shall have a minimum top width of 10 feet with side slopes at the rate of three feet horizontally to one foot vertically. Tops of dikes shall be a minimum of one foot above tops of discharge pipes or one foot above crests of spillways.
- (4) Outlet pipes or spillways in dikes for any settlement pond shall be set at flow line elevations that ensure adequate capacity to prevent topping and consequent washouts of the dike. Pipes and/or spillways shall be set a minimum of two feet above the bottom of settlement ponds. At points of discharge of pipes or spillways, adequate measures shall be taken to prevent erosion of the dike or of the ground surface between the dike and the stream into which effluent is discharged.

§ 328-28. Rehabilitation.

Rehabilitation of areas cleared or excavated shall provide for useful and productive land including development, redevelopment and preparation thereof or restoration insofar as practicable.

A. Lands graded and stabilized in accordance with an approved site plan or subdivision for nonextraction usage or in accordance with an

approved landfill plan shall be deemed to be rehabilitated in accordance with this section.

- B. Areas not otherwise undergoing rehabilitation within one year of completion of excavation shall be restored. Areas to be restored shall, to the maximum extent practical, result in the reestablishment of the vegetation association which existed prior to the extraction activity.

(1) Revegetation shall include:

(a) Enrichment of soils.

(b) Stabilization of exposed areas by establishing ground cover vegetation, and either:

[1] The planting of a minimum of 1,000 one-year-old pitch pine seedlings per acre; or

[2] Cluster planting of characteristic Pinelands oak species, such as blackjack oak, bear oak, chestnut oak and black oak, and shrubs such as black huckleberry, sheep laurel and mountain laurel, at a spacing sufficient to ensure establishment of the species.

(2) Restoration shall be a continuous process and each portion of the parcel shall be restored such that ground cover will be established within two years and tree cover will be established within three years after resource extraction is completed for that portion of the site.

(3) Restoration shall proceed in the same sequence and time frame set out in the extraction schedule required in the application.

(4) All restored areas shall be graded to contours having a natural appearance and conform with the following minimum requirements:

(a) A minimum slope of 1% shall be maintained throughout the site to ensure adequate drainage.

(b) No grade shall exceed one foot vertical to three feet horizontal.

(c) All areas within 100 feet of shorelines shall be graded to a slope not exceeding one foot vertical to five feet horizontal.

(d) All areas within 50 feet of any street, road, highway or other public thoroughfare shall be graded to an elevation at or above the surface of the center line of the thoroughfare.

(e) All areas within 200 feet of any exterior property line shall slope to a grade of not less than four feet horizontally to each one foot of depth.

- (f) All underwater excavations shall be restored to minimum slopes not exceeding the stable natural repose of the soil under buoyant conditions.
- C. Areas previously cleared or excavated and in need of rehabilitation shall be restored, but proposed regrading and revegetation activity may be staged over an extended period. Where such areas exist, the minimum area to be rehabilitated during any two-year permit period shall not be less than the total area of land proposed for clearing or excavation as delineated on approved area clearing plans and area excavation and processing plans and in no case less than 20 acres.

§ 328-29. Appeals.

Any applicant aggrieved by an action relating to this chapter may file, with the Township Clerk, a written request for a hearing. The request shall be made within 10 days of the action in question and shall specify the particulars of the action which the aggrieved party wishes to have modified or set aside and the reasons thereof. Within 30 days of receipt of the request by the Clerk, the Township Council shall conduct a hearing on the appeal. After such hearing, the Council may reverse or affirm the action, with or without the imposition of conditions, provided that the purposes of this chapter would still be met. The fee for the initial session shall be paid upon submission of the appeal and the fee for adjourned or rescheduled sessions shall be paid prior to their commencement.

§ 328-30. Violations and penalties.

Violations and penalties shall be as follows:

- A. Any owner of land, tenant, licensee, permittee, person, or firm or corporation violating any of the provisions of this chapter shall be subject to a fine not exceeding \$200, or imprisonment in the county jail for a term not exceeding 90 days, in the discretion of the Judge of the Municipal Court before whom such conviction shall be had. Each and every violation and nonconformance of this chapter, or each day that any provision of this chapter shall have been violated, shall be construed as a separate and distinct violation thereof.
- B. A permit may be revoked by the Township Council by reason of the violation of the terms of the permit and/or the provisions of this chapter and/or the willful violation of any municipal ordinance, state or federal, statute or falsification in applying for a permit. The licensee, permittee, owner, tenant, person, firm or corporation shall have right to hearing by the Township Council upon his, her or its written request.
- C. In addition to the foregoing, but not limited thereto, the Township may institute and maintain a civil action:
 - (1) For injunctive relief; or

- (2) To set aside and invalidate any permit made in violation of the provisions of this chapter or nonconformance therewith, which permit or license was procured through misrepresentation or falsification in applying for such permit or for failure to comply with the continuing requirements for permits or with any conditions of approval.

§ 328-31. Fees and deposits.

The applicant shall pay fees and deposits as follows:

- A. Permit application fee. A nonrefundable fee of \$500 shall be paid upon submission of an application for permit and for each resubmission or amendment submitted to the Clerk.
- B. Professional review fee. All costs incurred by the Township for the review of the application by an attorney, planner, engineer or other professional shall be paid by the applicant. An initial deposit of \$2,500 shall be placed in escrow upon submission of an application for permit.
- C. Periodic inspection fee. For each approved operational area listed on the extraction schedule: \$800.
- D. Performance guarantee inspection fee. All costs incurred by the Township for the inspection of improvements for which a reduction in the performance guarantee is requested shall be paid by the applicant. An initial deposit of \$500 shall be placed in escrow upon submission of such request.
- E. Appeal hearing fees. A nonrefundable fee of \$1,000 shall be paid for each session conducted to hear an appeal to the Township Council as provided for by this chapter.
- F. Escrow funds. Escrow accounts shall be established by the Township for each application to provide for payment of professional review fees and bond release inspection fees. The accounts shall be governed by the procedures established pursuant to N.J.S.A. 40:55D-1 et seq. for land development except as set forth herein.
 - (1) A separate account shall be established for each type of fee and the initial deposits shall be placed in the accounts by the Township.
 - (2) The applicant shall be required to deposit additional funds when the balance in an account falls below \$1,000. The Township Clerk shall notify the appropriate consultants and experts, who shall provide an estimate of any additional costs anticipated.
 - (3) Failure to deposit additional funds shall be subject to the following penalties. In the case of an application pending approval, the Township Council shall suspend all proceedings and take no action on the application until additional funds adequate to cover anticipated costs have been deposited by the applicant.

- (4) All disbursements to professionals for fees, costs or expenses related to the review of a permit application or to the bond release inspection of a permitted premises shall be charged against the escrow fund.
 - (a) All bills, invoices or vouchers submitted by professionals shall specify the services performed with respect to each.
 - (b) Unit charges (i.e., per diem or hourly fees) of the professional shall be in accordance with unit charges contracted by the Township.
- (5) Upon request of an applicant, the Township Clerk shall furnish the applicant with a statement of all disbursements.
- (6) All escrow funds not expended or reserved for anticipated costs shall be refunded to the applicant upon request.
 - (a) Upon withdrawal of a permit application or its dismissal or action withholding approval of the application in its entirety, an applicant may receive the balance of funds held in escrow.
 - (b) Upon issuance of a permit, an applicant may receive the balance of funds held in escrow for professional review fees.
 - (c) The Township Clerk shall provide the applicant with an accounting of escrow funds which shall list all disbursements.