

421 EARTH REMOVAL

422 **Quarrying**, gravel processing, mining and related mineral extraction businesses. (Special Exception permit and fee is required, see Article IV, Chapter 14).

Prior to the approval by the Planning Commission of a Special Exception use for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in any permitted district of the Township, said Commission shall be satisfied that the following conditions and limitations are, or shall be, strictly complied with in addition to any other requirements contained in this Township zoning ordinance or in any other Township ordinance controlling such operations.

423 A. Location

1. **All such operations** shall be located on a primary road, as defined by the County, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, said Commission will require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
2. **Setbacks** shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than one hundred fifty (150) feet to interior boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However; if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line, In addition, such setback may be temporarily reduced to fifty (50) feet if reclamation of the land is promptly affected to increase the setback to at least one hundred fifty (150) feet in accordance with the reclamation plan (see section 426) approved by the Commission and adequate lateral support as set forth at all times maintained.
3. **No such excavation** operation shall be permitted within fifty (50) feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. **The permanent processing** plant and its accessory structures shall not be located closer than two hundred fifty (250) feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.

5. **No such excavation** operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

424 B. Sight Barriers

1. **Sight barriers** shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
 - a. **Earth berms** constructed to a height of six (6) feet above the mean elevation of the centerline of the adjacent public highway or six (6) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass, trees or shrubs.
 - b. **Plantings** of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity and provide an opaque screen sight barrier.
 - c. **Masonry walls** or attractive solid fences made of uniform new materials, constructed to a height of not less than six (6) feet and maintained in good repair.

425 C. Nuisance Abatement

1. **Noise and vibration** shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
2. **Air pollution** in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. **Hours.** The operation shall be restricted to the hours of seven o'clock a.m. until seven o'clock p.m.
4. **Fencing.** All dangerous excavations, pits, and pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and such pits shall be eliminated as expeditiously as possible.

426 **D. Reclamation of Mined Areas**

1. **Reclamation** and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area in accordance and with a reclamation plan (see Section 428). Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one (1) year after termination of mining or excavation activity. Inactivity for a twelve (12) month consecutive period shall constitute, for this purpose, termination of mining activities.
2. **The following standards** shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-flammable and non-combustible solids to ensure:
 1. That the excavated area shall not collect stagnant water and not permit the same to remain therein; or;
 2. That the surface of such area which is not permanently submerged is graded or back filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - b. The banks of all excavations shall be sloped to the waterline in a water producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
 - c. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one (1) year period. Where used, top soil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
 - d. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
 - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plans, may be retained.

- 427 **E. A performance bond** or cash shall be furnished the Township Clerk ensuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$3,000 per acre proposed to be mined or excavated in the following twelve (12) months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plans. Mined areas resulting in

a water depth of five (5) feet or more shall be deemed to be reclaimed areas to within fifteen (15) feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one (1) vertical to three (3) horizontal, for the purpose of this financial guarantee. Such financial guarantees shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the foregoing requirements by the Ordinance Enforcement Officer of the Township and the Township Planning Commission. In no event shall such financial guarantees be less than \$3,000.

428 F. Submission of Operational and Reclamation Plans

- 1. No earth removal**, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
 - a.** A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are “all weather” roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - b.** The number of acres and the location of the same proposed to be operated upon within the following twelve (12) month period after commencement of operations.
 - c.** The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
 - d.** The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
 - e.** Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site, said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the Township’s Engineer. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in this ordinance to the boundaries of the site.
 - f.** A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

429 G. Hearing

1. **After receiving an application** for the grant of a Special Exception permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the application fee (as established by the Lake Township Board), required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application in the same manner preceded by the same notice as set forth in Section 402 of this ordinance pertaining to Special Exception Uses.
2. **Opportunity shall be given** to all present to be heard at such hearing.
3. **Following such hearing**, said Planning Commission shall grant or deny the application and set forth its reasons for its decision. Such decision shall be based upon the criteria set forth in this ordinance and shall be based, in addition, on a consideration of the following:
 - a. The most advantageous use of the land, resources and property.
 - b. The character of the area in question and its peculiar suitability, if any, for particular uses.
 - c. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
 - d. The protection and preservation of the general health, safety and welfare of the township.
 - e. The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.
 - f. Whether or not the operations were previously in existence prior to the adoption of the text provision concerning the same and the extent and character of such previous operations.
 - g. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its Special Exception permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend a Special Exception permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial of renewal and not less than thirty (30) days have elapsed to correct the said violation. All permits shall be reviewed by the Planning Commission annually. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Lake Township Board.

430 H. Liability Insurance

All operators shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists in an amount as established by the Lake Township Board, but not less than one million dollars (\$1,000,000) for each person or property injured or damaged and not less than an amount established by the Lake Township Board for injury or damage to more than one person or one person's property arising out of one occurrence. The Township of Lake shall be listed as an additional insured party. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk.

431 I. Variances

The Zoning Board of Appeals shall have the right and authority to grant variances from the foregoing conditions and limitations where particular circumstances or hardship may exist, the spirit and intent of the provisions to protect the neighborhood from devastation are still complied with and substantial justice would thereby be affected.

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