

WHITEFORD TOWNSHIP  
MONROE COUNTY, MICHIGAN

ORDINANCE NO. 28

SOIL, SAND AND ROCK REMOVAL ORDINANCE

AN ORDINANCE TO PROVIDE ADDITIONAL REGULATIONS AND REQUIREMENTS FOR EXCAVATION OR REMOVAL OF SOIL, SAND AND ROCK, FOR PERMITS AND THE REQUIREMENTS THEREFOR, FOR THE APPLICATION FOR THE PERMITS THEREFOR, FOR THE INVESTIGATION OF THE APPLICATIONS FOR PERMITS THEREFOR, FOR THE FEES, ISSUANCE OF PERMITS AND THE EXPIRATION OF THE PERMITS THEREFOR, FOR THE INSPECTION OF PREMISES, FOR THE REVOCATION OF PERMITS THEREFOR, AND FOR PENALTIES FOR THE VIOLATION OF THE TERMS THEREOF.

THE TOWNSHIP OF WHITEFORD HEREBY ORDAINS:

ARTICLE I

This Ordinance shall be known and may be designated as "The Township of Whiteford, Soil, Sand and Rock Removal Ordinance."

ARTICLE II

PURPOSE

In the interpretation and application of this Ordinance the provisions thereof shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

ARTICLE III

SCOPE

It is not intended by this Ordinance to repeal, annul or in any way impair or

interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance. Where this Ordinance imposes a greater restriction upon the use or premises than are imposed or required by such existing provisions of law or ordinance, the provisions of this Ordinance shall control.

#### ARTICLE IV

Section 4.1 Excavation. The term "Excavation" shall mean the removal of top soil, earth, sand or rock for any purpose other than temporary excavation, for building construction purposes pursuant to a duly issued permit under the Township of Whiteford Building Ordinance.

Section 4.2 Soil, Sand and Rock Removal. The term "Soil, Sand and Rock Removal" shall mean the moving, digging or transporting of such soil, sand or rock from one premises to another.

#### ARTICLE V

##### PERMIT

Section 5.1 Permit Required. It shall be unlawful for any person, firm, corporation or association to remove top soil, earth, sand or rock within the Township of Whiteford without having first secured a permit therefore issued by the Township Board of the Township of Whiteford, provided, however, that temporary excavations for building construction purposes, pursuant to duly issued building permit under any Whiteford Township Ordinance, shall not be deemed to be "excavation" under this Ordinance.

Section 5.2 Application for Permit. Applications for permits hereunder shall be made in writing to the Township Board and shall be filed with the Township Clerk. Applications shall contain the name and address of the Applicant, shall be signed by the Applicant or his duly authorized officer or agent, shall contain a legal description of the property upon which the proposed operation is to be carried on, and a description of the proposed operation as to extent, nature and duration. It shall set forth the name of the owner or owners of the land described therein, and if Applicant is not the owner it shall have attached thereto the written consent of the owner or owners of such parcel of land for the proposed operation and authorizing the Township of Whiteford, or its duly authorized representatives, to enter upon the land for the purpose of inspection and for bringing the land into compliance with the terms of this Ordinance in the event the Licensee shall fail to do so. In addition, the Township Board may require the furnishing by the Applicant of a topographical map authenticated by the signature of the owner or his representative where such excavating is extensive or for commercial purposes, or where the same is necessary to clarify the extent of the proposal of the Applicant in his Application.

It shall also contain an agreement that the Applicant, if granted a permit, will comply with all the provisions of this Ordinance and of any and all regulations and rules adopted by the Township Board pursuant thereto.

Section 5.3 Investigation of Applications. All Applicants shall be referred to the Building Inspector or his duly authorized agent, who shall inspect and investigate the premises described in the Application and make recommendations to the Township Board as to adequate requirements and safeguards to be observed as a condition of granting such permit.

Section 5.4 Fee. A permit of \$50.00 shall be paid to the Township Clerk at the time of filing the Application and on the 1st day each and every year of operation thereafter, and a receipt issued showing the deposit of said fee. Upon the issuance of the permit the fee shall be paid into the general fund of the Township. In addition to the above fee for the permit, the operator, owner or owners shall pay an additional license fee of five cents (5¢) per ton of soil, sand and rock removed or excavated, provided that said license fee shall not be less than \$50.00 per year in addition to the annual permit fee paid by said owner or operator.

All fees collected pursuant to this Ordinance shall be used by the Township Board for the purposes of administering this Ordinance and for the repair and improvement of public right-of-ways within Whiteford Township.

Section 5.5 Each Licensee hereunder shall provide the Township Board with a sworn statement as the quantity of soil, sand and rock excavated pursuant to the permit authorized by Section 5.6 of this Ordinance and accompany such sworn statement with the license fee calculated pursuant to Section 5.4 of this Ordinance. This license fee and sworn statement shall be submitted to the Township Board at such times as shall be designated in the permit authorized in Section 5.6 hereof and shall show the quantities excavated as of the dates required by the said permit. Frequency of these sworn statements shall be determined by the extent of the proposed excavation and the length of time in which such excavation applied for shall be accomplished. No sworn statement shall be required more frequently than monthly nor less frequently than quarterly.

Section 5.6 Issuance of Permit and Expiration. The Township Board upon the vote of the majority of the members of the Township Board may issue a permit upon the receipt of an Application, but only after said Application is certified by the Building Inspector as being in compliance with the requirements of this Ordinance, state and local laws. This permit shall be renewed yearly and each permit issued shall expire on April 30th of each year. Applications for renewal of permits must be filed with the Township Board on or before April 1st. No topographical map shall be necessary in the Applications for permit renewals unless the excavation is likely to be expanded beyond what was included in the original Application.

## ARTICLE VI

### REGULATIONS AND AUTHORIZATIONS

Section 6.1 Protective Requirements. Violations of the following regulations shall be grounds for the revocation of any permit issued under this Ordinance and the regulations hereafter noted shall not be construed to limit the Township Board from imposing other restrictions or conditions upon the permit to meet with varying conditions of proposed sites.

- (a) No permit holder shall excavate or cause excavation closer than fifty (50) feet of any public road or fifty (50) feet of any abutting or adjoining property.
- (b) The Township, through its duly authorized agents shall have the right to enter upon any land covered by a permit issued hereunder, for the purpose of making inspections; and for the purpose of bringing the land into compliance with the terms of this Ordinance in the event the Applicant shall fail to do so.

## ARTICLE VII

### SEPARABILITY

Section 7.1 Separability. Should any section clause or provision of this Ordinance be declared by the Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

## ARTICLE VIII

### ADMINISTRATION

Section 8.1 Enforcement. The Township Board is hereby authorized and directed to enforce all the provisions of this Ordinance. It shall appoint the Building Inspector or Ordinance Officer with the duty of enforcing this Ordinance. This Official shall be directly under the control of the Township Board and shall, for the purpose of this Ordinance, have the powers of a police officer, and may delegate this power to his assistant or assistants. The Building Inspector or Ordinance Enforcement Officer of the Township shall monthly verify the sworn statements of the operators or owners as to the amount of soil, sand and rock removed or excavated. He shall likewise note the effect of these operations on surrounding lands, and lands being excavated, occupants of adjoining lands, and roads used in removal. He shall report on these matters monthly to the Township Board.

The Township Supervisor, or Ordinance Enforcement Officer, are hereby authorized to take such legal action in the Courts, in the name of the Township of Whiteford, as he determines is necessary to enforce the terms of this Ordinance.

## ARTICLE IX

### PENALTIES

Section 9.1 Penalties. Any person, firm, corporation or association who or which shall fail to comply with any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine of not more than One Hundred (\$100.00) Dollars

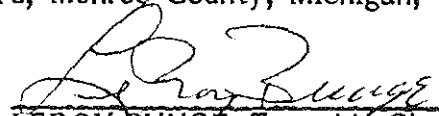
or imprisonment in the Monroe County Jail in the discretion of the Court for a period of not to exceed ninety-(90) days, or by both such fine and imprisonment in the discretion of the Court.

ARTICLE X


Section 10.1 This Ordinance replaces Whiteford Township Ordinance No. 15 as of the effective date of this Ordinance. Accordingly, as of the effective date of this Ordinance, Whiteford Township Ordinance No. 15 is repealed.

ARTICLE XI

Section 11.1 Effective Date: This Ordinance shall become effective upon publication and shall be published in the Monroe Evening News, a newspaper of general circulation within the Township of Whiteford, Monroe County, Michigan, within thirty (30) days after passage.

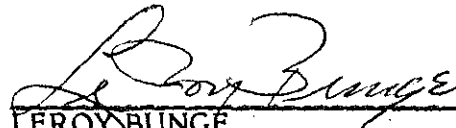
  
LEROY BUNGE, Township Clerk

Attest:

  
ROBERT B. SCHNIPKE, Township Supervisor

CERTIFICATION

I, Leroy Bunge, Township Clerk of the Township of Whiteford, do hereby certify that this Ordinance was duly approved and adopted by the Township Board of the Township of Whiteford, Monroe County, Michigan, at a regular meeting of the Township Board held at the Whiteford Township Hall, Ottawa Lake, Michigan, on the 19 day of JANUARY, 1988.

  
LEROY BUNGE  
Whiteford Township Clerk

Vote of said Ordinance, 4 members being present and 1 members being absent, was as follows:

Members Last Names

Voting in favor: 4

Schnipke

Bunge

DICKERSON

Klump

\_\_\_\_\_

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Voting against: 0

Abstained: 0

Absent: 1

Leroy Bunge  
LERoy BUNGE  
Whiteford Township Clerk

ATTEST:

Robert Schnipke  
ROBERT SCHNIPKE  
Whiteford Township Supervisor

I, Leroy Bunge, Whiteford Township Clerk, do hereby certify that a copy of this Ordinance was published in the Monroe Evening News, Monroe County, Michigan, within 30 days of adoption of this Ordinance on the 19 day of January, 1988.

Leroy Bunge  
LERoy BUNGE  
Whiteford Township Clerk

ATTEST:

Robert Schnipke  
ROBERT SCHNIPKE  
Whiteford Township Supervisor

Adoption Date: 19 Jan 1988

Publication Date: February 2, 1988 Monroe Evening News

Effective Date: February 2, 1988