

Exeter Township Ordinance #56-2013-1

Filling of Land

Section 1 TITLE

This ordinance shall be known and may be cited as “The Exeter Township Filling of Land Ordinance.”

Section 2 STATEMENT OF PURPOSE

This Ordinance is intended to regulate the filling of land. Regulations are needed because the filling of land may pose significant land use problems, including environmentally damaging changes in topography; threat to desirable land use patterns; and/or safety or nuisance hazards.

Section 3 DEFINITIONS

For the purposes of this ordinance, the following definition shall apply:

- A. Fill Material – Earth material, including soil, topsoil, sand gravel, rock, stone, small amounts of clay or other similar materials, which is free from contamination, cinders, ashes, refuse, soft or plastic clays, vegetable or other similar organic matter such as food waste, trees, branches, or stumps. Fill material shall be capable of being compacted. Up to ten (10) percent of fill material may be cobbles (small boulders), bricks, concrete or asphalt pieces not more than twenty-four (24) inches in size in any direction. Concrete slabs, asphalt chunks, metal bars, or similar material larger than twenty-four (24) inches in size in any direction are prohibited as fill material.

Section 4 APPROVAL PROCESS FOR PERMITS / EXEMPTION / PROHIBITION

A. Permits Required

It shall be unlawful for any person, firm, corporation, partnership, or other organization or entity, to engage in or conduct any filling of land with any type of material within the unincorporated areas of Exeter Township without first procuring a permit from the Township Ordinance Enforcement Officer.

Intent to receive more than one thousand (1,000) cubic yards of brick, masonry, pavement or broken concrete may additionally require permits from County, State or Federal agencies.

B. Work Exempt from Permit

The following are exempt from requiring a permit but must comply with all other applicable regulations of this ordinance:

- Receipt of spoils from water line construction or road maintenance projects
- Receipt of top soil for the purpose of ornamental residential landscaping
- Fill dirt required for building construction purposes pursuant to a duly issued building permit under the Michigan Building Code

C. Prohibition

The filling of land with garbage or rubbish, sludge, biosolids, or any other waste matter is hereby prohibited unless provided for in this ordinance.

D. Application for Permits

Applications for fill permits hereunder shall be made to the Township Ordinance Enforcement Officer. Applications shall contain the name and address of the applicant; a legal description of the property upon which the proposed filling operation is to be carried on; a description of the extent and nature of the proposed operation, including the approximate amount of fill and exact nature of the materials the fill is composed of; the name of the owner of the land described therein; and if the applicant is not the owner, shall contain or have attached thereto the written consent of the owner to the proposed filling operation on said land, and authorizing the Township to enter upon the land for the purpose of inspecting the premises and considering said application. It shall also contain an agreement that the applicant, and the owner if the applicant is not the owner, will comply with all the provisions of this ordinance and any and all rules and regulations adopted by the said Township Board pursuant to this Ordinance and filed from time to time in the office of the Township Clerk.

E. Consideration of Permit Approval; Investigation & Report Standards; Referral to Township Board

In considering the application for a fill permit, the Ordinance Enforcement Officer shall consider the following standards:

1. A permit shall not be granted unless the Township Ordinance Enforcement Officer is able to find the application consistent with public health, safety, and welfare.
2. Consideration shall be given to any geographical, soil, wetland, or other physical conditions pertaining to the land or general area involved, or arising out of any of the proposals of the application that would affect the present and future value or condition of the land involved, the general area, or otherwise affect the public health, safety and welfare. No application shall be granted on any basis whatever if the Township Ordinance Enforcement Officer finds that the granting of the application, because of such condition or conditions, would tend to injuriously affect the public health, safety or welfare, or make worse an already unsatisfactory situation. The Township Ordinance Enforcement Officer shall consider in his/her decision whether the granting of a permit would tend to leave the land in an unstable, wasted, or unfit condition for the growing of turf, or other land uses permitted in the Township, or tend to impair the surrounding lands as to their respective permitted uses.
3. The Township Ordinance Enforcement Officer may request that the Township Board consult professional engineers, planners or other qualified professionals, at the applicant's expense, to determine whether the application standards have been met.

Section 5 APPEAL OF DECISION

A decision of the Township Ordinance Enforcement Officer may be appealed to the Township Board.

Section 6 DURATION OF PERMIT

No permit shall be issued for a period longer than six (6) months. Any request for extension must be made in writing to the Township Ordinance Enforcement Officer prior to the expiration of the initial permit.

Section 7 RULES AND REGULATIONS

Each permittee is required, in addition to the aforementioned rules and regulations of the Township, to comply with any special condition or conditions in the permit, any and all applicable provisions of County, State and Federal law, and the following regulations:

- A. The finished grade of land which is to be filled shall be done in such a manner as to not cause water to stand or accumulate or to result in a place of danger or a nuisance to the public health or safety.
- B. The applicant shall maintain the existing grade of adjacent property for a width of fifty (50) feet along the entire length of all side and rear lot lines to prevent storm water runoff.

Section 8 ENFORCEMENT

- A. The Township through its duly authorized agent shall have the right to enter upon any land designated in any permit, for the purpose of making inspections, and for the purpose of causing compliance with the terms of this Ordinance. It shall be the duty of the Township Ordinance Enforcement Officer or duly authorized agent to make periodic inspections of all land for which permits have been issued, and to report any violations of the terms hereof to the Township Board.
- B. Abatement of Unsafe Conditions: In addition to any other remedy available at law, the Township may bring an action for an injunction or other process against a person, or an agent of a person, to prevent, restrain, correct or abate any unsafe condition on a site or violation of any provision of this Ordinance.
- C. Suspension or Revocation of Permit: In the event a permit holder violates the terms of this Ordinance, the Ordinance Enforcement Officer shall have the power to order a correction of the violation or to suspend said permit issued pursuant to this Ordinance, provided that written notice of such suspension stating the reasons therefore shall be served upon the permit holder by regular first class mail and certified mail, return receipt requested, and provided further that the permit holder shall have the right to appeal such suspension to the Township Board within twenty (20) days after receipt of such notice. Failure on the part of the permittee to correct a violation within thirty (30) days after such request is made by the Township Ordinance Enforcement Officer shall be reason for revocation or suspension of the permit. Additional time for correction of the cited violations may be allowed upon submission to the Township Ordinance Enforcement Officer of good and sufficient cause by the Permittee. If it shall appear to the Township Board from the testimony of the Ordinance Enforcement Officer that the permit holder has been committing the violation charged, then the Township Board shall have the power to revoke said permit.

Section 9 PENALTY

Any person, firm, corporation, or entity found violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction, be punished by a fine not to exceed \$500 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, at the discretion of the Court. Each day that a violation shall continue shall constitute a separate offense. The provisions of this Ordinance may also be enforced by an action for injunction, damages, or other appropriate legal action.

Section 10 SAVINGS

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 11 SEVERABILITY

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void, illegal or ineffective, shall thereby cease to be part of this Ordinance; but the remainder of this Ordinance shall stand and be in full force and effect.

Section 12 EFFECTIVE DATE

This Ordinance shall take effect 30 days from date of publication. All ordinances in conflict herewith are hereby repealed. All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

This Ordinance was adopted at a regular meeting of the Township Board held on September 17, 2013, by roll call vote as follows:

L. Kernyo (X) yes () no
Boggs (X) yes () no
Baltrip (X) yes () no
T. Kernyo (X) yes () no
lott (X) yes () no

The Ordinance is hereby ordered to be given publication in the manner duly prescribed by law.

Billie lott, Clerk
Exeter Township Clerk

Date