

55-293. RESOURCE EXTRACTION. [Amended 6-5-89 by Ord. No. 1989-14; 8-2-93 by Ord. No. 1993-29]

Resource extraction activities permitted in the Pinelands Area under this chapter shall be subject to the following application requirements and standards, in addition to the requirements of Chapter 65A. Where the standards differ, the stricter regulations shall apply. Except as otherwise authorized in this chapter the extraction or mining of mineral resources other than sand, gravel, clay and ilmenite is prohibited.

A. *Application Requirements.* Any application filed for approval of resource extraction operations in the Pinelands shall include at least the following information:

- (1) The applicant's name and address and his interest in the subject property;**
- (2) The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;**
- (3) The legal description, including block and lot designation and street address, if any, of the subject property;**
- (4) A description of all existing uses of the subject property;**
- (5) A brief written statement generally describing the proposed development;**
- (6) A USGS Quadrangle map, or copy thereof, and a copy of the municipal tax map sheet on which the boundaries of the subject property and the Pinelands management area designation and zoning designation are shown;**
- (7) A topographic map at a scale of one (1) inch equals two hundred (200) feet, showing the proposed dimensions, location and operations on the subject property;**

- (8) The location, size and intended use of all buildings;
- (9) The location of all points of ingress and egress;
- (10) A location map, including the area extending at least three hundred (300) feet beyond each boundary of the subject property, showing all streams, wetlands and significant vegetation, forest associations and wildlife habitats;
- (11) The location of all existing and proposed streets and rights-of-way, including railroad rights-of-way;
- (12) A soils map;
- (13) A reclamation plan which includes;
 - (a) Method of stockpiling topsoil and overburden;
 - (b) Proposed grading and final elevations;
 - (c) Topsoil material application and preparation;
 - (d) Type, quantity and age of vegetation to be used;
 - (e) Fertilizer application including method and rates;
 - (f) Planting method and schedules; and
 - (g) Maintenance requirements schedule;
- (14) A signed acknowledgment from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this chapter or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant;
- (15) A financial surety, guaranteeing performance of the requirements of N.J.A.C. 7:50-6.68 and 7:50-6.69 in the form of a letter of credit, certified check, surety

LU-1922

bond or other recognized form of financial surety acceptable to the Pinelands Commission. The financial surety shall be equal to the cost of restoration of the area to be excavated during the three (3) year duration of any approval which is granted. The financial surety, which shall name the Commission and the Township of Barnegat as the obligee, shall be posted by the property owner or his agent with the Township of Barnegat;

(16) A certificate of filing from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4.34 or, until January 14, 1991, evidence of prior approval from the Pinelands Development Review Board or the Pinelands Commission pursuant to the Interim Rules and Regulations; and

(17) When prior approval for the development has been granted by the approval agency, evidence of Pinelands Commission review pursuant to § 55277E.

B. *Resource Extraction Standards.* Resource extraction operations shall be approved only if the applicant can demonstrate that the proposed operation:

(1) Is designed so that no area of excavation, sedimentation pond, storage area equipment or machinery or other structure or facility is closer than:

(a) Two hundred (200) feet to any property line.

(b) Five hundred (500) feet to any residential or nonresource extraction related commercial use which is in existence on the date the permit is issued.

(2) Is to be located on a parcel of land of at least twenty (20) acres.

- (3) Provides that all topsoil that is necessary for restoration will be stored on the site and will be protected from wind or water erosion.
- (4) Is fenced or blocked so as to prevent unauthorized entry into the resource extraction operation through access roads.
- (5) Provides ingress and egress to the resource extraction operation from public roads by way of gravel or porous paved roadways.
- (6) Is designed so that surface runoff will be maintained on the parcel in a manner that will provide for on-site recharge to ground water.
- (7) Will not involve excavation below the seasonal high water table unless the excavation will serve as a recreational or wildlife resource or a water reservoir for public, agricultural or industrial uses or for any other use authorized in the area in which the site is located; provided that in no case shall excavation have a depth exceeding sixty-five (65) feet below the natural surface of the ground existing prior to excavation unless it can be demonstrated that a depth greater than sixty-five (65) feet will result in no significant adverse impact relative to the proposed final use or on off-site areas.
- (8) Will be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as anticipated length of time that, each twenty (20) acre units of the parcel proposed for extraction will be worked. This shall not preclude more than one twenty (20) acre unit from being worked at any one (1) time, provided that there is a demonstrated need for time, provided that there is a demonstrated need for additional units, restoration is proceeding on previously mined units and the

area of clearing does not exceed that specified in paragraph B(10) below.

- (9) Will involve restoration of disturbed areas at the completion of the resource extraction operation in accordance with the requirements of paragraph C. of this section and the implementation of the restoration plan is secured by a letter of credit, surety bond or other guarantee of performance in accordance with Section 55-123 of this chapter. [Amended 7-16-01 by Ord. No. 2001-29]
- (10) Will not involve clearing adjacent to ponds in excess of twenty (20) acres or an area necessary to complete schedule operations; or will not involve unreclaimed clearing exceeding one hundred (100) acres or fifty percent (50%) of the area to be mined, whichever is less, for surface excavation at any time.
- (11) Will not result in a substantial adverse impact upon those significant resources depicted on the Special Areas Map appearing as Figure 7.1 in the Pinelands Comprehensive Management Plan.

C. Restoration Standards. All parcels of land which are used for resource extraction operations shall be restored as follows, except where other Township ordinances have more restrictive standards, those other standards shall apply:

- (1) Restoration shall be a continuous process, and each portion of the parcel shall be restored such that the ground cover be established within two (2) years and tree cover established within three (3) years after resource extraction is completed for each portion of the site mined.
- (2) Restoration shall proceed in the same sequence and time frame set out in the extraction schedule required in paragraph B(8).

- (3) All restored areas shall be graded so as to conform to the natural contours of parcel to the maximum extent practical; grading techniques that help to control erosion and foster re-vegetation shall be utilized; the slope of surface of restored surfaces shall not exceed one (1) foot vertical to three (3) feet horizontal except as provided in paragraph C(6) below.
- (4) Topsoil shall be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated. All topsoil removed shall be stockpiled and used for the next area to be restored, unless it is immediately reused for reclamation that is currently underway.
- (5) Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated.
- (6) Any body of water created by the resource extraction operation shall have a graded shoreline with a slope not to exceed one (1) foot vertical to five (5) feet horizontal to one (1) foot vertical. This requirement shall apply to any water body or portion of water body created after December 5, 1994. For any water body or portion of a water body created prior to December 5, 1994, this requirement shall apply to the extent that it does not require grading of areas which have not been disturbed by mining activities. Where grading would require such disturbance, a reduction in the distance of the graded shoreline above and below the average water table elevation shall be permitted.
- (7) All equipment, machinery and structures, except for structures that are usable for recreational purposes or any other use authorized in the area, shall be removed within six (6) months after the

resource extraction operation is terminated and restoration is completed.

- (8) Reclamation shall to the maximum extent practical result in the reestablishment of the vegetation association which existed prior to the extraction activity and shall include:
- (a) Stabilization of exposed areas by establishing ground cover vegetation.
 - (b) Reestablishment of the composition of the natural forest and shrub types that existed prior to the extraction activity through one (1) of the following:
 - [1] The planting of a minimum of one thousand (1,000) one (1) year old pitch pine seedlings or other nature native Pinelands tree species per acre in a random pattern;
 - [2] Cluster planting of characteristic Pinelands oak species, such as blackjack oak, bear oak, chestnut oak and black oak, and shrubs such as black huckleberry, sheep laurel and mountain laurel, at a spacing sufficient to ensure establishment of these species;
 - [3] A combination of the planting techniques set forth in [1] and [2] above; or
 - [4] The use of other planting techniques or native Pinelands species as may be necessary to restore the vegetation association which existed prior to the extraction activity.

- (9) Slopes beyond a water body's shoreline shall be permitted at the natural angle of repose to the bottom of the pond.
- (10) The letter of credit, surety bond or other guarantee of performance which secures restoration of each section shall be released after the Township of Barnegat has determined that the requirements of paragraphs C(1) through (9) above are being met and the guarantee of performance is replaced with maintenance guarantee for a period of two (2) years thereafter.

D. Time Limit on Permits. Permits authorizing resource extraction shall be approved for a maximum period of three (3) years provided that the applicant complies with the requirements of paragraphs B. and C. above and paragraph F. below. [Amended 7-16-01 by Ord. No. 2001-29]

E. Existing Operations. Resource extraction operations that were in operation on August 8, 1980 may be continued in any portion of the Preservation Area Zone, provided that:

- (1) The operation was authorized by a valid registration certificate issued by the New Jersey Department of Labor and Industry under N.J.S.A. 34:6-98 4(h) prior to February 8, 1979; or the operation was exempt from registration requirements of the New Jersey Department of Labor and Industry and was authorized by and operating under a valid municipal permit prior to February 8, 1979.
- (2) The area of extraction is limited to the value given under the category "acreage to be mined" on the mine registration application submitted to the Department of Labor and Industry, or the

municipal permit in the case of an operation permitted under paragraph (1) above.

(3) The extractions activity meets the standards and requirements of this section.

F. Operators of all approved resource extraction operations shall, on a yearly basis, certify in writing and to the satisfaction of the Barnegat Township Planning Board and the Pinelands Commission that all mining and restoration activities have been and continue to be conducted in accordance with an approved extraction permits. In the event that the Planning Board and/or the Pinelands Commission determine that such any such activities deviate from the conditions of the approved permit, the operator shall immediately cease all mining activities until such time as the deviation is resolved for new extraction plans which reflect the deviation are submitted to and approved by the Township and reviewed by the Pinelands Commission in accordance with Article XVIII of this chapter.