

TOWNSHIP OF ZEELAND  
OTTAWA COUNTY, MICHIGAN

ORDINANCE NO. J~

An Ordinance to Amend the Zeeland Township Zoning Ordinance, being Ordinance No. 102, as amended, of the Township of Zeeland, Ottawa County, Michigan;

THE TOWNSHIP OF ZEELAND } ORDAINS:

SECTION 1. That Chapter 17 of Ordinance No. 102, being Sections 15.440 through 15.443 be amended in their entirety to hereinafter read and provide as follows:

1115.440 - Chapter 17 - SPECIAL LAND USES; Notwithstanding any other provision of this ordinance, no land in any district shall be used for any of the following uses without first obtaining a special land use permit from the Township Board:

- A. Tavern, including any establishment where beer, wine or liquor are sold for consumption on the premises.
- B. Automobile sales lot.
- C. Mobile home park.
- D. Nursing home or boarding house.
- E. Dog Kennel.
- F. Dumping ground, transfer station or sanitary landfill.
- G. The removal and/or dumping of ground from or onto lands located in the Township of Zeeland, which activities shall be described for purposes of this ordinance as an "earth change."

1115.441 - REQUIREMENTS AND STANDARDS; The requirements and standards upon which decisions of the Township Board on requests for special land use approval shall be based are set forth in Section 15.124 of the Zeeland Zoning Ordinance, provided further that an application for a special land use permit for a dumping ground, transfer station, sanitary landfill or earth change shall be considered by the Township Board in accordance with the requirements and standards set forth in Sections 15.444 and 15.445 of Chapter 17 as set forth hereinafter.

1115.442 - PROCEDURE; The procedures and supporting materials required for application, review and approval of those special land uses identified in Paragraphs A through E of Section 15.440 of this ordinance shall include the following:

- A. A written application for a special land use permit, which application form shall be provided the applicant by the Township.
- B. In addition to the application referred to in Sub-Paragraph A above, the applicant shall file with the Township copies of all state and federal licenses, permits or franchises that may be required by the applicant to engage in the type of activity for which the special land use permit is requested in accordance with all state, federal and local laws, statutes and ordinances.

C. A plot plan of the proposed site upon which the special land use activity is intended to occur, which plot plan shall be drawn to scale and include at a minimum the following information:

- a. Name, address and telephone number of the property owner.
- b. Legal description of the proposed site.
- c. On site details including areas upon which structures presently exist or are proposed for construction, on site roads and drainage ditches."

In addition to the supporting materials required above, the Township Board reserves the right to request the applicant to provide additional information provided that such additional information is considered by the Board to be necessary in considering the application for approval.

The procedures and supporting materials required for application, review and approval of those special land uses identified in Paragraphs F and G of Section 15.440 regarding applications for a special land use permit for a dumping ground, transfer station, sanitary landfill or earth change respectively are set forth in Sections 15.444 and 15.445 hereafter.

"15.443 - CONDITIONS OF PERMIT; The Township Board may, in reviewing applications for special land uses as provided for herein, deny, approve or approve with conditions, a request for special land use approval. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision, and any conditions imposed."

SECTION 2. That in addition to the amendment designated above, Chapter 17 of Ordinance No. 102 be further amended by the addition of the following sections to hereinafter read and provide as follows:

"15.444 - REQUIREMENTS, STANDARDS AND PROCEDURES FOR A SPECIAL LAND USE PERMIT FOR A DUMPING GROUND, TRANSFER STATION OR SANITARY LANDFILL; This section is intended to regulate the filling of lands located within the Township of Zeeland, to provide for the issuance of permits for the filling thereof and the charging of fees therefore; to prescribe rules and regulations and conditions for the issuance of permits; to provide for bonds to insure satisfactory performance in the preservation of the public health, safety and welfare of the residence of the Township by the regulation of the location, design, materials deposited, operation and management of landfills so that no landfill shall be a nuisance, or cause any damage to surrounding property, to the ground or surface water, or become a breeding ground or harborage for insects and rodents, or become a financial liability upon the community when abandoned.

A. SCOPE.

From and after the effective date of this Ordinance, no person, firm, partnership, corporation or public body shall dispose of any earth, refuse, garbage, rubbish, ashes or any waste material at any place in the Township except at an approved disposal area, nor shall any disposal area be established, operated, leased, managed, or conducted unless it conforms with this Ordinance and is approved by the Township Board as a sanitary landfill, as provided by this Ordinance and licensed in accordance with all State and Federal rules and regulations.

B. DEFINITIONS.

1. Ashes: Residue from the burning of wood, coal, coke or other combustible materials.
2. Cell: The daily compacted refuse which is completely enveloped by earth cover material.
3. Disposal Area: A site, location, tract of land, area, building, structure or premises used or intended to be used for refuse disposal in a manner prescribed by this Ordinance.
4. Earth Materials: Any materials which are normally part of the natural earth as they exist in their normal state.
5. Existing Grade: The various elevations of the surface of the land as it actually exists upon the site prior to initiation of the landfill project.
6. Finish Grade: Those earth elevations established and delineated on the plot plan that will result upon completion of the proposed operation for which the permit is issued.
7. Garbage: Rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended to be used for food or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable.
8. Groundwater: Water in the ground that is in the zone of saturation.
9. Hazardous Material: Includes, but is not limited to, explosives, pathological wastes, radioactive materials and chemicals, and any other material substances, or compound declared to be hazardous by the State of Michigan or the United States government or any agency thereof.
10. Mean Grade: The arithmetic average of elevations of points on the boundary lines of the property uniformly spaced and not more than one hundred (100) feet apart. In no event shall such elevation points be determined below the surface elevation of any boundary waters.
11. Non Putrescible Materials: Waste discards, dry rubbish, cardboard, wood, lumber, paper products, brick, concrete, steel shavings, metal, plastic, leather, manufactured materials not including: oil, petroleum products, paint, liquid chemicals or paint sludges.
12. Open Dump: A site where refuse is dumped and which due to lack of operational procedures may create a breeding place for flies and rats, may catch fire or may produce air pollution.
13. Person: Any individual or combinations thereof, including partnerships, corporations, associations or firms.
14. Putrescible Materials: Garbage, produce, food products, fruits, vegetables, chemicals, oil, petroleum products, paints, liquid chemicals and paint sludges.
15. Refuse: Solid wastes, except body wastes, and including, but not limited to, garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and solid industrial wastes.

16. Rubbish: Nonputrescible solid wastes, (excluding ashes) consisting of both combustible and noncombustible wastes; such as paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials or litter of any kind that will be a detriment to the public health and safety.
17. Salvaging: The controlled removal of reusable materials.
18. Sanitary Landfill: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, to cover it with a layer of suitable earth cover at the conclusion of each day's operation or at more frequent intervals as necessary, and in conformity with all operational requirements of this Ordinance.
19. Scavenging: Uncontrolled picking of refuse, as previously defined.

C. PERMIT REQUIRED.

No person shall dispose of any earth refuse, garbage, rubbish, ashes or any waste material upon the land within the Township of Zeeland without a special land use permit being granted as provided herein, provided that no permit shall be required for a legal farm operation utilizing recommended farming procedures.

D. APPLICATION FOR PERMIT.

1. Such application shall be accompanied by a Plot Plan of the proposed site, prepared by a Registered Professional Engineer, licensed by the State of Michigan and showing all of the information hereinafter required:
  - a. Maps drawn to a scale of not over one hundred feet to the inch, showing:
    - (1) All property lines, dimensional and related to the nearest convenient section line and section corner,
    - (2) Date, scale and north arrow.
    - (3) Location and height of the existing and proposed buildings, improvements and land uses on and within 500 feet of the premises.
    - (4) Location of existing and proposed streets, roadways, parking areas, entrances and exits, as well as pavement and right-of-way width of all abutting roads and access routes for vehicles hauling refuse or cover material to the disposal area.
    - (5) Soil profiles including densities and thickness of all clays to a minimum depth of forty feet below the lowest excavation proposed and/or to the bottom of the primary ground aquifer whichever is deeper.
    - (6) Existing trees and ground cover.
    - (7) Existing bodies of water, drains, streams, creeks.
    - (8) Proposed fencing.
    - (9) Location of all public facilities and services.
  - C1a) Finish grading plan showing proposed elevations upon completion of 2 foot intervals.



- (11) Mean grade elevations at 2 foot intervals.
  - (12) Vicinity map showing in a general manner, the property in relation to the surrounding area for at least one mile from the premises.
  - (13) A detailed hydrology study of the project site and all areas within 1,320 feet of the perimeter of the project site.
  - (14) Topographic maps at 2 foot intervals of the project site.
  - (15) Additional information as required by the Township Board.
- b. Legal description of the proposed site.
  - c. Time table giving estimates by length of time for establishing the disposal area and its completion.
  - d. Name and firm address of the professional individual responsible for the preparation of the information.
  - e. Name, address and telephone number of the property owner.
  - f. Size and location of all existing and proposed utilities including details of drainage facilities showing the method of drainage control during the phasing as well as how drainage will be accomplished after completion. If treatment of surface water or lechate is anticipated, outline treatment(s) to be performed (biological, primary chemical, disinfecting, etc.) .
  - g. On-site details including proposed areas to be filled, any borrow areas, on-site roads, and soil characteristics.
  - h. Location and depth of all water wells within 3000 feet of the boundaries of the property on which the landfill will be operated.
2. The application shall contain or be accompanied by a detailed written statement of the extent, development, improvement and general purpose of the proposed filling operations and the program therefor including:
- a. A statement describing the volume and type of refuse materials proposed to be placed in the disposal area.
  - b. Plans showing typical sections of compacted fill, depths of layers, height of lifts, thickness of cover, number of lifts, surface slopes of lifts and final surface, direction of progress and type of venting proposed, and thickness and density of cell walls.
  - c. Proposed future reuse of the premises after completion of the filling of the disposal area. The applicant shall provide maps or plans showing at the same scale as in paragraph 1.a. above, proposed land uses, buildings, streets and other public easements. The maps or plans shall not propose or show streets or underground utilities on areas to be filled with any refuse materials.
  - d. When any material is to be used as fill material, a competently prepared professional investigation shall be submitted showing the highest expected ground water level, any connection with an aquifer constituting a source of water supply, and if a lowering of the ground water is contemplated, whether this would adversely affect any water supply.

- e. A plan which provides a detailed analysis of the direction the land fill operation will follow; origin, density and U.S.D.A. Soil Classification of cover material, location of stockpiled cover material; the order in which areas will be filled; and the provisions which will be made to control soil erosion and sedimentation from the partially completed site.
  - f. Any other materials or information deemed necessary by the Township Board.
3. The Township Board upon receipt of the application shall review the application, and if it finds that the applicant has furnished sufficient information as required by this Section, refer the application, for a report and recommendation to the Planning Commission. If the Township Board finds that the applicant has not furnished sufficient information as required by this Section, then it shall return the application to the applicant.

The Planning Commission shall furnish in writing to the Township Board a report and recommendation on the application for permit.

4. The application and all plans and supplemental statements of information required therewith shall be filed in triplicate, with the Township Clerk.

E. PUBLIC HEARING, AND STANDARDS TO BE CONSIDERED

1. The Township Board, upon receipt of the application for a special land use permit for a dumping ground, transfer station or sanitary landfill shall cause a notice of a public hearing to be published once in a newspaper of general circulation in the Township, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 1320 feet the boundary of the property in question, and to the occupants of all structures within 1320 feet. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the application will be considered. The term "boundary of the property" shall mean the metes and bounds description of the property as the same shall appear upon the records of the Township Assessor. The term "boundary of the property" shall not mean the boundary of the disposal area. The notice shall:
- a. Describe the nature of the special land use request.
  - b. Indicate the property which is the subject of the special land use request.
  - c. State when and where the public hearing on the special land use request will be held for consideration.
  - d. Indicate when and where written comments will be received concerning the request.
2. The public hearing required above shall consist of a joint hearing before both the Township Board and Planning Commission to be held at any Regular Meeting of the Planning Commission at no additional expense to the applicant, or at a Special Meeting called therefore when requested by the applicant which Special Meeting shall be at the expense of the applicant. After such public hearing, it shall be the duty of the Planning Commission to make an independent recommendation to the Township Board with regard to the special land use request and the Planning Commission shall consider in connection with such recommendation:

*See Item*

- a. The effect of the proposed fill on the general vicinity where it is to be conducted.
- b. The character and use of adjoining lands and structures.
- c. The depth of the water table or tables in relation to the bottom of the cell.
- d. Availability and adequacy of surface water drainage facilities and whether any surface water from adjacent parcels drains over the subject parcel and the effect of drainage from this parcel on adjacent parcels.
- e. Avenues of ingress and egress and the effect of vehicular traffic.
- f. The proposed hours of operation.
- g. The effect upon property values within 3/4 mile of the subject property.
- h. Types and densities of soils.
- i. Location and depth of existing water wells.
- j. The possibility of surface or ground water contamination.
- k. Whether there is a need for the facilities and the necessary waste stream to adequately finance the operation.
- l. Whether there are more prudent, safer sites or methods for disposal of waste within the same waste generating geographical area (not limited to just Zeeland Township).
- m. The number, thickness, and depth of sand or gravel lenses on the proposed site.
- n. Whether the applicant has the financial and technical ability to begin, conduct and terminate the landfill and to provide perpetual care upon completion.
- o. Whether the activity is likely to pollute, impair or destroy the air, water or other natural resources or public trust therein.
- p. The location of residential, commercial and/or public use within a 1/2 mile of the perimeter of the site.
- q. The availability, depth and nature of separation of other ground aquifers and the availability of public water supply.
- r. The location of the site in relation to existing drinking wells, natural or artificial water bodies, residences and flood plains.
- s. Such other factors as may be necessary and appropriate for the preservation of public health, safety and welfare.

In considering its decision with regard to the special land use request, the Township Board shall also consider standards set forth in Sub-Paragraphs a through s above together with the Planning Commission's recommendation.

F. GRANTING AND ISSUANCE OF SPECIAL LAND USE PERMIT.

Upon receipt of the Planning Commission's recommendation, the Township Board shall determine whether the permit shall be granted or denied. If granted, the Township Clerk shall issue the permit upon the posting of a performance bond in an amount determined by the Township Board provided, however, such permit shall be valid for one year only unless renewed thereafter by the Township Board for like periods in accordance with the provisions of this Ordinance. In making the determination the Township Board must find the following:

1. That the proposed fill will not unreasonably affect the general vicinity where it is to be conducted.
2. That the character and use of adjoining lands and structures will not be unreasonably effected by the proposed use.
3. That the depth of the water table or tables or any sand or gravel lenses are not such that they are within 20 feet of the bottom of the cell in which waste will be placed.
4. That the existing terrain of the property and surrounding property is such that surface water drainage does not cross the subject property.
5. That direct ingress and egress to the site is from a county all weather primary road and that the traffic will not cause a safety or traffic problem to adjacent areas.
6. That the effect upon property values within 1/2 mile of the subject property is not such that they will decrease in value more than 10%.
7. That there is a layer of compacted clay having a permeability of 10-7 cm/sec that is of a minimum of 10 feet thick between the bottom of any cell in which waste is placed and any water table on the site.
8. That there is a need for the facilities and the necessary waste stream to adequately finance the operation.
9. That there are not more prudent, safer sites or methods for disposal of wastes within the same waste generating geographical area (not limited to just Zeeland Township).
10. That the applicant has the financial and technical capability to begin, conduct and terminate the use and financial and technical ability to provide perpetual care of the site upon completion.
11. That the activity is not likely to pollute, impair or destroy the air, water or other natural resources of the public trust therein.
12. That the density of residential use within a 1/2 mile of the perimeter of the site is not more than 16 residences per mile of road frontage including both sides of the road.
13. That the availability, depth and nature of separation of other drinkable ground water aquifers, if one becomes polluted or undrinkable, is such that it is not likely to become polluted and it is not at a depth of more than 250 feet.
14. That the site in which any waste is placed is not closer than 500 feet from any river, creek, lake or pond larger than 5 acres, either natural or artificial or wet lands area.
15. That there are no wells used for drinking located within 1,320 feet of any cell in which waste is placed.

16. That the site in which any waste is placed is not within the 100 year flood plain.
17. That no residential structure is within 1,320 feet of the site on which waste is placed.
18. That there are not such other factors that unreasonably effect the public health, safety and welfare.
19. That all requirements of this Ordinance have been met.

G. PERMIT RENEWAL.

Permits issued in conformance with this Ordinance may be renewed by the Township Board for a one year period, if:

1. Reasonable progress has been made in the construction of the disposal area and,
2. Operation of the disposal area has conformed, since the last permit renewal date or establishment of the disposal area, to the approved plans, conditions and this Ordinance and,
3. Permit fees have been paid.

H. ENFORCEMENT, SUSPENSION OR REVOCATION.

1. This Ordinance shall be enforced by the Township Supervisor or such other persons authorized by the Township Board.
2. Suspension. Any permit shall be suspended by the enforcing authority for a period of not more than 30 days whenever:
  - a. Any provision of this Ordinance is being violated.
  - b. Any condition of the permit is not being observed.
  - c. It is necessary to preserve or protect public health, safety or welfare. Provided, however, that the enforcing agency shall forthwith report his act of suspension and the reasons therefore to the Township Clerk.
  - d. Operations are inactive or conducted on so small of a scale that, in the opinion of the Township, the duration of filling operation will itself constitute a nuisance, or,
  - e. Permit fees have not been paid.
3. Review and Revocation. The Township Clerk shall notify the permit holder that the Township Board will review the action of the enforcing authority at its next regular meeting to determine whether the permit shall be reinstated, suspended for a further period of time or permanently revoked.

I. DENIAL OF PERMIT.

In the event that a request for a permit is denied wholly or in part by the Township Board, an application for a permit for the same premises, or any part thereof, shall not be re-submitted for a period of 2 years from the date of said Order of denial.

J. OPERATIONAL REGULATIONS.

K. REQUIREMENTS FOR ALL FILLING OPERATIONS.

1. The hours of operation shall be limited both as to equipment and vehicles and operations allowed only between the hours of 8:00 a.m. and 5:00 p.m. and is prohibited entirely on Sunday and legal holidays.

2. The disposal area shall be under the direction of responsible personnel during any period of operation and access shall be limited to those periods when such persons are on duty.
3. Access shall be limited to those persons and vehicles authorized to use the disposal area and Township, County and State personnel on official business.
4. Points of access to a disposal area shall be controlled by a locked gate at all times refuse is not being delivered and/or an attendant is not on duty.
5. The owners and/or operators must consent to reasonable inspection by duly authorized Township representatives without prior notice.
6. A performance bond must be posted in an amount established by the Township Board.
7. The premises must be regularly graded to prevent the collection of standing water.
8. All unpaved roads must be regularly treated to control the generation of dust and to prevent its escape from the premises.
9. All public access roads within 1/2 mile of the site must be kept free from debris falling off vehicles bringing materials to the site or leaving therefrom.
10. Supplemental insect and rodent control measures shall be instituted whenever necessary.
11. Measures shall be provided to control dust and blowing paper.
12. No burning shall be permitted on any disposal area.
13. Salvaging is permitted and shall be so organized so as to not interfere with prompt disposal of refuse or create unsightliness or health hazards. Scavenging is prohibited.
14. During winter operations, a supply of unfrozen earth cover material shall be made available and no frozen earth material shall be placed on the daily refuse fill.
15. The hauling of refuse or earth cover material to the disposal area shall be confined to routes approved by the Township Board. Vehicles shall have clean wheels (tired and rims) before reentering a public road.
16. Excavation shall precede placement of fill material by at least one hundred (100') feet. but shall not exceed two hundred (200') feet. Not more than two (2) working faces shall be active at anyone time.
17. Such other reasonable regulatory requirements as may be necessary to preserve public health, safety or welfare as the particular permit may require.
18. Noise levels on the boundaries of the site shall not exceed:  
(1) 75 decibels on the A scale where the adjacent property is used agriculturally, residentially or as open space, (2) 85 decibels on the A scale where the adjacent property is used commercially, (3) 90 decibels on the A scale when used industrially.

L. DISPOSAL AREA DESIGN REQUIREMENTS.

M. ON-SITE ROADS.

All on-site roads shall be designed and constructed in accordance with current Ottawa County Road Commission Standards for aggregate surface roads with open ditches, except that all roads having direct access to a public road shall meet Ottawa County Road Commission Standards for paved (concrete or bituminous concrete) for a distance of 1/2 mile from the public road to which to gain access. Roads shall be maintained in a manner to achieve free flowing daily operating traffic uninterrupted by ordinary inclement weather and also maintained in a rutfree, dust free condition. Road construction, location and design shall be subject to review and approval of the Township Board.

N. FILLING OF WET AREAS.

1. No filling of any type shall be permitted which will be within the 100 year flood plain or within 500 feet of any river, creek, lake, drain or pond larger than 5 acres either natural or artificial or wet lands of any body of water, drain or stream.
2. Draining or diking of earth fills shall be maintained so that no fill material shall be washed, eroded or in any way enter any body of water, drain, stream or adjoining property. Dikes shall be keyed to a level below any permeable surface soils such as sand and loam.
3. No filling of any material shall be permitted into any ponded water area, marsh, swamps, wet lands, or less than twenty (20) feet above the highest expected water table.
4. No residential structure shall be within 1,320 feet of the area within which wastes are placed.
5. No waste of any kind shall be placed closer than 20 feet above any water table found on the site.

O. PERMANENT FACILITIES.

1. Suitable permanent shelter and sanitary facilities shall be provided and maintained for persons working on the premises.
2. A telephone readily accessible to all persons on the premises shall be permanently maintained.
3. Suitable equipment shall be permanently maintained to extinguish fires and measures shall be taken to prevent their occurrence.
4. Adequate numbers, types and sizes of properly maintained equipment shall be used in operating the disposal area and standby equipment shall be available on the site or readily obtainable from other sources during equipment breakdowns or during peak loads.

P. PERIMETER SETBACKS.

No trenching, filling, borrowing or excavations shall take place within three hundred (300) feet of any perimeter property line, within three hundred (300) feet of any drain which leaves the site without a sedimentation basin.

Q. ACCESS.

Access to or egress from any disposal area site shall be only from a Class "A" County Primary Road as designated by the Ottawa County Road Commission.

R. MINIMUM SITE.

A one hundred-twenty (120) acre land parcel shall be the minimum size for the establishment of any disposal area.

S. SURFACE DRAINAGE.

The entire site of any disposal area, including the fill surface, shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, and to prevent the collection of standing water.

T. FENCING.

The entire disposal area premises shall be fenced with an eight (8') foot high "chain link" type fence. Portable litter fences shall be used in the immediate vicinity of the working area and at other appropriate locations to control blowing litter. At the end of each operating day, or more often as required, litter shall be removed from the fences and the grounds and incorporated into the cell being used.

U. DISPOSAL AREA FILLING REQUIREMENTS.

V. SANITARY LANDFILL METHOD.

The use of refuse or other waste material as fill material in any disposal area shall be with the sanitary landfill method only and shall be so designed and operated that conditions of pollution will not be created and injury to ground or surface water will be prevented. The disposal of human wastes, animal wastes, hazardous materials, and dead animals, is specifically prohibited.

W. REFUSE COMPACTION AND COVER.

1. Refuse shall be spread so that it can be compacted in layers not exceeding a depth of two (2') feet of compacted material. Large and bulky items, exceeding two (2') feet in height, when placed as fill material, shall be broken into smaller sections equal in height to the compacted refuse.
2. A compacted layer of at least six (6) inches of an approved earth cover material shall be placed on all exposed refuse by the end of each working day. The volume of individual cells shall not exceed the daily quantity of waste material.
3. Daily cover material shall be of one of the following soil classifications as described by the "Guide for Textural Classification of Soils" by the U.S. Department of Agriculture Soil Conservation Service:
  - (a) Sandy clay loam.
  - (b) Loam.
  - (c) Sandy loam.

Final cover material shall be an earth material which is free of large rocks and putrescible materials, can be easily spread under all moisture conditions, and can be compacted to a density so as to prohibit the intrusion of surface water.

4. A clay layer compacted to a minimum thickness of two (2')



feet with a density of at least 10-7 cm/sec and seeded, shall be placed over the entire surface of each portion of the final lift not later than one (1) month following the placement of refuse within that portion. During the winter months seeding may be delayed until weather allows in the spring.

Within 6 months after the completion of the placement and grading of any final cover the entire area shall be dressed with a minimum of four (4") inches of an approved topsoil and seeded with hardy perennial grass. The final cover depth shall be maintained for a period of at least five (5) years and all cracked, eroded, and uneven areas in the final cover shall be repaired.

#### X. FINAL GRADE ELEVATIONS.

The final elevations of the completed disposal area including the final cover, shall not exceed 35 feet above the average elevations existing prior to the establishment of the premises for a disposal area. In the case of a highway construction borrow pit or land significantly depressed from adjoining land parcels, the Township Board may permit the final elevations to be greater than the above, but in no case shall they exceed 35 feet above the grade of adjoining land parcels.

Slope of the sides of the final disposal area shall be not steeper than four to one (4:1), i.e., four units of horizontal distance to each one unit of vertical rise.

#### Y. GROUND WATER AND SURFACE WATER MONITORING.

1. Prior to construction, all water wells within a 3,000 foot radius and streams, lakes, ponds, creeks and drains within 3,000 feet of the subject property shall be tested for the below mentioned items and the test shall be used as a bench mark for future tests.
2. Bi-annually, all wells and surface water courses mentioned in ~~ntn~~ above shall be tested for the below mentioned items, and if the tests show any increase in concentrations in said items, the proprietor of the landfill shall determine if such is caused by the landfill and if so caused by the landfill, take such actions as are necessary to prevent any such contamination and in the case of a well provide a safe continuously available water supply to the owner of the well so contaminated.
3. All tests shall be done according to the most recent edition of standard methods by an EPA certified laboratory at the applicant's expense.
4. Tests shall be conducted for the following at a minimum and such others as may be required by the Township from time to time:
  - (a) Specific conductance
  - (b) Calcium
  - (c) Sodium
  - (d) Magnesium
  - (e) Chloride
  - (f) Sulfate
  - (g) Bicarbonate

- (h) Total Iron
- (i) Chemical Oxygen demand
- (j) Nitrite Nitrogen
- (k) Nitrate Nitrogen
- (l) Ammonia Nitrogen
- (m) Total Phosphorus
- Cn) Specific Gravity
- (O) PH
- (p) BOD (Biological Oxygen Demand)
- (q) Depth of water table
- (r) Physical characteristics of water including color, taste, odor and turbidity
- (s) Total dissolved solids

5. On site test wells shall be installed every three hundred (300') feet around the perimeter of the project and one hundred fifty (150') feet outside of the actual filling area. The depth of wells shall be alternated to sample water from both the top and bottom of the ground water table. Samples shall be taken bi-annually and tested as outlined herein.
6. Run off surface water shall be sampled and tested in the three hundred (300') foot setback area on a bi-annual basis, weather conditions permitting, and tested as outlined herein. Sampling locations shall be approved by the Township Board in advance.
7. A copy of the results of all tests performed as required herein shall be submitted to the Township Board bi-annually and not later than thirty (30) days following completion of these tests.

Z. FINAL FILL PLAN.

Upon completion of a disposal area, the permit holder shall supply to the Township and record with the Ottawa County Register of Deeds, an as-built plan which shall show by accurate references and be prepared by a Registered Civil Engineer, the actual location, depth, and types of fill and any leachate or gas control facilities which will have to be continued, and final surface elevations. This plan shall be drawn to the same scale and refer to the same elevation control as submitted under Paragraph D.1.a.

A copy of the final plan shall be retained by the Township for future reference.

AA. MAINTENANCE AND PERFORMANCE GUARANTEES, INSPECTION AND REVIEW FEES: AND DEPOSIT OF BOND AND CERTIFICATE OF INSURANCE.

BB. REVIEW AND PERMIT FEES.

Fee paid for review of an application and renewals of permits shall be as determined by the Township Board by resolution.

CC. DEPOSITS.

Cash deposits shall be made to the Township, to assure payment of permit fees and completion of the disposal area in accordance with this Ordinance, prior to the issuance or renewal of a permit by the Township Board. The cash deposit shall be determined by the Township

Board by resolution. The Township Board may at its discretion utilize the cash deposit to implement or seek enforcement of this Ordinance, conduct inspections during the operation of the disposal area or if it finds that the public health and welfare are being endangered by the condition of the disposal area, order emergency, corrective measures be taken and to be paid from the cash deposit remaining in the Township's possession.

Upon completion of the disposal area, the Township Board may return any unused portions of the cash deposit.

DD. BOND AND CERTIFICATE OF INSURANCE.

The Township shall require, prior to the issuance of any permit, the applicant to deposit a surety bond, in an amount to be fixed by the Township Board, guaranteeing that the applicant will faithfully perform all of the conditions and requirements under this Ordinance including reclamation and perpetual care.

The Township shall also require, that the applicant deposit a certificate of insurance with the Township Clerk, issued by a responsible indemnity company, in such amounts to be set by the Township Board, insuring the proposed work to be done and insuring itself against any loss or damage by the Township and against any loss or damage by third parties arising in any way from the operation of the proposed disposal area.

The applicant, shall in addition to the above, hold harmless and indemnify the Township, from any claim whatsoever that may arise out of the issuance of any permit, or that may arise in any form from the operation of the proposed disposal area, including providing the cost of defense in the event of the prosecution of any such claim.

EE. ENFORCEMENT VIOLATION AND PENALTIES.

In addition to the penalties and remedies provided for violation of the Zeeland Township Zoning Ordinance, pursuant to Chapter 23 thereof, any excavation or removal of earth and materials in violation of the provisions of this Ordinance are hereby declared to be a nuisance perse and may be abated by an order of a court of competent jurisdiction.

SECTION 3. That Section 15.123 of Chapter 4 of Ordinance No. 102 be amended to hereinafter read and provide as follows:

"15.123 - REMOVAL OF NATURAL RESOURCES: The requirements of this prior section are hereby repealed in its entirety and Section 15.123 is hereby reserved for use at a later date. The provisions replacing the prior section may now be found in Section 15.445 of Chapter 17 of Ordinance No. 102, as amended."

SECTION 4. Chapter 17 of Ordinance No. 102 be further amended by the addition of the following sections to hereinafter read and provide as follows:

1115.445 - REQUIREMENTS, STANDARDS AND PROCEDURES FOR A SPECIAL LAND USE PERMIT FOR AN EARTH CHANGE: This section is intended to regulate the removal and dumping of ground from and onto lands located in the Township of Zeeland; to provide for the study, protection, management and reclamation of ground resources within the Township; to provide for the issuance of permits for the removal or

dwnping of ground; to provide rules, regulations, conditions and procedures governing the issuance of such permit; to prescribe powers and duties of the Township Board and/or Planning Commission and to prescribe fees and procedures for the administration of this section.

A. DEFINITIONS. The following definitions are provided for the purpose of their use in Section 15.445 of Ordinance No. 102, as amended.

- 1: "Building Permit" shall mean a valid and duly issued building permit from the Building Inspector as may be required within the Township for the construction or alteration of any building, structure or improvement; but a building permit shall not mean a permit of the type required by this Ordinance.
2. "Earth Change Unit" shall mean a sub-unit of an Earth Change or mining project as determined in size and location by the person seeking the Earth Change permit, and as it is subsequently approved by the Township Board; however, no earth change unit shall exceed twenty (20) acres in size.

"Earth Change Unit" does not include that area of Earth Change or of the mining project utilized for (1) designated road purposes, and/or (2) an area to be designated but not to exceed seven (7) acres for the purposes of the stockpiling, sorting, grading and/or storage of minerals.

3. "Earth Change" shall mean a man-made change in the natural or existing cover or topography of any land. Earth Change shall include the moving, removing, excavating, mining or extraction of any ground on any lot, parcel or tract of land within the Township; and Earth Change shall also include the piling, stockpiling, dumping or depositing of any ground on any lot, parcel or tract of land within the Township.

Earth Change shall not apply, however, to the practice of plowing and tilling soil for the purpose of crop production or the broadcast spreading of soil conditioners, excluding waste sludge, or the harvesting of horticultural crops.

4. "Ground" shall mean and include soil, topsoil, subsoil, overburden, sand, gravel, earth, clay, marl, peat, rock, stone, aggregate, sludge and any other similar materials or resources.
5. "Overburden" shall mean all of the ground and other materials which lie above sand, gravel, clay and other natural mineral deposits of minable quality and shall also mean such ground and other materials disturbed from their natural state in the process of open mining.
6. "Permit" shall mean a valid and duly issued special land use permit of the type (i.e., Class A Permit or Class B Permit) required by Section 15.445 for an Earth Change within the Township.
7. "Project" shall mean any and all of the Earth Change activities or operations of a person on a single parcel, or on adjoining parcels which are contiguous for at least thirty (30) feet, whether in process or proposed.
8. "Topsoil" shall mean the "A Horizons" of the Soil Classification, A Comprehensive System, 7th Approximation; 1960; as noted

In Soil Survey of Ottawa County, Michigan, 1972.

9. (Reserved)

10. (Reserved)

B. PERMITS REQUIRED.

In accordance with Section 15.440, a special land use permit for an Earth Change is required pursuant to and in accordance with this ordinance except that no permit shall be required when and if

1. The earth change is confined to residential, commercial or industrial building construction located on one (1) acre or less and is necessitated by and performed in conjunction with the immediate use or development of the land upon which the earth change occurs pursuant to a building permit,
2. The earth change does not exceed a maximum volume of 600 cubic yards and is not intended to become and does not in fact become part of a larger earth change project which would require a permit hereunder or,
3. For the clearing of existing ditches when no material is removed from a parcel.

As used in this section, the term "construction location" shall mean the actual physical site of the building itself together with its adjacent grading and landscaping. The above exceptions shall not apply if the earth change results or will result in the formation of a pond with the removal of top soil from any lot, parcel or tract of land within the Township.

C. CLASSIFICATION OF PERMITS.

Permits required for an earth change shall be classified as follows:

1. Class A Permits - A "Class A Permit" shall mean a permit to allow an earth change when the volume of the earth change does not exceed more than 4,000 cubic yards.
2. Class B Permits - A "Class B Permit" shall mean a permit to allow an earth change when the volume of the earth change exceeds 4,000 cubic yards.

The intent of this ordinance is to preclude all persons from circumventing or attempting to circumvent the provisions of this ordinance by engaging in successive earth change activities having a maximum volume of 600 cubic yards or less or by making successive applications for Class A Permits under circumstances where the scope and nature of the proposed or projected earth change project would ultimately require a Class B Permit. If such a case shall arise, the Township Board shall require the person to comply with the provisions of this ordinance.

D. APPLICATIONS FOR PERMITS AND APPLICATION FEES.

A person seeking a Class A Permit or a Class B Permit shall make a written application for the same to the Township Clerk, which application shall be sworn to before a person lawfully authorized to administer oaths. Such application shall contain or be accompanied by the following information:

1. Full identification of the owner(s) of the parcel(s) upon which the Earth Change is proposed; and, if other than or in addition to the owner(s), full identification of the applicant and of all other persons to be involved in the operation or management of the Earth Change if a permit is granted.
2. The residence and business addresses of the applicant(s), and of the owner(s) if different, and of the operator(s).
3. The legal description (including street address where applicable of the property upon which the Earth Change is proposed to be done. Said legal description shall be by a registered civil engineer or land surveyor.
4. The specific nature and extent of the proposed Earth Change project and activity; the type of ground involved in the proposed Earth Change; and a fair and reasonable estimate of the number of cubic yards of ground involved in the proposed Earth Change. This estimate shall, if deemed necessary by the Township Board, be made by a registered civil engineer or land surveyor.
5. A detailed description by maps, diagrams or otherwise, of the contour and condition of the lands before commencement of the proposed Earth Change and as the person proposes to leave such lands upon completion of the Earth Change project or operations. Such description shall include:
  - a. A topographic map drawn with contour intervals of five (5) feet for the project area and ten (10) feet for the area having a radius extending three hundred (300) feet beyond the perimeter or exterior boundaries of the proposed Earth Change site, depicting the contours of the land in its existing condition (i.e. before commencement of the proposed Earth Change).
  - b. A topographic map drawn with contour intervals of two (2) feet for the project area and ten (10) feet for the area having a radius extending three (300) feet beyond the perimeter or exterior boundaries of the proposed Earth Change site, projecting the contours of the land upon completion of the Earth Change project or operations.
  - c. A statement of any landscaping to be done or other ground stabilization controls to be employed to insure that the lands are left in a stable, safe and usable condition, and to prevent ground erosion, ground blowing, dust or unsightly conditions.
  - d. A drainage plan to indicate the anticipated drainage system which would be utilized if the project is implemented.
  - e. Detailed information concerning the ground water table in the proposed project area, as well as detailed information concerning the project's proposed use of the ground water and its possible effect thereon, if the project is implemented.
6. A statement of the manner in which the Earth Change project is to be performed, operated and carried on, including a statement of the slope of the sides and the level of the floor, the finished grade and condition of the property following the completion of the project, and the kind and amount of equipment proposed to be employed.

7. The proposed route which the person intends to use or cause to be used in transporting the ground over the public roads and over any private property.
8. The person's previous experience in matters to which the permit appertains, and the name, address and previous experience in such matters of any other person(s) to perform or be in charge of the proposed Earth Change operations.
9. Whether or not the person has ever had an Earth Change application or permit and was it denied, revoked or suspended, and, if so, the circumstances of such denial, revocation or suspension.
10. The time within which the Earth Change project or operation will be commenced after a permit is granted, and the time within which the Earth Change project or operation will be completed.
11. A description of the measures to be taken by the person to control noise, vibration, ground blowing, dust and traffic.
12. Any measures which the person proposes to take to insure public safety, the exclusion of children from the premises, and the lateral support of adjoining and surrounding lands and structures.
13. Any and all such further or additional information as the Township Board may reasonably require to determine whether or not a permit should be issued.

In addition to the information required above, a person seeking a Class B Permit shall include the following information:

14. A comprehensive Environmental Impact Statement on the site of the proposed Earth Change project or activity, following guidelines prescribed by the Township Board by resolution, but including, at a minimum, the following:
  - a. An aerial photograph of all land within 1,320 feet of the perimeter or external boundaries of the proposed Earth Change site showing (indicating) the location of the various existing uses of such lands, the location and type of existing vegetation, existing soils and any other significant features. Appropriate overlays at the scale of the aerial photograph can be used to depict topography, slope, hazards, soils, vegetation, wildlife habitat and any other significant features.
  - b. A list of the various major ground vegetation found within the proposed Earth Change area, together with an indication of the presence of rare and endangered species.
  - c. The impact of the proposed Earth Change project or operations on flora, fauna, or wildlife habitats in and around the project site.
  - d. A detailed description of any known, anticipated or possible adverse or detrimental effects upon any aspect or element of the environment, both with respect to the project site and with respect to surrounding areas.
  - e. The effects of the Earth Change project and activity on groundwater supply and flow.
  - f. The effects of the Earth Change project and activity on adjacent surface resources.

- g. An illustrated landscape plan which presents the visual appearance of the proposed project area if the Earth Change operations are implemented.
  - h. A descriptive analysis of the grading plan to illustrate the appearance of the project as various operational stages are completed.
  - i. The economic impact of the Earth Change project and activity on the surrounding area.
  - j. The compatibility of the proposed Earth Change project or operations with adjacent existing land uses and with the Township Land Use Plan.
  - k. A description of any traffic control devices, public facilities, or public services which will be required by the proposed operations, and a statement of how, and by whom, the person proposes that the costs thereof be paid.
  - l. Alternatives, if any, to the proposed Earth Change and the reasons for the choice of the proposed Earth Change site over those alternatives.
15. A progressive Earth Change and Reclamation Plan for the proposed Earth Change project or activity, for both the total project and for each earth change unit, including, at a minimum, the following:
- a. The method and direction of Earth Change.
  - b. Surface overburden and stripping plans.
  - c. The depth of grade level over the entire site on which the Earth Change will take place.
  - d. Provisions for grading, revegetation, and stabilization that will minimize ground erosion, sedimentation, and public safety problems.
  - e. The location of buildings, equipment, stockpiles, roads, or other features necessary to the Earth Change activity and provisions for their removal and restoration of the area at the project's termination.
  - f. Provisions for buffer areas, landscaping and screening.
  - g. The interim use or uses of reclaimed earth change units before the cessation of the entire Earth Change operation or project.
  - h. Provisions for ingress and egress, including proposed routes for all truck and other vehicular travel in connection with the Earth Change operations.
  - i. Maps and other supporting documents required by the Township Board.
16. A Fifteen (IS)-Year Earth Change Plan including, at a minimum, the following:
- a. The location and acreage of ground deposit areas presently subject to an Earth Change, if any.
  - b. The location and acreage of ground deposit areas not presently subject to an Earth Change, but planned for that purpose, and the amount of ground planned to become subject to an Earth Change.



- c. A schedule indicating when the Earth Change activity will begin in each ground deposit area and the probable termination date of Earth Change activities in each area.
  - d. Additional information requested by the Township Board.
17. Any and all such further or additional information as the Planning Commission or Township Board may reasonably require to determine whether or not a permit should be issued.
  18. The Township Board may, at its discretion, request a review of the Earth Change application and solicit comments from various agencies such as the Soil Conservation District in Ottawa County, the Ottawa County Drain Commission and the West Michigan Regional Shoreline Development Commission.
  19. Application Fees. All applications filed with the Township Clerk for Class A or Class B Permits shall be accompanied by application fees in such amounts (for Class A Permits and Class B Permits respectively) as may be determined by the Township Board by resolution from time to time. Such application fees shall be for the purpose of offsetting and defraying the cost or expense to the Township of investigating, reviewing and processing such applications.

E. PROCESSING OF APPLICATIONS FOR PERMITS.

Upon receipt of an application by the Township Clerk, said application shall be reviewed by the Township Board at its next regularly scheduled meeting to determine if said application contains the information required by Paragraph D above. If the Township Board deems the application does not address the requirements, it shall so advise the person in writing, specifying the deficiencies; provided further that the Township Board's preliminary determination of completeness, or its failure to specify deficiencies, shall not preclude the Township Board from later identifying or asserting any such deficiencies or from requesting such further or additional information as the Township Board may reasonably require to determine whether or not a permit should be issued.

1. When the Township Board determines that an application and fee for a Class A Permit are complete, the Township Board, may, in its discretion, schedule one or more public hearings on the completion of issuing a Class A Permit to the applicant, provided further that in the event the Township Board shall determine that a public hearing is not necessary or contemplated, that the Board shall, at a minimum, before issuing a Class A Permit, satisfy all of the minimum notice requirements before issuing a Special Land Use Permit which is required by state law, MSA Section No.S.2963(166) .In addition, the Township Board may, in its discretion, refer the application to the Township Planning Commission for its recommendation before rendering a final decision. The Planning Commission, shall consider, review and make its recommendation to the Township Board on the application no later than its next regularly scheduled quarterly meeting, provided further that the applicant shall have the right to request a special meeting of the Planning Commission for purposes of reviewing the application provided that the applicant bear the cost usually incurred by the Township in scheduling a special meeting for such purpose.
2. Upon receipt of the Township Clerk of an application for a Class B Permit, the Township Board shall submit the application to the Planning Commission for its consideration, review and recommendation. The Township Board and Planning Commission shall schedule at least one public hearing on the question of

issuing a Class B Permit. Notice of such public hearing shall be to all of the minimum notice standards established by state law with regard to the issuance of a special land use permit, provided further that notice of such public hearing shall be mailed to the owners of all property within 1,320 feet of any portion of the parcel or tract of land within which the proposed Earth Change project would occur (as such owners appear according to the Township's last tax assessment roll). In addition, notice of said public hearing shall be published in a newspaper of general circulation in the Township not more than fifteen (15) nor less than five (5) days prior to the public hearing.

3. Whenever the Planning Commission is requested or required to make recommendation to the Township Board on the question of issuing a Class A or Class B Permit, the Planning Commission shall prepare and submit a written recommendation to the Township Board on the question of issuing the permit. and if such recommendation favors issuance of a permit, then in such event, the Planning Commission's recommendation shall contain suggested terms and conditions to which the permit should be subject and upon which the permit should be issued. In the course of its consideration and investigation of the application for a permit, the Planning Commission may consider all factors it deems relevant to the question of issuing a permit and the Planning Commission may require such further investigation and/or make such further inquiries as it deems necessary or advisable in making its written recommendation to the Township Board.
4. Upon receipt of the Planning Commission's written recommendations, the Township Board may, in its discretion, schedule one or more public hearings on the question of issuing a permit. Following the Township Board's consideration of the application, after all recommendations from the Planning Commission, have been received, if required hereunder, after all public hearings have been held, the Township Board shall determine whether or not to issue a permit for either a Class A or Class B Permit.
5. All permits issued by the Township Board shall be subject to and shall be in accordance with the terms, provisions and requirements of this section pertaining to issuance of Earth Change Permits herein set forth.

F. FACTORS IN CONSIDERING APPLICATIONS FOR PERMITS.

1. The Township Board (and the Planning Commission where applicable), in considering applications for Permits, shall take into consideration, by way of illustration and not of limitation, the following factors: the recommendation of the Planning Commission, where applicable; the zoning of the proposed site; its proposed reclamation in a manner consistent with the Zeeland Township Land Use Plan; the character of the person in respect to the person's honesty, integrity and financial responsibility; the person's ability to comply with this Ordinance and the probable terms and conditions of a permit, if issued; the size, nature, and character of the proposed Earth Change activity; the scope and duration of the proposed Earth Change activity; the proximity and effect of the proposed Earth Change activity with respect to adjoining properties and the surrounding neighborhood; the relative need or necessity of the proposed Earth Change activity in relation to other possible uses of the property; the impact of the proposed Earth Change activity on the environment; all pertinent things concerning the health, safety and general welfare, and the preservation of natural and environmental resources and the prevention of nuisances and hazards; and shall exercise a reasonable and sound discretion in the premises.

2. No permit shall be granted if it appears from the investigation thereof that the project would remove the lateral and sublateral support of the adjacent land or result in a dangerous topographic condition, or result in seepage or slides or create an attractive nuisance dangerous to public safety, or that it otherwise would in any manner endanger the public health or safety and prevent the preservation of natural resources, or be detrimental to the general public welfare.
3. The Board shall deny a permit if, upon review of the environmental impact statement, it determines that the proposed Earth Change operation or operations would have an irreparable harmful effect on the environment.
4. In granting or denying a permit, the Township Board shall provide written reasons therefor.

G. BASIC PERMIT REQUIREMENTS.

All Special Land Use Permits for an Earth Change shall be in writing and shall contain or be subject to at least the following basic provisions:

1. The name and address of the person or persons to whom the permit is granted and who are therefore permitted to engage in the authorized Earth Change.
2. A description of the lot, parcel or tract of land to which the permit applies; and a description of the site or portion of such lot, parcel or tract upon which the Earth Change is permitted.
3. All Earth Change permits shall be subject to the general terms, conditions and limitations applying to such permits, as such general terms, conditions and limitations are set forth in Paragraph H of this Ordinance, whether or not such general terms, conditions and limitations are specified in any such permit.
4. All Earth Change permits shall also be subject to such special terms, conditions and limitations as may be prescribed by the Township Board and contained in such permit. In specifying any such special terms, conditions and limitations in any such permit, the Township Board may set forth such special terms, conditions and limitations in the permit itself and/or may incorporate such special terms, conditions and limitations therein by reference to any other written, identifiable and available document or documents; and any special terms, conditions and limitations so incorporated by reference shall be deemed a part of the permit to the same extent as if such incorporated terms and provisions were fully set forth in the permit.
5. The date the permit is issued.
6. The expiration date of the permit; provided, however, that if no such expiration date is set forth in the permit, such permit shall expire as provided in Paragraph 7 below.
7. Class A Permits shall expire 180 days following the issuance of such permit or within the time specified in the permit, whichever is the shorter.

8. Class B Permits shall expire three (3) years from the date of issuance or within the period of time as may be specified in the permit, whichever is shorter.
  9. Once a permit, either Class A or Class B, has expired, no further Earth Change shall take place without first obtaining a new or renewed permit therefore.
- H. GENERAL TERMS, CONDITIONS AND LIMITATIONS APPLYING TO EARTH CHANGE PERMITS.

The following general conditions and provisions shall apply to both Class A and Class B permits:

1. Trees and other vegetation or ground cover shall not be stripped off any ground landform so as to unnecessarily expose areas of ground that are prone to wind or water erosion that will cause ground or dust to be carried by wind or water onto adjoining or surrounding properties, or onto public or private roads, or to create a nuisance thereby.
2. All vehicles used for transporting of ground from or to any Earth Change project shall follow established truck routes within the Township or shall travel only directly over such route as may be determined by the Township Board to be least dangerous to the public health, safety and general welfare, to cause the least interference with general traffic, and to cause the least damage to the public roads.
3. Any ground that may be spilled or deposited on any public road or other public place within 1500 feet of any point of ingress or egress to the project site from any vehicle transporting such ground from or to any project site shall be immediately removed in a manner satisfactory to the Township Board at the expense of the person to whom the Earth Change permit is issued.
4. The permit holder shall take such appropriate action to insure the satisfactory compliance of subparagraphs (2) and (3) above by any person engaged in any activity described in said subparagraphs (2) and (3). The permit holder's failure to do the same may constitute grounds for the suspension and/or revocation of said permit.
5. The floor of any Earth Change project shall not be made lower than the level specified in the permit; provided, however, that if no floor level is specified in the permit, the floor shall not be made lower than the level specified in the application for the permit.
6. No Earth Change permit, nor any provisions thereof, shall authorize or permit any violation of the Township Zoning Ordinance or any other applicable ordinance, law, or regulation, either federal, state, county or local, in force and effect within the Township; and all Earth Change permits shall be subject to any such applicable ordinances, laws or regulations.
7. All topsoil shall remain on the project site. Sufficient subsoil and/or overburden shall be stockpiled on the project site for reclamation purposes. The applicant shall state in the reclamation plan the methods and specifications by which the topsoil and subsoil and/or overburden shall be redistributed over the site. The reclamation plan shall specify the combination of topsoil and/or overburden which shall be conducive to the establishment of a suitable ground cover and/or the growth of vegetation. In the event, however, that Earth Change operations within an earth change unit continue for a period longer than thirty (30) days, the person shall,

to the extent possible and practical, reclaim the completed Earth Change areas as the operation progresses.

8. During any period in which an Earth Change project is being carried on or operated, no person shall cause or allow stagnant bodies of water to form, and persons owning or operating an Earth Change project or site shall spray, as necessary, any bodies of water which may exist in conjunction with such operations to keep the same from becoming breeding places for mosquitoes or otherwise creating any unhealthy condition.
9. Where project operations result in a body of water, the person shall place appropriate "Keep Out - Danger" signs around the body of water, not more than two hundred (200) feet apart. Such signs shall be maintained at least until all Earth Change activity is completed and the slopes of any banks comply with the provisions of subsection (k) below.
10. The project site shall be landscaped or stabilized as the replacement of topsoil occurs at least to the extent necessary to eliminate any ground erosion by wind or water.
11. The final slopes of the banks of an Earth Change project involving any excavation shall in no event exceed a minimum of three (3) feet to one (1) foot (3 feet horizontal to 1 foot vertical); and where ponded water results from the project or operations, this slope shall be maintained and extended into the water to a depth of five (5) feet.
12. No Earth Change shall occur closer than fifty (50) feet from the nearest street or highway right-of-way nor closer than fifty (50) feet from the nearest property line; provided, however, that the Township Board may prescribe more strict requirements in order to give sublateral support to surrounding property where savor geographic conditions warrant it; and provided further that the Township Board may, in its discretion, prescribe less strict requirements upon written consent of the adjoining property owner. (Under no circumstances, however, shall the Township Board permit a minimum less than that contained in such written consent.)
13. If, in the opinion of the Township Board, any such project will present a dangerous condition if left open, such project shall be enclosed by a chain link or wire mesh fence completely surrounding the portion of the site where the project extends, said fence to be not less than five (5) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on. Barbed wire shall not be used.
14. No permit shall be issued unless the Township Board finds:  
(i) that the restored elevation, upon completion of the project, will be compatible with the surrounding areas and suitable for subsequent development for uses compatible with the district; and Cii) that the reclamation plan submitted under Section leg) has been approved by the Township Board; and (iii) that adequate safeguards are provided to insure compliance with subsections (a) through (m) above and to protect adjacent property from blowing or otherwise eroding ground; and (iv) that the property in question will be restored as provided in subsections (a), Cj) and (k) above and that it will be stabilized and maintained by appropriate plantings indigenous to the area in its natural and undisturbed state.

15. General Conditions Applying to Class B Permits. In addition to the general conditions prescribed above, the following general conditions and provisions shall apply to Class B Permits only:
- a. All roads, public or private, used by trucks (whether full or empty) for the purpose of hauling equipment, materials or ground to and/or from the project site shall be kept dust-free by hard topping with concrete, bituminous substance, chemical treated, or other means approved by the Township Board if: (i) they are located within 330 feet of an occupied residence, or (ii) the dust would be detrimental to the public health, safety or welfare. The cost of such dust control shall be borne by the person or persons to whom the Earth Change permit is granted.
  - b. No part of any ground processing equipment (such as crushers, mixers, separators, etc.), excluding transporting equipment, shall be operated closer than five hundred (500) feet from the nearest adjacent parcel not owned by the person, or closer than three hundred (300) feet from any adjacent road right-of-way or adjacent property line; provided, however, that the Township Board may, in its discretion, prescribe less strict requirements upon written consent of the adjoining property owner. (Under no circumstances, however, shall the Township Board permit a minimum less than that contained in such written consent.)
  - c. The permit shall state any conditions, limitations, or other restrictions determined by the Township Board.
  - d. No Class B Permit shall be issued except on an earth change •. unit basis; no Class B Permit shall be issued for a ~~~~ project which contains less than six (6) earth change units; and no earth change unit shall exceed twenty (20) acres.
  - e. A permit issued by the Township Board shall be valid for not more than three (3) years or such shorter period as may be specified in the permit. Prior to the expiration of said permit, if the person holding such a permit wishes to renew the same, he shall request the same, in writing, to the Township Clerk. Said request for renewal shall be accompanied by a sworn affidavit that such person has substantially complied and presently complies with all of the conditions of said permit and all other applicable ordinances, laws, rules, and regulations. If the Township Board, after the recommendation of the Planning Commission, finds the representations in said request for renewal to be true, and further that such renewal would not be adverse to the health, safety and welfare of the Township, it may proceed with the issuance of a renewed permit without further hearings. In the event the Township Board finds to the contrary, than no further Earth Change shall take place without first obtaining a new (renewed) permit therefor upon application in accordance with this Ordinance. In considering such application for renewed permits, the procedures prescribed in this Ordinance shall be followed, unless a specific waiver is granted in writing by the Township Board, and the Township Board shall, in addition to those things to be considered under this Ordinance, also consider the person's performance under the prior Earth Change Permit with respect to the person's compliance or non-compliance with this Ordinance and with the general and specific conditions of the prior permit.

- f. Surveillance Fee; Annual Report of Person; Surveillance Report of Board. For purposes of surveillance, monitoring, administration, and enforcement of this Ordinance, a person shall be assessed a fee of not more than one and one-half cent (1 and 1/2 ¢) per ton of ground removed from a project site for the calendar year reported. The assessed fee shall be based upon an annual report to be filed with the Township Board by a person to whom a permit is granted. Such annual report shall contain at a minimum, the number of tons of ground removed from the project site(s), the location of the Earth Change area, such other information as the Township Board may by resolution require from time to time, and which annual report shall be verified under oath (notarized) that the information representations contained in the annual report are true and correct to the best of the person's knowledge and belief.
- (1) The fee described above shall be due not more than thirty (30) days after the Township Board sends written notice to the person of the amount due.
  - (2) A penalty equal to 10% of the amount due, or \$1,000.00, whichever is greater, shall be assessed against the person for a fee not paid when due. An unpaid fee and penalty shall constitute a debt and become the basis of a judgment against the person.
  - (3) Records upon which the annual report is based shall be preserved for at least three (3) years and shall be subject to audit by the Township Board.
  - (4) The Township Board shall annually prepare and submit to the Planning Commission a written report on the Earth Change surveillance activities taken by or on behalf of the Township Board for the immediately preceding year and the cost thereof.
- g. Performance Bond. No Earth Change shall be initiated, commenced or continued pursuant to a permit issued hereunder until the person shall have first filed with the Township Clerk a corporate performance bond, in favor of the Township and in form and substance acceptable to the Township, executed by a reputable insurance company authorized to do business in the State of Michigan. Such performance bond shall be for the following purposes and shall conform to the following provisions and requirements:
- (1) The bond shall be secured, furnished and maintained at the person's sole expense, and without expense to the Township.
  - (2) The bond shall be conditioned upon the faithful performance of the person and upon the further condition that in the event the person fails to comply with anyone or more of the provisions of a permit or of this Ordinance, there shall be recoverable by the Township, jointly and severally from the principal and surety of such bond, any damages or losses suffered by the Township and any costs or expenses incurred by the Township as a result thereof, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond.

- (3) The bond shall also be conditioned upon the person's full and faithful performance of all reclamation requirements of this Ordinance and of any permit issued hereunder.
- (4) The bond shall be renewable annually, shall insure strict compliance with any regulations contained herein or required as a condition of the issuance of a permit hereunder, and shall at all times after issuance of a permit be maintained in full force and effect for the term of the permit or any renewal thereof; and liability under the bond shall continue, even after expiration, revocation or suspension of the permit, until the person has liquidated all obligations with the Township that may have arisen from the granting of a permit or its renewal or from the person's exercise of any privilege or right granted under this Ordinance or under any permit; and liability under the bond shall further be maintained as long as reclamation is not completed in full compliance with the reclamation requirements of this Ordinance and of the permit.
- (5) The bond shall provide that at least thirty (30) days' prior written notice of intention not to renew, cancellation, or material change, be given to the Township in writing filed with the Township Clerk.
- (6) The bond shall be in such form and in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder. In fixing the amount of such bond, the Township Board shall take into account the size and scope of the proposed Earth Change project, the probable cost of reclaiming and rehabilitating the premises upon default of the person, the estimated expenses to compel the person to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application and permit. Notwithstanding the foregoing provisions of this subsection, however, such bond shall in no event be in an amount less than \$10,000.00 per earth change unit or \$1,000.00 per each acre in the earth change unit (whichever is greater).
- (7) The bond shall be filed and maintained for at least the earth change units contained within a permit within which the person is authorized to engage in Earth Change activity at any given time; and such bond shall be transferable to other earth change units contained within a permit upon full and faithful conformance with the reclamation requirements of this Ordinance and of the permit.

h. Earth Change Unit Limitations, Reclamation; and Earth Change Unit Progression;

- (1) No Earth Change activity shall be permitted or shall occur (or be left uncompleted) in more than three (3) earth change units contained within a permit (and covered by the required bond) at any given time, (i.e. while a Class B Permit may contain more than three (3) earth change units, it shall not apply to more than three (3) earth change units at any given time);



and no Earth Change activity shall progress from any one earth change unit within a permit to any other earth change unit within a permit until and unless: (i) the person makes written request therefor to the Township Clerk, and (ii) the Township Board has accepted in writing the reclamation activity for the completed earth change unit, and (iii) the Township Board has approved in writing the person's progression of Earth Change activity to a new earth change unit within the permit, and (iv) the required bond has been transferred or extended to the new earth change unit within the permit.

- (2) Reclamation activity shall not be deemed to have been completed with respect to any earth change unit contained within a permit until the person has notified the Township Clerk in writing that such reclamation activity has been completed with respect to a specific earth change unit and the Township Board has thereafter accepted in writing the completed reclamation activity for the specific earth change unit. In notifying the Township Clerk of completed reclamation activity with respect to any earth change unit and/or requesting permission to extend Earth Change activity into a new earth change unit, the person shall submit to the Township Clerk, together with such notification and/or request, the written certification of (1) a registered civil engineer and (2) a professional ecologist to the effect that reclamation activity in the earth change unit or units involved has been completed in accordance and full compliance with the reclamation requirements of this Ordinance and of the permit. Such certification shall be accompanied by such supporting documents as the Township Board may reasonable require.

- i. Special Terms, Conditions and Limitations Applying to GrOld Removal Permits. Section 1. Special Conditions Applying to Permits. In addition to the general conditions and provisions applying to both Class A and Class B Permits pursuant to Sub-paragraph H of this Ordinance, and in addition to the general conditions and provisions applying to Class B Permits pursuant to Paragraph H-1S of this Ordinance, the Township Board may in its discretion impose such additional or special terms, conditions and limitations on the issuance of any Class A or Class B Permit as the Township Board deems reasonably necessary or advisable under the facts and circumstances of a particular application and permit. In determining such additional or special terms, conditions and limitations, the Township Board shall consider the following standards: (1) the size, nature and character of the proposed Earth Change activity; (2) the scope and duration of the proposed Earth Change activity; (3) the proximity of the proposed Earth Change activity to adjoining properties; (4) any traffic congestion or hazard which will be occasioned by the proposed Earth Change activity; (5) the relative need or necessity of the proposed Earth Change activity in relation to other possible uses of the property; (6) the effect of the proposed Earth Change activity on adjoining properties and the surrounding neighborhood; (7) the compatibility of the proposed Earth Change with the Zeeland Township Land Use Plan; (8) the nature, character and extent of reclamation required to restore the property to a useful and suitable condition following the Earth Change activity; (9) the impact of the proposed Earth Change

activity on the environment, including the potential impact of the proposed Earth Change activity on the ground water table, the potential creation of hazards, erosion problems, ground blows, stagnant bodies of water, or any type or kind of injurious areas or conditions; and (10) the effect of the proposed Earth Change activity on the health, safety and general welfare of the Townships inhabitants. Section 2. Special Conditions as Part of Permit.

- (1) If the Township Board imposes any additional or special terms, conditions or limitations with respect to the issuance of any Class A or Class B Permit, pursuant to Section 1 of this Article, such additional or special terms, conditions or limitations shall either be expressly set forth in the permit itself or otherwise incorporated therein and made a part thereof by reference.
  - (2) To the extent any such additional or special terms, conditions or limitations are expressly set forth in a permit or are by reference therein incorporated in and made a part of a permit, such additional or special terms, conditions or limitations shall be deemed as much a part of the permit as if such additional or special terms, conditions or limitations were fully set forth in this Ordinance, and any violation of or non-compliance with such additional or special terms, conditions or limitations shall be deemed a violation of this Ordinance to the same extent as if such additional or special terms, conditions or limitations were fully set forth herein.
- j. Violations, suspensions or revocations of permits. If the Township Board finds, after a public hearing, the person is not in compliance with this Ordinance, the rules promulgated under this Ordinance, or a provision of the permit, the Township Board may suspend or revoke the permit; provided further that the above provision shall be considered supplemental to all legal remedies available to the Township for violation of this Ordinance or any part thereof in accordance with Chapter 23 of Ordinance No. 102, as amended.

SECTION 5. That Section 15.551 of Chapter 23 of Ordinance No. 102, be amended to hereinafter read and provide as follows:

fl15.551 - Any building or structure which is erected, altered or moved into said Township or moved within the Township and maintained or used, and any use of land which is begun, maintained or changed in violation of any provisions of this Ordinance, is hereby declared to be a nuisance per se. Any person, firm, corporation or other organization which Violates, disobeys, omits, neglects or refuses to comply with or resist the enforcement of any provision of this Ordinance, or any amendment thereof, shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than Five Hundred (\$500.00) DOLLARS or imprisonment in the County Jail for not more than ninety (90) days, or both, such fine and imprisonment in the discretion of the Court before whom the conviction is had. Each and every day during which any illegal erection, construction, reconstruction, alternation, moving of buildings, or structures, maintenance or use shall continue, shall be deemed a separate **offense.** "

The use of any property in violation of the provisions of this Ordinance are hereby declared to be a nuisance per se and may be abated by an order of a court of competent jurisdiction. It is intended that the remedies prescribed herein shall be considered cumulative and the pursuit of any such remedy shall not preclude its simultaneous or subsequent pursuit of any other remedy, whether prescribed in this Ordinance or otherwise allowed by law.

SECTION 6. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 7. This Ordinance shall take effect upon the publication hereof.

Passed and Approved on the 1<sup>st</sup> day of June, 1983, at a Regular Meeting of the Zeeland Township Board with the following:

AYES: Sample, Zeirip, Ter Haar, Immink

NAYS: ~

ABSENT: ~

Robert Sample, Supervisor

Kenneth EV~...~C~l-e-r-k~...~

CERTIFICATE  
ZONING

I, Kenneth Evink. the Clerk for the Township of Zeeland, Ottawa County, Michigan, do hereby certify that the foregoing Zeeland Township Zoning Amendment Ordinance No. 138 was adopted at a regular meeting of the Zeeland Township Board held on April 18, 1983. The following members of the Board were present at that meeting: Seiple, Zeerip.

Terhaar and Immink

The following members of the Township Board were absent: Evink

\_\_\_\_\_ The Ordinance was adopted by the Township

Board with members of the Board Seiple, Zeerip, Terhaar, Immink

\_\_\_\_\_ voting in favor and with members of the

Board None

\_\_\_\_\_ voting in opposition. Notice of Adoption with a copy of the attached

Ordinance Summary was published in the Zeeland Record on May 5,

1983. An attested copy of the Ordinance was sent to the Ottawa County

Clerk by first class mail, postage prepaid, on \_\_\_\_\_, 1983.

\_\_\_\_\_  
Kenneth Evink  
Zeeland Township Clerk