

PUBLIC NOTICE OF ORDINANCE ADOPTION

The City Council of the City of Newaygo adopted the following ordinance amendment at a regular meeting held on Monday, March 10, 2025. This ordinance/ordinance amendment will be in effect upon its publication as required by law. The Ordinance can be inspected, reviewed or purchased in its entirety at the Clerk's office at City Hall located at 28 State Road, Newaygo, MI during regular business hours or viewed online at www.newaygo.gov

**CITY COUNCIL
CITY OF NEWAYGO
NEWAYGO COUNTY, MICHIGAN
Ordinance No. 2025-01**

AN ORDINANCE TO AMEND CHAPTER 3 GENERAL PROVISIONS AND CHAPTER 21 SPECIAL LAND USE OF THE ZONING ORDINANCE FOR THE CITY OF NEWAYGO REGARDING NATURAL RESOURCES REMOVAL OPERATIONS (I.E. SAND AND GRAVEL PITS, MINES, AND MINERAL EXTRACTION)

THE CITY OF NEWAYGO (THE "CITY") ORDAINS:

Section 1. Chapter 3 titled "General Provisions" of the Newaygo City Zoning Ordinance is hereby amended as follows:

Chapter 3 - General Provisions:

Sections 3.01 – 3.33 (inclusive):

[Unchanged]

Section 3.34 Natural Resources Removal Operations (i.e. Sand and gravel pits, mineral extraction):

This is a new section added to Chapter 3. It shall read as follows:

Section 3.34 Natural Resources Removal Operations (i.e. Sand and gravel pits, mines and mineral extraction)

- A. **Definition of Natural Resources Removal:** The extraction and/or excavation of sand, gravel, topsoil, stone, clay, earth, marl, peat, or any other nonrenewable earth material. It does not include excavation or grading preliminary to a construction project on the same parcel(s) so long as no more than 2,000 cubic yards of material are mined or removed.
- B. **Permit Requirement.** No individual, corporation, limited liability company, partnership, trust, firm, association or any other entity shall conduct Natural Resources Removal, as herein defined, on land within the City of Newaygo, without having first obtained a special use permit according the Zoning Ordinance of the City of Newaygo. Design standards for mining, processing, and/or transporting stone, sand, or gravel aggregate are located in the Special Land Uses chapter and must be followed.
- C. **Information Required in the Application:** Every Natural Resources Removal application shall contain all of the following information:
 1. Name and address of the applicant.
 2. Name and address of the owner(s) of the land which operations will take place.
 3. Name and address of the person, firm, entity or corporation who will be primarily responsible for conducting the mining operations.
 4. A full legal description of the property and a copy of the recorded deed vesting title.
 5. **Site Plan.** Scale drawings of the total property involved, which includes boundaries, aerial extent of property, proposed footprint showing location of the proposed development site, all abutting streets, and public utilities, location of all existing and proposed access roads, structures, parking facilities, water and sewer systems, the types of buildings and their uses. The plan shall also show the location of any crusher, asphalt plant, and stockpiles. In addition, the site plan should show the location of all residential dwellings, wetlands, creeks, streams, or bodies of water within five hundred (500) feet of the lot or parcel to be mined. The site plan must also meet all of the requirements of Chapter 22 of the Zoning Ordinance for a site plan.
 6. The existing land uses of all properties within five hundred (500) feet of the lot or parcel to be mined.
 7. A description of the general ground water conditions and possible impact of excavation operations upon adjacent ground water levels.
 8. The proposed roads and types of road surfaces that will serve the site.
 9. The proposed haul route for vehicles to and from the site.

10. The estimated amount of vehicular traffic per day and week generated by operations.
 11. The proposed dust control methods.
 12. The proposed method of operation and general description of machinery and equipment utilized.
 13. The proposed days and hours of operation.
 14. The type of minerals to be extracted, or deposited, showing existing topography, geological composition and depth of mineral deposit.
 15. Identification of all wetlands, water courses, or bodies of water on site.
 16. The depth of private wells within five hundred (500) feet of lot or parcel to be mined, if excavation below the surrounding average grade is to occur.
 17. The location of all surface water, existing drainage patterns, and whether operations call for water impoundment.
 18. The estimated length of time that the mine will be in operation, based on estimated reserves and production rates.
 19. Estimated acres from which excavation will take place.
 20. A detailed plan of operation for stripping topsoil, overburden, stockpiling, excavation, rehabilitation and reclamation, including final land use, topsoil redistribution, re-vegetation, grading, final topography and drainage patterns. A site reclamation plan shall be submitted with the application.
- D. Application Review. Under the City of Newaygo Zoning Ordinance Special Land Use procedures, the application shall be reviewed to determine whether or not the proposed mining operations will constitute a nuisance, cause "very serious consequences," be detrimental to the public health, safety or general welfare of residents of the City of Newaygo, be harmonious with the character of adjacent properties and surrounding area, be in compliance with the general objectives of the City of Newaygo Master Plan and Zoning Ordinance, meet all of the standards and procedures set forth in this Ordinance, and comply with all Federal, State, local laws, rules and regulations.
- E. Burden of Proof. The burden of demonstrating that an application complies with all applicable standards is on the applicant.
- F. Water Quality. The use must not cause any adverse impact to ground water, private wells, private septic systems, or any Wellhead Protection Zone. The Planning Commission may require a hydrographic study and/or environmental impact study.
- G. No sand, gravel, stone, marl, peat, topsoil or similar material shall be removed in such a manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that the surface water or natural drainage is not interfered with.
- H. The dumping or burying of any construction or waste material, including soil, sand, clay, gravel, stone, blacktop, concrete or similar materials on any parcel of land within the City is prohibited, except as approved by the City of Newaygo.

Section 2. Chapter 21 titled "Special Land Uses" of the Newaygo City Zoning Ordinance is hereby amended as follows:

Chapter 21 – Special Land Uses:

Sections 21.01 – 21.03 (inclusive):

[Unchanged]

Sections 21.04 Design Standards:

Section 21.04(U) Mining, processing, and transportation of stone, sand, or gravel aggregate, is hereby amended to read as follows:

- (1) All uses shall comply with all applicable standards and requirements of the State of Michigan.
- (2) No fixed machinery, building or fixture shall be erected, parked, used or maintained within fifty (50) feet of any property line or street right-of-way line. No cut or excavation shall be made closer than fifty (50) feet to any property line or street right-of-way in order to ensure sublaterals support to surrounding areas. The Planning Commission may require greater setbacks to adequately protect adjoining properties.
- (3) The excavation site shall be enclosed by a fence at least six (6) feet high around the entire periphery of the site. Fences shall be adequate to prevent trespass, and shall be placed no closer than fifty (50) feet

from the top or bottom of any slope. Modifications to the fencing requirements must be approved by the Planning Commission.

- (4) No temporary slope shall exceed an angle with the horizontal of forty-five (45) degrees.
- (5) All buildings, fixtures and structures shall comply at all times with all local and state building codes and related permit requirements.
- (6) Proposed truck routes to and from the site shall be subject to approval by the Planning Commission.
- (7) Proper measures, as determined by the Zoning Administrator, shall be taken to minimize the noise, dust, and flying rock.
- (8) The intensity level of sounds shall not exceed the following decibel-levels when adjacent to the following types of uses:

<u>In Decibels:</u>	<u>Adjunct Use:</u>	<u>Where Measured:</u>
80	Residential	Common lot line
90	Commercial	Common lot line
90	Industrial	Common lot line

- (9) The drifting of airborne transmissions beyond the lot line of dust, particles, or debris is prohibited.
- (10) A reclamation plan showing the existing grade of the site, areas where excavation will occur, the final grade of the site when excavation is completed, and the end use to which the site will be put, shall be submitted to and approved by the Planning Commission.
- (11) When excavation and removal operations are completed, the excavated area shall be graded so that the slope shall not exceed a ratio of 3:1 (horizontal-vertical). A layer of arable topsoil shall be spread over the excavated area, except for exposed rock surfaces or areas below natural water level, to a minimum depth of four (4) inches in accordance with the approved contour plan. Such areas shall also be seeded with a perennial rye grass and maintained until the area is stabilized as determined by the Zoning Administrator.
- (12) The Planning Commission may impose a time limit upon when all mining must be completed and also when all reclamation must be fully completed and finished.
- (13) Hours of operation shall be limited to the following times:
 - 7:00 a.m. to 6:00 p.m. on Monday through Friday
 - 8:00 a.m. to 6:00 p.m. on Saturday
 - No operations shall be allowed on Sundays and legal State of Michigan holidays.
- (14) No crushing or processing shall occur unless approved by the Planning Commission.
- (15) The Planning Commission may attach additional reasonable conditions to the special land use approval.

Sections 21.05:

[Unchanged]

Section 3. Conflict

- A. Nothing in this Ordinance/ordinance amendment will be construed in such a manner so as to conflict with any other City ordinances, except as otherwise stated herein.
- B. Nothing in the Ordinance/ordinance amendment shall be construed in such a manner so as to conflict with any federal law or any law of the State of Michigan.

Section 4. Savings Clause

The provisions of this Ordinance/ordinance amendment are severable. If any part of this Ordinance/ordinance amendment is declared void, invalid, or inoperable for any reason by a court of competent jurisdiction, such declaration does not void or render inoperable any other part or portion of this Ordinance/ordinance amendment.