

BANKS TOWNSHIP
Ordinance No. _____ of 2023

**AN ORDINANCE TO IMPOSE A MORATORIUM ON SAND AND
GRAVEL EXTRACTION WITHIN THE TOWNSHIP**

THE TOWNSHIP OF BANKS ORDAINS:

Section 1. Legislative Findings.

The Banks Township Board (hereinafter the Township Board) hereby makes the following findings:

1. The Banks Township Zoning Ordinance allows for sand and gravel extraction in all zoning districts subject to a Special Use Permit and site plan requirements under Article 8 of the Banks Township Zoning Ordinance.
2. The Township is aware of, but does not have a proper geological survey showing where the sand and gravel is located throughout the Township and needs to conduct such a survey in order to properly regulate sand and gravel and mineral extraction within the township.
3. The Township notes that there has been an increased interest to pursue sand and gravel extraction within the Township over the past two years. Given existing land uses, this raises concerns regarding the location operation of sand and gravel extraction activities and the potential for very serious consequences as a result of sand and gravel extraction on the health, safety and welfare of the citizens of the Township. Of particular concern is the relationship between existing land uses and the potential impact of sand and gravel extraction on the air and subsurface and surface water quality.
4. The Township is also aware of different regulations which may be appropriate in a township that has sand and gravel resources within it including regulations as discussed in the unpublished Michigan Court of Appeals case from 2021 of *Metamora Township v. American Aggregates of Michigan* being Michigan Court of Appeals case number 349069 decided on April 1, 2021.
5. The Township has a legitimate purpose in addressing the proper design, size, location, and operation of mineral extraction, particularly sand gravel and aggregate within the township.
6. The Township is reasonably concerned that the continued application of the existing zoning ordinance is insufficient and could result in mineral and sand and gravel aggregate mining extractive operations to be established without proper review in a manner that is either inappropriate or in some circumstances

inadvisable within certain locations within the Township based upon the Township's Master Plan and Zoning Ordinance.

7. It is appropriate to forestall such issues for the Township and to impose a temporary moratorium on sand and gravel and aggregate extraction until necessary revised regulations can be enacted.
8. The Township Board has determined that the adoption of a moratorium ordinance is necessary to preserve the public health, safety and welfare by ensuring that appropriate regulations are in place to protect private and public property. This includes, but is not limited to, the physical and natural environment within the township during the time of this moratorium during the study and the need to potentially revise the township's zoning ordinance including drafting any appropriate police power ordinances necessary to protect public and private property in light of preserving the physical and natural environment both at the surface and subsurface level within the township. The reviews by the planning commission and township board which may result in the amendment of existing ordinance regulations and the possible need for additional zoning and police power regulations shall be done in light of the Township's Master Plan as well as its powers under the Michigan Zoning Enabling Act particularly following the requirements of MCL 125.3205.

Section 2. Moratorium; Time Limit.

- (a). The Banks Township Board hereby adopts a moratorium on (1) the administrative review of any application for a special use or site plan review for sand and gravel mining and extraction; (2) an administrative deferral of review of any pending application for a zoning permit to allow for sufficient time to review and update existing ordinances appropriate needed for the regulation of sand and gravel and mineral extraction within the Township.
- (b). Therefore, the moratorium adopted under subsection (a) above shall be in effect for a period of six (6) months from the effective date of this ordinance, or the effective date of an amendment of the current Banks Township Zoning Ordinance regulating/addressing sand and gravel and aggregate extraction within the township and/or regulations imposed through a power police ordinance involved in the activities of sand and gravel and aggregate extraction, whichever is sooner, unless such moratorium is extended by further ordinance of the Township Board.

Section 3. Planning Commission Directive.

The Banks Township Planning Commission is hereby directed to study and consider appropriate amendments to the current Banks Township Zoning Ordinance

regulating/addressing sand and gravel and aggregate extraction involved in and activities allowed under the Michigan Zoning Enabling Act inclusive of MCL 125.3205 as amended and also conduct a review of options of regulatory police power ordinances which would be passed by the Township Board.

The Planning Commission shall also engage a qualified entity to survey the surface and subsurface resources of all land within the township regarding the location, concentration and the nature of mining operations needed to extract sand and gravel on and under the surface of the township subject to approval of the township board.

Section 4. Severability.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

Section 5. Effective Date.

This Ordinance shall become effective the day following its publication in a newspaper of general circulation within the Township.

Ordinance No. _____ was adopted on the _____ day of _____, 2023, by the Banks Township Board as follows:

Motion by: _____

Seconded by: _____

Yeas: _____

Nays: _____

Absent: _____

Donna Heeres, Clerk

Alex Busman, Supervisor

I certify that this is a true copy of Ordinance No. _____ that was adopted at a regular meeting of the Banks Township Board on _____, 2023 and published in the _____ on _____, 2023.

Dated: _____

Donna Heeres, Clerk