

MARCH, 1969

CONTROL OF EXCAVATION
TOWN OF ALLEGANY

The Town Board of the Town of Allegany, County of Cattaraugus and State of New York pursuant to and in accordance with the provisions of Section 131, Subdivision 15 of the Town Law do enact and ordain as follows:

- Section 1. Title. This ordinance shall be known and may be cited as the "Excavation Ordinance" of the Town of Allegany.
- Section 2. Definitions. The words used in this ordinance shall have the meaning commonly attributed to them.
- Section 3. Excavation for Sand & Gravel in or upon land in the Town of Allegany. Commencing on the effective date of this ordinance no property owner, assignee, contractee, or leasee of a property owner in the Town of Allegany shall cause or permit the excavation for sand and gravel in or upon real property in the Town of Allegany, except in compliance with the following conditions and restrictions and after having obtained the necessary permit issued by the Town Clerk of the Town of Allegany as hereinafter referred to:
- (a) Permit. Before any property owner commences excavation for sand and gravel in or upon real property in the Town of Allegany or enters into any agreement written or oral to allow another person, firm, or corporation to excavate for sand and gravel in or upon real property in the Town of Allegany such property owner shall obtain a permit from the Town Clerk of the Town of Allegany authorizing such excavation. Which said permit shall be issued without fee by the Town Clerk of the Town of Allegany following submission by said property owner of the following information upon forms provided by the Town Clerk, over the signature of said property owner and in compliance with the provisions of 1 through 6 hereof, to wit:
1. The location of the land upon which such excavation shall be performed.
 2. The name and address of the owner of said land.
 3. The name and address of the person or persons, firm or corporation performing such excavation.
 4. The estimated period of time such excavation will be in active progress.
 5. The distance from any inhabited dwelling area when such excavation shall take place.
 6. The type of protection which will enclose the excavation area after the excavation has reached a depth of 6 feet or more.
- (b). No excavation shall take place within 1000 feet of any inhabited dwelling except upon the written consent of the owners and residents of such dwelling located within such 1000 feet of the excavation site.
- (c) No excavation shall be performed or proceed to such a depth as to diminish, pollute or impede the water available to any person drawing water from a private well located within 2000 feet of such excavation.
- (d) During any such excavation for sand and gravel the owner shall be responsible for protection of the excavation site by the use of the fences or natural barriers once the excavation has proceeded to a depth of 6 feet or more below original gravel level unless such excavation is leveled for or to such depth for a circumferential area of at least 100 feet.

(e) Following completion of such excavation operation for sand and gravel as herein referred to and within 30 days thereafter, it shall be the obligation of the owner, assigner, contractor, or leaser of a property owner of such land upon which excavation for sand and gravel has been performed to provide for a leveling of such excavation site as to remove and prevent holes and depressions in which water may settle to depth in excess of 6 inches.

Section 4. Excavated lands deemed a hazard to public safety. The Town Superintendent of Highways of the Town of Allegany shall have the right and power upon direction from the Town Board, to level or fill in all excavated lands or property within 1000 feet of any occupied dwelling or inhabited area if, after a public hearing the existence of such lands and property are deemed by the Town Board to constitute a hazard to public safety and if, after giving 30 days notice by registered mail addressed to the owner of record of such lands and property at the address shown on the last preceding assessment roll, if such excavated lands and property are not filled or leveled by or on behalf of such owner; and providing, that the cost thereof shall be assessed against such lands and property, in accordance with the provisions of Section one hundred fifty seven of the Highway Law.

Section 5. Effect of Unconstitutionality in part. If any clause, sentence, paragraph, subdivision, section or part of this ordinance shall be judged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 6. Penalty. Any person found to be violating any provision of this ordinance shall be guilty of an offense and upon conviction thereof shall be fined in an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. Any person violating any of the provisions of this ordinance shall become liable to the Town of Allegany for any expense, loss or damage occasioned to said Town by reason of such violation.

Section 7. This ordinance shall take effect immediately.

Dated: March 14, 1969,
By order of the Town Board of the Town of Allegany


TOWN CLERK