

MINING OPERATIONS

Chapter 41

MINING OPERATIONS

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[HISTORY: Adopted by the Mayor and Council of the Borough of Helmetta 7-26-71. Amendments noted where applicable.]

Be it ordained by the Mayor and Council of the Borough of Helmetta, in the County of Middlesex and State of New Jersey:

§ 41-1. Definitions.

As used in this chapter, the following words, terms and phrases shall have the following meanings:

ARABLE TOPSOIL — Soil that, in its natural state, constitutes the top layer of earth and is composed of twenty-four (24) or more by weight of organic matter and has the ability to support vegetation.

CONIFEROUS EVERGREEN — The term "coniferous evergreen," as used in this chapter, shall be limited to the following plant species which shall have a minimum height of twelve (12) inches at the time of planting:

- A. *Pinus rigida* (pitch pine)
- B. *Pinus resinosa* (red pine)
- C. *Pinus strobus* (white pine)
- D. *Pinus echinata* (shortleaf pine)
- E. *Pinus sylvestris* (scotch pine)
- F. *Pinus nigra* (Australian pine)
- G. *Pinus virginiana* (Virginia pine)

MINING — An extractive process involving the removal of sand, clay, gravel, humus, peat and other organic or mineral materials.

PERSON — The term "person" or "persons," as used in this chapter, shall include all individuals, partnerships, public or private corporations, associates of persons, etc.

OPERATIONAL FACE — The end of a working excavation, determined at the end of each and every work day. The "operational face" shall include all slopes of two hundred percent (200%) or steeper.

§ 41-2. Conformity required.

No person shall conduct any nonconforming mining operation in the Borough of Helmetta except as may be in conformity with the provisions of this chapter.

§ 41-3. Fees. [Amended 12-15-83]

On or before March 1 of each and every calendar year in which any person conducts any mining operation in the Borough of Helmetta, such person shall pay a fee to the Borough Clerk to cover administrative services incidental to the inspections herein provided for based upon fees fixed on an annual basis by resolution of the governing body.

§ 41-4. Application procedure.

At the time of payment of said two hundred dollars (\$200.) annually, said person shall submit the following, in writing, in duplicate, on forms to be provided by the Borough Clerk:

- A. The name and address of the person or persons who own the land on which the mining operation is conducted.
- B. The Tax Map sheet, block and lot number of the land on which the mining operation is conducted.
- C. The name and address of the person having control of and conducting the mining operation.
- D. A detailed plan and description of the type of mining operation involved, including the material actually excavated, the final product of said mining operation, a detailed description of all equipment used directly or indirectly in the mining operation and whether or not said mining operation is intended to be ultimately conducted completely above the groundwater level.

- E. A detailed environmental impact study directing itself to the resultant impact of the proposed operation on traffic, air quality, noise, water quality, topography and the like, in and about the subject premises, the expected resultant description of the property upon completion of the proposed use, the expected use for the property upon the completion of the proposed use and the anticipated long-term effect of the proposed operation upon the environment. [Added 5-9-79]

§ 41-5. Inspection.

The Borough Engineer shall inspect the mining operation annually, and the Building Inspector shall inspect the mining operation four (4) times annually, which inspections by the Building Inspector shall be at least fifty (50) days apart. Within twenty (20) days after each of said inspections, the Borough Engineer or Building Inspector, as the case may be, shall submit a written report to the Borough Council specifying whether or not and in what manner the provisions of this chapter and the Zoning Ordinance¹ and of other applicable ordinances are being followed. The Borough Engineer shall, in his report, indicate as precisely as possible the area already mined and the extent of same.

§ 41-6. Specifications for operations above groundwater.

All mining operations intended to be ultimately conducted completely above groundwater shall be conducted in accordance with the following specifications:

- A. Upon termination of the mining operation, there shall be no slope with a grade greater than thirty percent (30%).
- B. Upon termination of the mining operation, those slopes with a grade greater than twenty percent (20%) shall

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¹ Editor's Note: See Ch. 58, Zoning.

be planted with coniferous evergreens spaced approximately eight (8) feet apart on center; those slopes with a grade of twenty percent (20%) or less shall be adequately limed, fertilized and grass-seeded with New Jersey No. 4, or its equivalent, or shall be planted with coniferous evergreens spaced approximately six (6) feet apart on center. Mined areas shall be reclaimed in a manner which will not allow water to collect and permit stagnant water to remain. Suitable drainage systems approved by the Borough Engineer shall be constructed or installed if natural drainage is not possible.

- C. A stop sign shall be erected within fifteen (15) feet of a public road on any road providing egress from the mining premises.
- D. All roadways within the mining premises shall be oiled monthly, or more often as needed, between February 15 and December 15 of each year, as a means of controlling dust. The person in charge of the mining operation shall not remove the top layer of arable soil for a depth of twelve (12) inches from the premises, but such top layer of arable soil to a depth of twelve (12) inches shall be set aside for retention on the premises and shall be respread over the premises at the termination of the mining operation.
- E. The person in charge of the mining operation shall maintain a protective buffer zone which shall consist of a strip of land a minimum of twenty-five (25) feet in width, which buffer zone shall remain undisturbed throughout the mining operation; provided that under no circumstances shall any mining take place within three hundred (300) feet of a public road. Whenever the mining operation has a common property line with developed property in

another use, there shall be installed and maintained or cultivated, if natural flora exists, a view-obscuring fence or planting screen not less than ten (10) feet in width, and in such planting strip shall be evergreen shrubs, bushes or trees, which shall be maintained at a height of not less than six (6) feet. Said planting screen shall be planted according to accepted practice in good soil, irrigated as necessary and maintained in a good condition at all times. Such view-obscuring fence or planting screen herein required shall be installed as a yard improvement when the actual area being mined is within one hundred (100) feet of such developed property in another use, giving due consideration to planting conditions. Said planting screen shall be installed and maintained at the expense of the owner of the property on which mining is taking place.

- F. The operational face shall not exceed twenty (20) feet in height.
- G. No excavation shall be permitted to a level deeper than three (3) feet below the crown of the lowest adjacent road to the premises to be mined.
- H. The foregoing requirements shall apply to any and all mining which takes place from and after the date of the adoption of this chapter.
- I. It is the intention of this chapter that all areas above groundwater from and after the date of adoption of this chapter shall be governed by this section of this chapter.

§ 41-7. Specifications for operations not completely above groundwater.

All mining operations not intended to be ultimately conducted completely above the groundwater level shall be conducted in accordance with the following specifications:

- A. All the requirements of the preceding section shall be applicable to areas where mining takes place above the groundwater level.
- B. Where mining takes place below groundwater level, the following requirements shall be met:
 - (1) The waste material which is normally deposited in an open water area shall be confined to as small an open water area as possible, which area shall not exceed one-third ($\frac{1}{3}$) of the surface area of the open water.
 - (2) Water areas to be used for the deposit of waste material shall be clearly marked at or near the shore line with signs approximately four (4) square feet in area and spaced approximately every one hundred fifty (150) feet, which signs shall read: DANGER — MUD BOTTOM — DO NOT SWIM.
 - (3) Every reasonable effort shall be made to prevent swimming in or accidental access to all open water areas.
 - (4) In no event shall the term "below groundwater level," as herein used, be construed to allow stagnant or standing water to collect or remain in the excavations.
 - (5) The intent of this provision is to allow reclamation of the land which will result in the establishment of a lake of sufficient area and depth of water to be useful for residential or recreational purposes.

§ 41-8. Hours of operation.

No mining activities shall take place except between the hours of 6:30 a.m. and 6:30 p.m., prevailing time, and no operations shall be conducted on Sundays.

§ 41-9. Requests for variance.

Any person may appeal in writing to the Borough Council for the purpose of requesting a variance or variances from the strict enforcement of one (1) or more of the regulations herein contained. The Borough Council shall fix the time for the hearing of said application, at which time the Building Inspector and Borough Engineer shall be present. The applicant shall specify in writing to the Borough Council which provision of this chapter it seeks a variance or variances from and the reasons therefor. At least five (5) days prior to the date fixed for hearing, the applicant shall insert a legal notice of the request in the official newspaper of the Borough of Helmetta. Proof of publication of said notice shall be filed with the Borough Council at or before the hearing. The Borough Council may grant such variance or variances as requested in the event it finds that the literal enforcement of one (1) or more of the regulations herein contained is unduly impracticable or will exact undue hardship upon the applicant. A fee of fifty dollars (\$50.) shall accompany the application for the said variance.

§ 41-10. Violations and penalties.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not exceeding two hundred dollars (\$200.) or imprisonment not exceeding thirty (30) days, or both. Each day's violation of this chapter shall constitute a separate and distinct offense for the provisions hereof.

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§ 41-11. Inconsistent ordinances repealed.

All ordinances or parts of ordinances inconsistent hereto are hereby repealed.

§ 41-12. Severability.

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional, such decision or decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the invalidity of any part.

§ 41-13. When effective.

This chapter shall take effect after final passage and publication as required by law.