

Chapter 175

EXCAVATIONS AND SOIL MINING

GENERAL REFERENCES

Planning Board — See Ch. 89.

Zoning — See Ch. 335.

Excavations in streets — See Ch. 293, Art. I.

§ 175-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ENGINEER — The Township Engineer of the Township of Lacey or his duly authorized representative.

MINING — The business of mining, excavating, removal, storing, processing, extracting and otherwise recovering sand, gravel, stone, topsoil and other associated materials for the purpose of selling the same or any part thereof or with the knowledge that the same or any part thereof is to be sold or resold; the purpose of using the same or any part thereof in or on premises not owned by the person or firm owning the premises from which the sand, gravel, stone, topsoil or associated materials is taken; or the purpose of using the same or any part thereof for commercial use, provided that this chapter shall not apply to the removal of materials for cellars. "Mining" is an extractive process involving the removal of soil, earth, sand, clay, gravel, humus, peat or other organic and mineral materials. In the Pinelands Area, "mining" shall mean the dredging, digging, extraction, mining and quarrying of sand, gravel, clay or ilmenite for commercial purposes, not including, however, the private or agricultural extraction and use of extraction material by a landowner. **[Amended 2-14-1991 by Ord. No. 5-91]**

RESOURCE EXTRACTION — Shall be synonymous and shall be interchangeable with the term "mining."

THOROUGHFARE, STREET, ROAD or HIGHWAY — Any state highway, county road, county highway, township road or any street or road, including drift roads, used by the public or dedicated to the public use.

TOWNSHIP — The Township of Lacey.

ZONING OFFICER — The Zoning Officer of the Township of Lacey.

§ 175-2. Permit required.

- A. No person, firm or corporation shall excavate or otherwise remove any sand, gravel, stone or other materials for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on such premises or excavation or grading incidental thereto or in connection with a site improvement for which a building permit has been issued, without first having procured a New Jersey Pinelands Commission certificate of filing, if applicable, and a mining permit from the Lacey Township Zoning Officer. **[Amended 2-14-1991 by Ord. No. 5-91]**

- B. No owner of land in the Township of Lacey shall permit any excavation or removal as herein provided on his or her land until a Lacey Township mining permit and/or a New Jersey Pinelands Commission certificate of filing, as herein prescribed, has been procured in accordance with this chapter. **[Amended 2-14-1991 by Ord. No. 5-91]**
- C. No mining or resource extraction activity shall be permitted on any property unless mining or resource extraction is either expressed as a permitted use or allowed as a conditional use by Chapter 335, Zoning, for the zone in which the property to be mined is situated.

§ 175-3. Application for permit.

- A. All mining permits shall expire five years following the date of issuance by the Lacey Township Zoning Officer. The expiration date of any such permit shall be clearly indicated on the permit. Application for renewal shall be made to the Lacey Township Zoning Officer 60 days prior to expiration of the mining permit in order that the renewal application may be processed before the date of expiration of the permit. Within 30 days of receipt of a complete application for renewal, the Zoning Officer shall either approve or deny renewal of the mining permit. Application for all mining permits shall be made to the Lacey Township Zoning Officer, and application for any new or initial mining operations must be preceded by approval by the Lacey Township Planning Board. **[Amended 4-10-1997 by Ord. No. 97-15; 7-10-1997 by Ord. No. 97-29]**
- B. All mining permit applications, either for renewal or initial licensing, shall include the following submissions in order to be deemed complete:
 - (1) Complete mining permit application form on the forms provided by the Zoning Officer.
 - (2) Evidence of the receipt of all outside agency approvals, permits and registrations, including but not limited to:
 - (a) New Jersey Pinelands Commission certificate of filing, if applicable. **[Amended 2-14-1991 by Ord. No. 5-91]**
 - (b) ¹Registration by the New Jersey Department of Labor and Industry, Bureau of Mine Safety.
 - (c) All other outside agency approvals, permits and registrations as required.
 - (3) Three sets of the mining plan, as approved by all applicable outside agencies. The mining plan shall be updated to accurately reflect current conditions on the mining tract. The various areas which the applicant proposes to mine and to restore on the tract shall be delineated on the mining plan.
 - (4) A specific schedule detailing which areas are anticipated to be mined and which areas are to be restored during the term of the mining permit. The schedule shall also specify what types of restoration work the mining operator intends to perform during the term. **[Amended 4-10-1997 by Ord. No. 97-15]**

1. Editor's Note: Former § 175-3B(2)(b), regarding the Ocean County Soil Conservation District, was repealed 4-10-1997 by Ord. No. 97-15. This ordinance also provided for the renumbering of former § 175-3B(2)(c) and (d) as § 175-3B(2)(b) and (c), respectively.

- (5) If the applicant is other than the owner of the tract being mined, an affidavit shall be submitted from the record owner of the tract certifying ownership of the tract and granting permission to the mining permit applicant to conduct mining activities on the tract.
- (6) Submission of the appropriate fees as prescribed in § 175-7 herein.
- C. For initial or new mining permit applications or for applications which expand the mining operation from what was originally approved, the applicant must obtain approval from the Lacey Township Planning Board, prior to submission of a mining permit application. In such cases, the applicant must submit an application to the Lacey Township Planning Board in accordance with the provisions set forth in § 175-4 herein.² **[Amended 4-10-1997 by Ord. No. 97-15]**

§ 175-4. Initial mining permit applications.

A. Obtaining of approval.

- (1) Prior to the submission of any initial mining permit application for a new mining operation or if the applicant proposed an expansion to the originally approved mining plan, approval must be obtained from the Lacey Township Planning Board. Application shall be made to the Lacey Township Planning Board at least 15 calendar days prior to the date of the Planning Board meeting at which the application is to be heard. Public notice of said hearing must be made by the applicant in accordance with the provisions of Chapter 215, Land Use Procedures, of the Lacey Code, except that notice shall be given to all property owners within a two-hundred-foot radius of the property lines of the tract on which the mining operation is situated. **[Amended 4-10-1997 by Ord. No. 97-15]**
- (2) The Planning Board shall render its decision on the mining permit application no later than 60 calendar days from the date on which the application was deemed completed by the administrative officer and the Planning Board Engineer.
- (3) The application submission to the Planning Board shall include the following items. Failure to submit any one of these items will result in the application being deemed incomplete. Applications deemed incomplete shall not be placed on the agenda until such time as all required submissions have been made and the application has been deemed as complete.
 - (a) An application form, as provided by the Lacey Township Planning Board.
 - (b) An application fee as prescribed in § 175-7 herein.
 - (c) A certificate of property taxes being paid to date on the subject site.
 - (d) If the applicant or record owner of the tract is a corporation or partnership, corporate ownership or partnership disclosure forms must be provided.

2. Editor's Note: Former Subsection D, dealing with mining permit renewal applications, which immediately followed this subsection, was repealed 7-10-1997 by Ord. No. 97-29.

- (e) A certified list of property owners for all properties within a two-hundred-foot radius of the property lines of the mining tract must be submitted. **[Amended 4-10-1997 by Ord. No. 97-15]**
 - (f) Pinelands Commission documentation. **[Amended 2-14-1991 by Ord. No. 5-91]**
 - [1] A certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34; or **[Amended 7-11-1996 by Ord. No. 96-36]**
 - [2] When prior approval for the operation has been granted by an approval agency, evidence of Pinelands Commission review pursuant to Chapter 335, Zoning, of this Code.
 - (g) Evidence of receipt of a soil erosion and sediment control certification or approval from the Ocean County Soil Conservation District. **[Amended 4-10-1997 by Ord. No. 97-15]**
 - (h) Four sets of the mining plan as approved by the New Jersey Pinelands Commission, if applicable, and Ocean County Soil Conservation District, including all the supporting data, reports, narratives, maps and documents.
 - (i) Soil borings shall be taken at a minimum interval of one boring for each three acres or as otherwise directed by the Engineer to protect public health, safety and welfare. The location of each boring and a log of that boring shall be shown on the mining plan. All borings shall be taken to the static water table elevation.
 - (j) Typical cross sections of the mining area indicating existing, maximum excavated depths, water elevations, if applicable, and final, restored grade elevations.
 - (k) A vegetation map indicating the existing foliage and vegetation on the mining tract and indicating the location, species, height and caliper of any specimen trees.
 - (l) Computations of anticipated yardage removal.
 - (m) Delineation of all mining and restoration sections.
 - (n) The mining plan shall be provided with the appropriate signature blocks of the Lacey Township Planning Board.
- B. Approval of a new mining operation or for the expansion of an existing mining operation may then be granted by the Planning Board upon consideration and review of the application. The Planning Board shall render its decision on the mining permit not later than 60 calendar days from the date on which the application has been deemed complete by both the Planning Board administrative officer and the Planning Board Engineer. In arriving at its decision, the Board shall take into consideration the following factors: **[Amended 4-10-1997 by Ord. No. 97-15]**
- (1) Erosion by water and wind.
 - (2) Drainage.

- (3) Soil fertility.
- (4) Grades and elevations of adjoining streets and lands.
- (5) Effect of excavation and removal upon nearby lands and property values and uses of other lands as affected by such excavation and removal, and land values and uses of the lands to be excavated from which materials are to be removed therefrom.
- (6) Lateral support of public streets, roads and highways and of adjoining properties.
- (7) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Township of Lacey.
- (8) The relationship and compatibility of the final grade contours, elevations and depth of excavation of the mining operation with adjoining lands.
- (9) General public safety, health and welfare.

§ 175-5. Issuance of permits.

Upon the submission of the mining permit application complete and in accordance with the provisions herein specified, the Zoning Officer will direct the Township Engineer to inspect the mining tract for compliance of the mining operation with all applicable requirements, including, but not limited to, restoration, operating practices and the general conditions of the site. Based on the recommendation by the Township Engineer and the mining permit application being found in order, the Zoning Officer may issue the mining permit subject to the satisfaction of all conditions and requirements of the Zoning Officer and of the Township Engineer imposed in accordance with the provisions this chapter of the Lacey Township Code. All permits shall be conditioned upon the satisfaction of the following items:

- A. Posting of the restoration performance bond in the amounts and form as herein prescribed.
- B. Satisfaction of all requirements herein set forth.
- C. Restoration of mined areas shall be concurrent with mining operations.
- D. All mining operations and restoration phases shall be carried out in accordance with all applicable requirements set forth herein.
- E. All mining operations to be carried out in accordance with all applicable requirements of all outside agencies having jurisdiction over the mining operation.

§ 175-6. Inspections.

- A. The Zoning Officer shall inspect each mining operation at least twice a year or more frequently as special situations require. The Zoning Officer shall inspect the mining site upon the receipt of any complaints registered against the mining operation. The Zoning Officer shall have the right to obtain the assistance of the Township Engineer as necessary. The Zoning Officer shall have the right to enter and inspect the mining site at any time and without prior notice.
- B. Should the need for additional inspections arise as a result of conditions or situations created either directly or indirectly by the mining operation, the mining permit holder shall

be responsible for reimbursing the Township of Lacey for all additional inspection fees in accordance with the provisions of § 175-7 herein.

- C. In the Pinelands Area, operators of all approved mining operations shall, on a yearly basis, certify, in writing, and to the satisfaction of the Planning Board and the Pinelands Commission, that all mining, restoration and other activities have been and continue to be conducted in accordance with an approved mining permit. **[Added 7-10-1997 by Ord. No. 97-29]**

§ 175-7. Permit fees.

Fees for mining permits shall be as follows:

- A. Applications for initial or new mining operations or the amendment, revision, expansion or alteration of an approved mining plan and operations.
- (1) Initial or new mining operation application.
 - (a) Planning Board review fee: \$500.
 - (b) Initial permit fee: \$250.
 - (2) Expansion of an approved mining plan or mining operation. **[Amended 4-10-1997 by Ord. No. 97-15]**
 - (a) Planning Board review fee: \$350.
 - (b) Amended permit fee: \$150.
 - (3) Mining permit renewal: \$500. **[Amended 7-10-1997 by Ord. No. 97-29]**
 - (4) Review of waiver of permit applications in accordance with § 175-24: \$200.
 - (5) The mining permit applicant shall be required to reimburse the Township of Lacey for all additional inspection or engineering services should they be required in accordance with the provisions of § 175-6 herein. The mining permit applicant shall also be required to reimburse the Township of Lacey should additional engineering services be required to review the mining permit application. Payment for all additional engineering and inspection services shall be a condition of the mining permit issuance and mining permit renewal.

§ 175-8. Mining operation setback distances.

- A. No mining operation or portion thereof shall be conducted closer than 500 feet from any dwelling, residence or non-resource-extraction-related commercial activity that was in existence on or prior to the date of the initial licensing of the mining operation by the Township of Lacey.
- B. No mining operation or portion thereof shall be conducted closer than 200 feet to any property line except where the subject mining operation adjoins another mining operation. In the Pinelands Area, mining operations shall be designed so that no area of excavation, sedimentation pond, storage area, equipment or machinery or other structure or facility is closer than 200 feet to any other property line, unless it can be demonstrated that a

distance between 100 and 200 feet will not result in greater off-site environmental impacts.
[Amended 2-14-1991 by Ord. No. 5-91]

- C. No mining operation shall be carried out in such a way that the top of the beginning slope is closer than 200 feet from the right-of-way of any street, road, highway, thoroughfare or drift road.
- D. Any mining operation or portion thereof in existence prior to the effective date of this chapter which was in noncompliance with any of the setback distances set forth above on the effective date of this chapter shall be allowed to remain; however, no further expansion of the mining operation which would increase the severity of the nonconformance shall be permitted.
- E. In the Pinelands Area, no mining operation shall be located within 300 feet of any wetland as defined in Chapter 335, Zoning, of this Code, unless the standards of Chapter 335, Zoning, are met. **[Added 2-14-1991 by Ord. No. 5-91]**

§ 175-9. Mining operation regulations and standards.

- A. No mining operation shall be located on a tract having an area less than 20 acres.
- B. Provisions shall be made to ensure that all topsoil that is necessary for restoration of the mined areas will be stored on the site and will be protected from erosion. In the Pinelands Area, such topsoil may not be stored within 200 feet of any property line unless the area proposed for storage is unforested and will be restored and the topsoil will be protected from wind and water erosion. **[Amended 2-14-1991 by Ord. No. 5-91]**
- C. The perimeters of the mining operation shall be fenced or blocked so as to prevent unauthorized entry into the mining operation. Access to the mining operation shall be only by those access roads shown on the approved mining plan. All access roads shall be constructed and maintained in accordance with the requirements set forth in § 175-20 in this chapter.
- D. The mining operation shall be conducted in such a manner that the surface flow of stormwater runoff from the mining tract will be maintained. Provisions shall be made for the on-site recharge of stormwater runoff from the mining tract into the groundwater stream.
- E. Mining excavations below the seasonal high water table shall be permitted only if the excavation will serve as a recreational or wildlife resource; or as a water reservoir for public agriculture or industrial uses, or for any other use permitted in the area in which the site is located.
- F. No excavation shall be permitted having a depth exceeding 65 feet below the natural existing surface elevation of the ground prior to the start of the mining operation excavation, unless it can be demonstrated that a depth greater than 65 feet will not result in any adverse impact relative to the proposed final use of the mining area or to adjoining off-tract lands.
- G. All excavations carried to or below a water-producing depth shall be carried out in accordance with the provisions and requirements of § 175-10 herein.

- H. Mining operations shall be carried out concurrently with the restoration of previously mined areas throughout the mining tract.
- I. Mining operations 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; or, in the Pinelands Area, clearing exceeding 100 acres or 50% of the site to be mined, whichever is less, surface excavation at any time. **[Amended 2-14-1991 by Ord. No. 5-91]**
- J. No slope of any excavation shall be greater than 2:1; that is, two feet of horizontal run to each one foot of vertical depth.
- K. Steel pipe markers, painted orange, shall be set at each corner of each mining phase or area as delineated on the mining plan. Such markers may be approximate and need not be set by certified survey.
- L. Mining operations will be carried on in such a manner that water will not collect or stagnate and erosion will be prevented.
- M. All mining operations shall be carried out in accordance with the provisions and requirements of this chapter and with all requirements set forth by all outside agencies having jurisdiction over the mining operation.
- N. In the Pinelands Area, the mining operation shall be conducted in such a manner that it will not result in a substantial adverse impact upon those significant resources of Lacey Township as depicted on the Special Areas Map, figure 7.1, of the Pinelands Comprehensive Management Plan.³ **[Added 2-14-1991 by Ord. No. 5-91]**
- O. In the Pinelands Area, the mining operation shall be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as the anticipated length of time, that each of the twenty-acre units of the parcel proposed for extraction will be worked. This shall not preclude more than one twenty-acre unit from being worked at any one time, provided that there is a demonstrated need for additional units, restoration is proceeding on previously mined units and the area of clearing does not exceed that specified in § 175-9I above. **[Added 2-14-1991 by Ord. No. 5-91; amended 3-27-1997 by Ord. No. 97-13]**

§ 175-10. Excavations below water level.

Any excavation to or below a water-producing depth shall be carried out in accordance with the requirements set forth in § 175-9E above. Excavations made to or below a water-producing depth shall have a water depth not less than three feet as measured from the mean low-water mark and shall have an area of not less than five acres. Land excavated to a water-producing depth shall be graded to remove hills and hollows.

§ 175-11. Burial of stumps, debris and refuse. [Amended 2-14-1991 by Ord. No. 5-91]

Burial of stumps, debris, refuse and other deleterious material in a mining area is prohibited unless the mining operator has obtained a landfill license from the New Jersey Bureau of Solid Waste Management permitting disposal of such materials on the site. The type of material for

3. Editor's Note: Figure 7.1 is on file in the township offices.

disposal, the location of disposal and the depth of burial shall be noted on the mining plan. No hazardous, toxic, chemical, petroleum (including oil spill pollutants), septic or nuclear waste shall be stored, discharged or disposed of on any land within the Pinelands Area of the township.

§ 175-12. Restorations.

- A. All mining permit applications, either for new, initial permit applications or for renewals of existing mining permits, shall be accompanied by a definitive schedule of restoration of mined areas. Restoration of previously mined areas shall be carried on concurrently with mining activities in new areas.
- B. Restorations of mined areas shall be in accordance with the following standards:
- (1) Restoration shall proceed in the same sequence and the time frame set out in the extraction schedule.
 - (2) All restored areas shall be graded so as to conform to the natural contours of the parcel; grading techniques that help to control erosion and foster revegetation shall be utilized; and the slope of surface of restored surfaces shall not exceed one foot vertical to three feet horizontal except as provided in Subsection B(5) of this section. **[Amended 2-14-1991 by Ord. No. 5-91; 3-27-1997 by Ord. No. 97-13]**
 - (3) Topsoil shall be restored to a sufficient depth and quality to support, promote and maintain the growth of grass and replantings as required by the restoration provisions and requirements set forth in this chapter. In the Pinelands Area, topsoil shall be restored in approximately the same quality and quantity as existed at the time the mining operation was initiated. All topsoil removed shall be stockpiled and used for the next area to be restored, unless it is immediately reused for reclamation that is currently underway. **[Amended 2-14-1991 by Ord. No. 5-91; 3-27-1997 by Ord. No. 97-13]**
 - (4) 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 as determined by the Township Engineer.
 - (5) Any body of water created by the resource extraction operation shall have a shoreline not less than three feet above and three feet below the projected average water table elevation. The shoreline both above and below the surface water elevation shall have a slope of not less than five feet horizontal to one foot vertical. This requirement shall apply to any water body or portion of a water body created after December 5, 1994. For any water body or portion of a water body created prior to December 5, 1994, this requirement shall apply to the extent that it does not require grading of areas which have not been disturbed by mining activities. Where grading would require such disturbance, a reduction in the distance of the graded shoreline above and below the average water table elevation shall be permitted. **[Amended 3-27-1997 by Ord. No. 97-13]**
 - (6) All equipment, machinery and structures, except for structures that are usable for recreational purposes or any other use authorized in the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed.

- (7) Reclamation shall, to the maximum extent practical, result in the reestablishment of the vegetation association which existed prior to the extraction activity and shall include: **[Amended 2-14-1991 by Ord. No. 5-91; 3-27-1997 by Ord. No. 97-13]**
- (a) Stabilization of exposed areas by establishing ground cover vegetation; and
 - (b) Reestablishment of the composition of the natural forest and shrub types that existed prior to the extraction activity through one of the following:
 - [1] The planting of a minimum of 1,000 one-year-old pitch pine seedlings or other native Pinelands tree species per acre in a random pattern;
 - [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 these species;
 - [3] A combination of the planting techniques set forth in Subsection B(7)(b)[1] and [2] above; or
 - [4] The use of other planting techniques or native Pinelands species as may be necessary to restore the vegetation association which existed prior to the extraction activity.
- (8) In the Pinelands Area, restoration shall be a continuous process, and each portion of the parcel shall be restored such that ground cover shall be established within two years and tree cover shall be established within three years after mining is completed for each portion of the site mined. **[Added 2-14-1991 by Ord. No. 5-91]**
- (9) All restoration of mined areas shall also be carried out in accordance with all applicable requirements of the the New Jersey Pinelands Commission and all other outside agencies having jurisdiction over the mining operation. **[Amended 4-10-1997 by Ord. No. 97-15]**
- (10) Slopes beyond a water body's shoreline shall be permitted at the natural angle of repose to the bottom of the pond. **[Added 3-27-1997 by Ord. No. 97-13]**

§ 175-13. Environmental impact.

- A. The mining operator shall conduct all mining operations in a manner which prevents any adverse environmental impacts. The mining operators shall take all necessary precautions to prevent or abate any adverse impacts to air quality and water quality and to prevent or abate noise.
- B. Dust conditions shall be abated or prevented by using water or some other means of dust control deemed to be environmentally acceptable by the Township Engineer. Oiling and calcium chloride shall not be used as a dust palliative.
- C. All equipment, machinery and trucks used in connection with the mining activity shall be equipped with proper mufflers, in accordance with New Jersey State standards, to prevent excessive noise.

- D. The mining operator shall be responsible for correcting any environmental damage caused by his or her mining operation. The Zoning Officer may, at his or her discretion, suspend the mining permit until all environmental damages have been corrected by the mining operator and proper preventative or abative methods are installed to prevent future adverse environmental damage from reoccurring.

§ 175-14. Restoration guaranty requirements. [Amended 2-14-1991 by Ord. No. 5-91]

- A. Prior to the issuance of any mining permit, be it the initial issuance of a new mining permit or the renewal of an existing mining permit, the applicant shall post a guaranty in the form of a performance bond issued by a surety company licensed to do business in the State of New Jersey or a guaranty in any other form deemed acceptable by the Township Attorney, naming the Pinelands Commission and the Township of Lacey as the obligee if the application for mining is in the Pinelands Area. The amount of the restoration performance guaranty shall be determined for each mining operation by the Township Engineer, and the amount shall be updated as required on the mining tract. The performance bond shall remain in place until the mining area restoration has been accepted by the Township Engineer.
- B. Prior to final release of any restoration performance guaranty, the mining operator shall post a restoration maintenance guaranty, equal to 10% of the restoration performance bond amount. The restoration maintenance bond shall remain in effect for a period of one year after final acceptance of the mining area restoration. For operations in the Pinelands Area, the restoration maintenance bond shall remain in effect for a period of two years after such final acceptance.

§ 175-15. Extent of operations. [Amended 4-10-1997 by Ord. No. 97-15]

All mining operations shall be confined within the limits of the Tax Map lot or lots to which the initial mining permit was issued. Any expansion of mining operations beyond the tract or property lines of the Tax Map lot or lots to which the mining permit was issued shall constitute an expansion of the mining operation and shall require approval by the Planning Board. Applications for such expansion shall be submitted in accordance with the provisions of § 175-4 herein. Any mining operation initially licensed after December 3, 1971, shall be limited to a single Tax Map lot.

§ 175-16. Payment of taxes.

No mining permit shall be renewed or issued with reference to any tract of land on which property taxes, assessments and/or other municipal fees are outstanding and unpaid, until such delinquent tax fees or assessments have been satisfied.

§ 175-17. Area of excavation restricted. [Amended 4-10-1997 by Ord. No. 97-15]

No mining operation shall involve an area greater than 50 acres at any one time. Renewal of permits in accordance with § 175-3 of this chapter does not constitute authority to mine more of an area covered by the permit. Prior to beginning mining operations in a new fifty-acre section of the mining tract, the previous fifty-acre section shall be completely restored in accordance with the provisions herein.

§ 175-18. Limitations on removal of topsoil.

Mining of topsoil shall be permitted only if a sufficient quantity and quality of topsoil remains on the site to allow a minimum thickness of two inches of topsoil to be spread over the entire areas that were mined, including all slopes.

§ 175-19. Maintenance of traffic safety.

It shall be the responsibility of the mining permit holder to maintain a safe traffic flow on the mining site, the access road to the mining site and at the point or points at which the access road enters any public highway. Appropriate signs, as approved by the Township Engineer, shall be placed along the public highway warning approaching motorists of the intersection of the access road with the public highway and of heavy truck traffic entering the public highway.

§ 175-20. Access to public highway.

- A. All mining operations shall have a direct means of access to the dedicated public highway, street or thoroughfare. In the Pinelands Area, ingress and egress to all mining operations shall be provided from public roads by way of gravel or porous paved roadways. If such access requires traveling through properties outside the mining tract, the mining operator shall secure access easements from the property owner(s) through whose land access is required. A map of the access route and copies of the executed access agreements shall be provided to both the Zoning Officer and Township Engineer. The mining operator shall be required to construct and maintain a safe, adequate all-weather haul road of sufficient width to allow safe, simultaneous two-way travel of trucks and mining equipment. All access roads shall be shown on the mining plan. Plans and profiles of such proposed haul roads shall be provided to the Township Engineer for review and approval. **[Amended 2-14-1991 by Ord. No. 5-91]**
- B. Maintenance of all access and haul roads leading from mining areas to public roads, streets or thoroughfares shall be the responsibility of the mining operator to whom the mining permit has been issued and shall be maintained in a safe and usable condition at all times.
- C. The mining operator shall be responsible for the immediate cleanup of any mined materials spilled on the public roads onto which the mining operation haul road enters.
- D. All mining operation access and haul roads shall be properly maintained to eliminate dust or mud conditions. Only those dust palliative measures deemed by the Engineer to be environmentally acceptable shall be permitted; the use of road oiling or calcium chloride as dust palliative is expressly and strictly prohibited.
- E. Access to the mining operation shall be solely by means of the access road(s) as shown on the approved mining plan. All other possible means of access shall be fenced or blocked to prevent unauthorized entry.

§ 175-21. Number of permits.

There shall be not more than 10 permits issued for mining operations at any one time in addition to those operations by the Township Department of Public Works.

§ 175-22. Abandonment or cessation of mining operations.

- A. Failure to renew a mining permit within 90 days of expiration of the permit will constitute abandonment of the mining operation. Should the applicant wish to renew such a permit, the application shall be considered as a new or initial application and shall be subject to the reapproval by the Lacey Township Planning Board. **[Amended 4-10-1997 by Ord. No. 97-15; 7-10-1997 by Ord. No. 97-29]**
- B. Should the operator elect to permanently cease mining operations and relinquish the mining permit for that tract, written notice of such cessation shall be served upon the Zoning Officer at least 30 days prior to the scheduled end of operations. Upon completion of all restoration of all mined areas of the tract, in accordance with the requirements set forth herein and all applicable requirements of all outside agencies having jurisdiction over the mining operation and completion of the restoration work, the mining tract shall be inspected by the Township Engineer.
- C. The restoration performance bond shall be released upon a determination by the Township Engineer that all restoration work has been completed in accordance with all requirements specified herein and the proof of posting of a restoration maintenance bond in the amount as determined by the Township Engineer. The restoration maintenance bond shall remain in place for a period of one year or, in the Pinelands Area, for a period of two years from the date of acceptance of the mining area restoration. **[Amended 2-14-1991 by Ord. No. 5-91]**

§ 175-23. Transfer of mining permits.

- A. No mining permit may be transferred from one tract to another. Mining permits shall be issued to a specific tract or Tax Map lot and unless the permit has been relinquished in accordance with the provisions set forth in § 175-22 herein.
- B. Should a mining permit holder wish to sell the mining tract to which the Lacey Township mining permit has been issued, application shall be made to the Lacey Township Zoning Officer for approval of transfer of the mining permit ownership. The Zoning Officer may approve such transfer of the mining permit ownership subject to the following conditions:
 - (1) The new mining permit holder agreeing to adhere to all conditions and requirements imposed upon the previous mining permit holder.
 - (2) Posting of new restoration performance bonds in the name of the new mining permit holder.
 - (3) Satisfaction of all applicable conditions and requirements set forth both in this chapter and by the regulations governing mining or resource extraction of any outside agencies having jurisdiction over the mining operations.
 - (4) The transferred permit shall remain valid for the remaining unexpired period of the originally issued permit. Application for the renewal of the mining permit would be made by the new mining permit holder.

§ 175-24. Waiver of hearing, permit and bond requirements.

In the event that the applicant wishes to remove less than 10,000 cubic yards of material for the primary purpose of regrading of land rather than for the sale of excavated materials, the Zoning

Officer may waive the requirement for a mining permit application, hearing or restoration performance bond. Such a waiver is further conditioned upon the following:

- A. The proposed excavating or regrading shall be required as an integral part of development in a site plan or major subdivision which was approved by the Planning Board.
- B. All excavation and regrading shall be carried out in strict accordance with the soil disturbance and sediment control plan approved by the Ocean County Soil Conservation District for the development in which the excavation is to occur.
- C. All excavation and regrading shall be performed in accordance with lines and grades indicated on the approved site plan or major subdivision in which the excavation is to be performed.
- D. This exemption shall not apply in the Pinelands Area of the township unless the activity is a part of another pinelands approved development on the site. **[Added 2-14-1991 by Ord. No. 5-91]**

§ 175-25. Notification and review of permits by the Pinelands Commission. [Added 2-14-1991 by Ord. No. 5-91; amended 7-10-1997 by Ord. No. 97-29]

No mining permit or renewal of any such permit issued within the Pinelands Area shall take effect until the notice and review procedures set forth in Chapter 335, Zoning, of this Code have been met.

§ 175-26. Violations and penalties.

- A. Should a violation of or noncompliance with any provisions of this chapter occur, the mining permit holder shall have 10 calendar days from the date of receipt of written notice by the Zoning Officer to correct any and all violations and noncompliances. Failure to correct the violations or noncompliances within the prescribed time period shall result in the suspension of the mining permit and the issuance of a summons by the Zoning Officer.
- B. In the Pinelands Area, in the event that the Zoning Officer, Planning Board and/or the Pinelands Commission determine that any mining, restoration or other activity deviates from the conditions of an approved mining permit, the operator of the mining operation shall be immediately notified of the deviation. The notice shall state the nature of the deviation, order the action necessary to correct it and set forth the date, time and location of a meeting to be held within 10 days of the notice, at which the operator shall present all relevant information concerning the deviation and the action taken or to be taken to correct it. The order to take corrective action shall specify any activity which must be immediately ceased to prevent direct or indirect aggravation of the deviation or to avoid a danger to public health, safety or welfare. Such cessation shall continue until the deviation has been resolved to the satisfaction of the Planning Board and the Executive Director of the Pinelands Commission or until an agreement to resolve the deviation has been reached. Failure to resolve a deviation or to adhere to the terms and conditions of any agreement to resolve a deviation shall constitute sufficient cause for revocation of the permit. **[Added 7-10-1997 by Ord. No. 97-29⁴]**

4. Editor's Note: This ordinance also provided for the relettering of former Subsection B as Subsection C.

- C. Violations of any provisions of this chapter by any mining permit holder, landowner, corporate officers and/or agents shall, upon conviction thereof, be punishable by a fine of not more than \$1,000, by imprisonment for a term not to exceed 90 days and/or by a period of community service not to exceed 90 days. Each and every day of continued operation in violation of or noncompliance with these provisions shall be considered as a separate and specific violation. Conviction of a violation of any provision of this chapter shall constitute cause for a revocation of the mining permit. **[Amended 7-11-1996 by Ord. No. 96-36]**