

IPSWICH CITY COUNCIL
LOCAL LAW NO. 25 (EXTRACTIVE INDUSTRIES)

Definition

1. (a) In this local law the term ‘extractive industry’ includes any land, building or other structure or any part thereof used or intended for use in the course of trade, business or operation for an activity being the extraction of sand, gravel, turf, soil, rock, stone or similar substances from land and including, when carried out on the land from which any such substance is extracted or on land adjacent thereto, the treatment of any such substance, the manufacture of products from any such substance including the crushing and screening thereof.
- (b) Where any term in this local law is not herein defined but is defined in the Act, the Town Planning Scheme or any other local law, the term shall, for the purposes of this local law and unless the context otherwise indicates or requires, have the meaning assigned to it by the Act, the Town Planning Scheme or any other local law as the case may be.

Permit required

2. (i) A person shall not carry on, nor cause to be carried on, nor be concerned in the carrying on of any extractive industry on land within the Area without first obtaining a permit from the Council so to do.
- (ii) An owner or occupier of land within the Area shall not permit nor suffer another person to carry on an extractive industry on such land unless such other person shall have first obtained a permit from the Council so to do and produces such permit to such owner or occupier.
3. (a) The Council, in its absolute discretion, may issue a permit to allow an owner or occupier to carry on an extractive industry on land within the Area and in so doing may subject such permit to such conditions as it may determine.
- (b) (i) An applicant for the issue of an extractive industry permit under this section, shall lodge with the Council an application in the form from time to time prescribed by the Chief Executive Officer and then only when any necessary Town Planning Consent has been previously obtained from the Council.
- (ii) The application shall be accompanied by the application fee prescribed in each year by the Council by resolution.
- (iii) The application shall be accompanied by two (2) copies of a plan showing:
 - (1) sufficient detail to inform the Council as to the nature of the excavation proposed;

- (2) the location of the land together with the Real Property Office description thereof and the name of the owner of such land;
 - (3) the limits of the area proposed to be excavated and the depth thereof;
 - (4) the existing contours of the land;
 - (5) the quantity of material proposed to be excavated and the quantity of the material proposed to be transported from the land during the period covered by the proposed permit;
 - (6) the estimated depth and description of the overburden present; and
 - (7) the location of any existing or proposed buildings, so far as is known.
- (iv) The accompanying plan referred to in (b) (iii) hereof shall clearly indicate the distance of the proposed excavation from the adjoining drains, water-courses, roads, footpaths and buildings.
- (v) An applicant for a permit under this local law shall provide to the Council such additional information concerning the proposed excavation as the Council may reasonably require from time to time including:
- (1) the road routes within the City intended for general use in the course of transportation of extractive material and where transportation of the extractive material from the land has occurred during any part of the period of twelve (12) months immediately prior to the lodgement of the application, the road routes generally used during that period;
 - (2) the number, size and capacity of vehicles intended to be involved in the transportation of extractive material during the period of the permit sought and where transportation of extractive material from the land has occurred during any part of the period of twelve (12) months prior to the lodgement of the application, the number, size and capacity of vehicles so involved in the said period;
 - (3) the nature of rehabilitation proposed after the intended excavation has occurred and the nature of financial reserves set aside or to be set aside for that purpose.

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- (vi) Where the applicant is not the owner of the land to which the application relates, such application shall also be accompanied by the consent in writing of the owner of such land in a form from time to time prescribed by the Chief Executive Officer.

- (c) An extractive industry permit issued in accordance with this section shall, unless sooner revoked by the Council or surrendered by the owner or occupier, be valid from the date of issue thereof until the Thirtieth day of June then next ensuing.

- (d) Prior to considering an application pursuant to this section the Council may require the Applicant to cause public notice of the application to be given by such means as the Council shall from time to time prescribe by resolution.

- (e) In determining whether an application pursuant to this section should be approved, refused or approved subject to certain conditions and if so what conditions the Council may have regard to the following amongst other matters:
 - (i) the location of the proposed site and whether in the opinion of the Council it is or will probably become a residential locality;

 - (ii) the effect the use of the proposed site for the extractive industry will have on the amenity or scenic beauty of the locality surrounding the proposed site having regard to the existing and probable future use thereof;

 - (iii) the standard of the road giving access to the proposed site whether, in the opinion of the Council, such roads are to a standard sufficient to carry traffic of the nature that the extractive industry would be likely to engender;

 - (iv) the roads (in terms of particular routes) which would be required for use by the applicant in the transportation of extractive material; the load-bearing capacity of roads and bridges as required and the expected weight of loads of vehicles used in such transportation;

- (v) whether as a condition of the permit the applicant for the operation of an extractive industry should be required to construct or upgrade existing roads used in connection with the extractive industry to a standard approved by the Chief Executive Officer, and in this regard whether the applicant should be given the option of paying to the Council a contribution for the construction or upgrading of roads used in connection with the extractive industry, which contribution shall be expended on such roads;
- (vi) whether as a condition of the permit the applicant should be required to pay to the Council a contribution towards the maintenance of roads used or likely to be used in association with the extractive industry.
- (vii) in assessing the basis upon which the contribution towards the maintenance of roads used or likely to be used by the extractive industry the Council may have regard to the following matters namely:
 - (1) the size, capacity and number of vehicles which have used such roads and the number of movements of such vehicles over such roads to and from the land used for the extractive industry in the previous twelve (12) month period or the first year of operation and the estimates thereof in respect of the period for which the said permit is sought;
 - (2) the then condition of the said roads;
 - (3) the maintenance and/or replacement costs and expenses in relation to the said roads incurred by the Council in the previous twelve (12) month period and/or for the first year of operation the estimated costs and expenses as assessed by the Chief Executive Officer for the period for which the permit is sought based on the estimates provided by the applicant in respect of the period for which the said permit is sought relating to number, size and capacity of vehicles to be used in the transportation of extractive material.
- (viii) whether as a condition of the permit the applicant should be required to furnish the Council with a bond to secure the works required in respect of paragraph (v) hereof and/or the contributions required in respect of paragraph (vii) hereof.

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- (f) In the event that any of the conditions imposed by the Council on the approval of the permit in respect of the subject land are not complied with, the Council, with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council, shall have the full and free right and liberty at all times to enter upon the subject land with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such of the said requirements that have not been fulfilled, and the cost of such work shall be chargeable against the bond pursuant to subsection (e) (viii) hereof and if no bond has been provided shall constitute a debt due and owing by the holder of the permit.
 - (g) For the purposes of subsection (e) (iv), (e) (v), (e) (vi), (e) (vii) and (e) (viii) the term “road” means such roads and bridges within the express power and authority of the Council pursuant to the Local Government Act 1993.
4. (a) The Council, in its absolute discretion may subject to such conditions as it may determine renew a permit previously granted under section 3.
- (b) (i) An application for renewal of an extractive industry permit shall be submitted to the Council in the form from time to time prescribed by the Chief Executive Officer not later than the fifteenth day of June in each year and shall be accompanied by the renewal fee prescribed in each year by the Council by resolution.
 - (ii) Unless the Council otherwise prescribes, by resolution, the application for renewal shall contain all plans and information as if it were an application for the issue of an extractive industry permit pursuant to section 3.
- (c) In considering an application for renewal pursuant to this section the Council may take into account amongst other matters the matters which it may take into account as if the application for renewal was an application for the issue of an extractive industry permit pursuant to section 3 and in addition thereto the following:
- (i) whether the applicant had complied with the conditions under which the extractive industry permit had been issued and/or the conditions of any renewals thereof;
 - (ii) whether the applicant had complied with the provisions of this local law relating to extractive industry in force during the currency of the extractive industry permit and/or any renewals thereof.
5. The Council may revoke an extractive industry permit (which term includes any renewals thereof) if at any time:
- (a) the holder thereof fails to comply and/or is in breach of any conditions thereof;

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- (b) the holder thereof fails to pay to the Council within seven (7) days of the due date for payment such sums by way of fees, contributions, charges or otherwise as are required to satisfy any condition of the said permit or requirement of the Council made pursuant to this local law.
6. (a) It shall be a requirement of any use of land within the Area for extractive industry that the person who for the time being conducts such use (and if such person is not the owner of the land, such owner) shall comply with all requirements from time to time determined by the Council upon notification thereof regarding:
- (i) the methods of staging of the extractive industry operation;
 - (ii) the equipment to be used to control noise and dust emissions;
 - (iii) the location of plant, buildings, equipment and stockpiles in terms of the amenity of the locality;
 - (iv) the location and construction of haul roads on the land and where necessary on other land;
 - (v) the removal of waste materials and refuse;
 - (vi) the creation of buffer areas suitably planted between excavated areas and adjoining roads and land;
 - (vii) the payment of such amounts as shall be determined from time to time by the Council in respect of the added cost to the Council in maintenance of roadworks (including bridges) occasioned by the use of such roadworks in connection with such extractive industry making for any contributions paid after pursuant to section 3(f) in respect of the use of the said land;
 - (viii) the rehabilitation of the site;
 - (ix) matters to ensure the safety of the public;
 - (x) the amenity of the locality.
- (b) Subsection (a) hereof shall apply to any use of land within the Area for extractive industry established before the date upon which this local law shall be in force.

- (c) The Council may require the person and/or the owner referred to in subsection (a) hereof to furnish the Council with a bond, of an amount specified by the Council from a bank, insurance company or finance company approved by the Council and in a form satisfactory to the Council to secure to the Council the due fulfilment of the requirements imposed by the Council pursuant to the preceding subsection. Such bond duly stamped and executed shall be delivered to the Chief Executive Officer within the time determined by the Council.
- (d) In the event that any requirement of the Council imposed pursuant to subsection (a) is not complied with, the Council with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council shall have the full and free right and liberty at all times to enter upon the relevant site with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such requirement and the cost thereof shall be chargeable against any bond provided pursuant to subsection (c) hereof and if no bond has been provided shall constitute a debt due and owing by the person and/or the owner referred to in subsection (a) hereof.

Existing extractive industries

- 7. An extractive industry whether established on or before the date of the publication of this local law in the Gazette shall be conducted in such manner as to comply with the requirements of the Council and the provisions of this local law.

Points of ingress and egress

- 8. (i) Each entrance to or exit from a site of an extractive industry shall be between six (6) metres and nine (9) metres wide and be situated at least nine (9) metres from any other entrance to or exit from the site.
- (ii) Each entrance to or exit from a site of an extractive industry shall be so located as not to, in the opinion of the Council, create a new traffic hazard or increase an existing traffic hazard.

Fencing

- 9. (i) So much of the site as contains an excavation that is 1.2 metres more below the level of the unexcavated ground immediately alongside it shall be enclosed by a fence at least 1.8 metres high.
- (ii) The fence required by subsection (i) of this section shall be so constructed and maintained that a person cannot enter the site except by climbing over the fence or by passing through a gateway.

- (iii) Every gate in the fence required by subsection (i) of this section shall be the same height as the fence and shall be so constructed and maintained that a person cannot enter the site except by passing through the open gate or by climbing over the closed gate.
- (iv) Every gate shall be kept locked except when the person conducting the extractive industry, or an employee of such person, is on the site.

Safety precautions

- 10. (i) Water shall not be allowed to accumulate so as to exceed 900 millimetres in depth in any uncovered excavation on the site.
- (ii) Subsection (i) of this section does not apply to a settling pond used in connection with the winning of sand by hydraulic sluicing.
- (iii) Ensure that the slopes of any stockpile of material extracted are battered and protected to the satisfaction of the Chief Executive Officer.

Blasting and explosions

- 11. (i) Blasting and explosions shall not be conducted:
 - (a) Before the hour of seven o'clock in the morning (7 a.m.); or
 - (b) After the hour of seven o'clock in the evening (7 p.m.); or
 - (c) On Anzac Day, Christmas Day, Good Friday or Sunday, unless in an emergency and with the approval of the Council.

Mode of operation

- 12. (i) All processes of extractive industry are prohibited within:
 - (a) Eighteen (18) metres of a road;
 - (b) Nine (9) metres of any land that is not being used for extractive industry.
- (ii) A person shall not cause nor allow any clay, gravel, rock, sand, silt, sludge, soil, stone or overburden resulting from extractive industry to:
 - (a) Enter a swamp, watercourse or water storage;
 - (b) Enter a drain or sewer;
 - (c) Enter a drainage or sewerage easement; or

- (d) Cause injury to or interference with the use of any land that is not being used for extractive industry.
- (iii) All buildings or other structures and stockpiles shall be so located and maintained as to prevent dust, sand or soil blowing on to any road or onto land that is not being used for extractive industry.
- (iv) A person shall not take an excavation to a greater depth, nor take a stockpile to a greater height than is authorised by the Council in respect of such excavation or stockpile.

Tree planting and maintenance

- 13. (i) Shrubs and trees shall be so planted and maintained as to effectively screen to the satisfaction of the Council, the activities on the site from any person standing at ground level on any part of any land used for residential purposes.
- (ii) The Council may permit the planting of young shrubs and trees which when planted are not of sufficient height or development to comply with subsection (i) of this section.
- (iii) The Council may by resolution modify or dispense with subsection (i) of this section in any case where it is satisfied that the circumstances thereof warrant such modification or dispensation.

Land reclamation

- 14. (i) Where the Council is of the opinion that reclamation of any excavation will be necessary, a person proposing to carry out such excavation shall:
 - (a) Prior to the commencement of the excavation, deposit with the Council such amount as the Council may by resolution determine to be retained by the Council until the extractive industry ceases on the subject land and until such person shall have complied with the provisions of this section, provided that the Council may accept a bond guaranteed by a Bank or an Insurance Company in lieu of such deposit;

- (b)
 - (1) Progressively reclaim such excavation to the satisfaction of the Council and ensure that the excavation remaining to be reclaimed shall not at any time by measurement exceed the excavation that could be reclaimed if the deposit referred to in paragraph (a) of this subsection were used to pay for such reclamation at the rate determined by the Council from time to time by resolution. Provided that the Council may by resolution modify or dispense with the provisions of this subparagraph in any case where it is satisfied that the circumstances thereof warrant such modification or dispensation;
 - (2) If such excavation is being filled, accept from the Council refuse and rubbish as filling, without fee, on its being delivered to the site;
 - (3) If vegetable or other matter likely to attract vermin or flies is used in the filling of such excavation, use and cover such vegetable or other matter as directed by the Chief Executive Officer or the Council.
 - (c) Ensure that:
 - (1) Any face permitted to remain in the excavation is so sloped or battered as to remain stable, with all loose material removed therefrom;
 - (2) Such slopes are planted with protective vegetation as directed by the engineer or the Council;
 - (d) Within three (3) years after extractive industry ceases on the subject land complete the reclamation to the satisfaction of the Council.
- (ii) A deposit paid to the Council pursuant to subsection (i) of this section shall be placed in the Council's Trust Fund and all interest derived therefrom shall be added to the deposit and credited to the person entitled to receive payment of such deposit.

- (iii) In the event that any requirement of the Council imposed pursuant to section 13 is not complied with, the Council with or without engineers, servants, workmen, employees, contractors and other persons authorised by the Council, shall have the full and free right and liberty at all times to enter upon the relevant site with or without mechanical devices and vehicles of any nature whatsoever for the purpose of carrying out such requirement, and the cost thereof shall be chargeable against any bond provided pursuant to paragraph (a) hereof, and if no bond has been provided, shall constitute a debt due and owing by the person and/or the owner referred to in section 13 (i) hereof.
- (iv) Upon the completion of the works referred to in subsection (i) of this section, the deposit (if any) and interest accrued thereon or the balance of the deposit and interest accrued thereon, as the case may be, shall be paid to the person entitled to receive such deposit.

Extractive Industry - Minor

15. (1) Notwithstanding the provisions of section 2 of this local law, the Council may grant a permit for the use of land for an extractive industry - minor provided:
- (a) The conditions prescribed in sections 7, 8, 9, 10, 11, 12 and 13 of this local law shall apply to extractive industry - minor.
 - (b) the total extraction of sand, gravel, clay, turf, soil, rock, stone or similar substance does not exceed a total of 7 500.00 cubic metres.
 - (c) The period of extraction of sand, gravel, clay, turf, soil, rock, stone or similar substance does not exceed twelve (12) months.
 - (d) Only one (1) permit for the extraction of sand, gravel, clay, turf, soil, rock, stone or similar substance shall be issued in respect of any separately described parcel of land.
 - (e) The boundaries of the site from which extraction is to be made shall be indicated by appropriate markers to the satisfaction of the Chief Executive Officer, and such extraction shall be carried out only within such boundaries.
 - (f) An application for a permit under the provisions of this section shall be in the form from time to time prescribed by the Chief Executive Officer and accompanied by such application fee as prescribed by the Council from time to time.
 - (g) where the applicant is not the owner of the land to which the application relates, such application is also accompanied by the consent in writing of the owner of such land.

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- (2) In considering an application pursuant to this section the Council may approve it or approve it subject to reasonable and relevant conditions.
- (3) The permit for an extractive industry - minor shall be in force from the date the Council grants such registration until the expiry date as shown on the permit.
- (4) The permit issued for an extractive industry - minor shall be revocable by the Council upon breach of any of the conditions of such permit or for any other cause which the Council deems sufficient.

Penalties

16. A person who, either by act or omission, contravenes a section of this local law, or being the owner or occupier of land within the Area knowingly permits an act or omission on such land in contravention of such sections, shall be guilty of an offence and liable to a penalty of a maximum of 850 penalty units and in addition, to a daily penalty of a maximum of 20 penalty units for each day during which the offence continues after his conviction.