

ARTICLE X

G. Extraction or excavation of materials or minerals. This use, as defined in this ordinance, includes all excavation, extraction of materials and minerals, open pits and impounding of waters. The establishment or enlargement of such a use shall require a interim use permit and shall be subject to this Article.

1. Purpose and Intent. The regulation of extraction/excavation operations is consistent with the purposes of the Bridgewater Township Comprehensive Plan, the purposes of this Ordinance, and necessary for the protection of the general health, safety and welfare of the community.

These regulations recognize that the location of sand, gravel, rock, peat and topsoil mining operations is dependent upon deposits of mineral resources having monetary value. The regulations also recognize that mining operations can have a vast array of cultural, economic, and environmental impacts on the Township if not reasonably regulated.

The standards and regulations outlined in this Article are intended to assure that the need for the mineral resources that might be produced by proposed operations outweighs any negative cultural and environmental impacts created by such operations and that unreasonable negative consequences will not result from such operation.

In reviewing a proposed excavation/extraction operation, the following general standards shall be considered:

- a. The use must not create an excessive burden on existing streets and other public facilities and utilities that serve or are proposed to serve the area.
- b. The use must be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- c. The structure and site must have an appearance that will not unreasonably create an adverse effect upon adjacent residential properties.
- d. The use must not cause traffic hazard or congestion.
- e. Existing land uses nearby must not be adversely affected unreasonably by intrusion of noise, glare or general unsightliness.
- f. The use must not cause significant adverse impact to surface or ground water resources.

- g. Plans must provide appropriate reclamation and post-reclamation (End) land use.
 - h. Appropriate financial resources must be available to ensure compliance with approved plans, including reclamation.
2. **Interim Use Permit Required.** Excavation or extraction shall not occur unless the owner of the land where excavation or extraction is proposed, or the operator and landowner together, obtains an interim use permit meeting the general requirements in Article XVIII, Section 259 (Interim Use Permits) of this Ordinance and the standards contained within this Article.
3. **Exceptions.** A permit under this section shall not be required for the following:
- a. Excavations or extractions ancillary to the construction of any permitted use or structure.
 - b. Excavations not exceeding a total of four hundred (400) cubic yards of soil.
 - c. Excavations for the sole purpose of impounding water for agricultural, approved stormwater management ponds, or public utility purposes.
4. **Definitions.** For the purposes of this Article, the following words or terms shall have the meaning listed below. All other terms shall be as defined in Article I, Section 3 of this Ordinance. If not defined in this Ordinance, words and terms shall be given their common meaning.

Accessory Use. Uses of a mineral/material extraction/excavation (mining) facility that are incidental to such activity and are not included as an authorized principal use. Accessory uses may include, but are not limited to, the manufacture, storage and sale of products made from minerals/materials on the premises and storage and sale of minerals/materials not extracted on the premises.

Development Agreement. A written contract between the operator, the property owner and Bridgewater Township, that outlines all terms of the permit for a extraction/excavation facility, including any additional terms that are imposed by the Town Board in approving the permit to operate such facility.

Dewatering. The pumping, extraction or removal of subsurface water.

Dust. Airborne mineral particulate matter.

Excavation. The movement of soil and minerals or the removal of minerals.

Extraction. The removal of sand, gravel, rock, clay and similar higher density non-metallic natural minerals from the ground.

End Use Plan. A plan that shows the use of the excavation/mining property after excavation or mining has been completed. The plan shall include a description and the method for restoring the land to allow for the end use, financial surety to guarantee completion of the reclamation, and any other information as required by this Article.

Haul Routes. Roads used for transport to and from an excavation/extraction facility.

Holiday. As defined in Minn. Statutes § 645.44, Subd. 5, as amended from time to time.

Operator. Any person or persons, partnerships or corporations or assignees, including public or governmental agencies, engaging in excavation/extraction.

Principal Use. Excavation/extraction activities including crushing, screening, mixing, processing, washing, storage and sale of minerals from the facility. Principal use for excavation/extraction facilities does not include a concrete block plant, ready-mix concrete plant, an asphalt production plant, a concrete recycling plant, or an asphalt recycling plant.

Processing. Any activity which may include on-site crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravel, rock, or similar mineral products from the site into consumable products such as construction grade sand, gravel, and other similar products.

Reclamation. To renew land to self-sustaining long-term use that is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Article, the Bridgewater Comprehensive Plan and the Bridgewater Township Zoning Ordinance.

Short-term extension. A period of no more than one (1) month.

Staging. Preparation for daily hauling activities, including weigh-in, warm up and lining up of trucks.

Topsoil. The upper portion of the soils present that is the most favorable material for plant growth.

- 5. Application Requirements.** An application for a permit under this section shall include, but not be limited to, the following information:
- a. Name, address, phone number of the contract person for the operator, and signature of an authorized representative of the operator.

- b. Name, address, phone number of the corporate owner/officers.
- c. Name, address, phone number and signature of all owners of the land.
- d. Acreage and complete legal description of the property on which the mineral extraction will be located, including all contiguous property owned by the landowner(s).
- e. Type and estimated quantity of materials to be extracted annually and during the life of the operation.
- f. The estimated time required to complete the proposed operation and reclamation, including starting and completion dates.
- g. A description of all vehicles and equipment proposed to be used by the operator in the operation of the facility.
- h. A description and mapping of the estimated average daily and peak daily number of haul trucks accessing the facility, including a breakdown of operator owned and non-operator owned vehicles.
- i. The total estimated amount of all other daily vehicle traffic from workers, customers and service vehicles.
- j. A description of the haul routes within the Township to be used in operation of the facility.
- k. All information necessary to complete an Environmental Assessment Worksheet (EAW), if required.
- l. Plans for reclamation addressing the items in Subsection 8 (x) of this Article.
- m. Information on the method for fulfilling the financial guaranty.
- n. Information on the estimated sound level of activities on the mining site.
- o. Other information as requested by the Zoning Administrator.

6. Supporting Documentation. Every application for a permit under this section shall include submission of supporting documentation which shall include, but may not be limited to, the following:

- a. A description of existing land uses on the subject property and all properties within one-half (1/2) mile of the boundaries of the tax parcel on which the subject property exists.

- b. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-half (1/2) mile of the boundaries of the tax parcel on which the subject property exists.
- c. A description of the soil, vegetation, and mineral content of the subject property, a minimum of three (3) soil boring logs representative of the site and an analysis of the subsurface materials on the subject property.
- d. A general description of surface waters and existing drainage patterns within one-half (1/2) mile of the property on which excavation or extraction will occur.
- e. A general description of any wells or private sewer systems of record, pipelines, power lines and other utilities or accessories on the subject property and adjacent properties.
- f. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- g. A map of current topography of the subject property, illustrated by contours not exceeding two-foot intervals.
- h. A map or graphic showing proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
- i. A phasing plan that illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, washing facilities and ponds, accessory uses and access routes.
- j. Copies of the Minnesota Pollution Control Agency (MPCA) application documents, EAW documents, EIS documents if required, and operating permits.
- k. A description and map or graphic of the site hydrology and drainage characteristics during extraction for each phase. Identification of any locations where drainage of any disturbed areas will not be controlled within the boundaries of the subject property and plans to control erosion, sedimentation, and water quality of the runoff. This includes holding ponds, with requirements to be determined by the Township Engineer.
- l. A description of potential impacts to adjacent properties resulting from mineral extraction/excavation and off-site transportation, including but not

limited to, noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.

- m. A description of the plan to mitigate potential impacts resulting from mineral extraction.
- n. A description and graphic of site screening, landscaping and security fencing.
- o. A description of the method by which complaints about any aspect of the facility operation or off-site transportation are to be received and the method by which complaints are to be resolved.
- p. A general description and map of any lakes, rivers, creeks, brooks, wetlands, shoreland or flood plain areas located within one-half mile of the proposed mining site. For project sites that include any of these water features within the proposed mining area, a delineated boundary describing size and location will be required.

7. Permitting Procedure. Requests for permits under this Section shall be processed by the Township Board as an interim use permit (See Article XVIII, Section 259 Interim Use Permits of this Ordinance.) The Township Board may attach conditions to the interim use permit in addition to those set forth in this Section.

- a. Before making a formal application, the applicant should meet with the Zoning Administrator who will provide the applicant with a copy of this Article, outlining the application process and permit requirements.
- b. Upon submission of a complete application, a registered engineer licensed by the State of Minnesota and qualified in this field shall review the application. The engineer's client shall be the Town Board and the engineer shall be chosen by the Town Board. The cost of such engineer shall be borne by the Applicant.
- c. The Township's engineering firm will submit the results of its findings, along with any recommendations for actions, to the Planning Commission.
- d. Upon completion of the environmental review process, the Zoning Administrator will process the application. The Zoning Administrator may require that the applicant submit additional information to address or clarify any issues raised in the environmental review. The formal review process will commence after completion of the environmental review or upon receipt of additional information required.

- e. A public hearing will be scheduled after receipt of all information and upon completion of the environmental review process. The Planning Commission shall hold a public hearing to review the request and make a recommendation for action to the Township Board.
- f. When a permit is approved, the Zoning Administrator or designee shall complete a Development Agreement, signed by representatives of the Township Board, the land owner and the Operator (if different from the landowner).
- g. An application for a permit under this section that is denied by the Township Board may not be reapplied for the same property for a period of twelve (12) months from the date of denial.

8. Mineral Extraction Performance Standards. The following performance standards apply to all mineral extraction/excavation facilities in the Township:

- a. **Hours of Operation.** Mineral extraction/excavation facilities shall operate only between the hours of sunrise and sunset, Monday through Friday and from sunrise to 5:00 p.m. on Saturday. A mineral extraction/excavation facility may be opened one hour before and after hours of operation to allow for staging. No Sunday or holiday operations will be allowed.
 - i. Operators may be allowed short-term extensions to the hours of operation. Operators must contact the Zoning Administrator to request an extension. At the sole discretion of the Zoning Administrator, the Zoning Administrator shall determine if an extension is appropriate and shall advise the Township Board of any such action. Appeals from the decision of the Zoning Administrator shall be made to the Township Board as outlined in Article XVIII, Section 256 (B) of this Ordinance. Operators should also notify neighbors as suggested in the Township Good Neighbor policy.
 - ii. Other exceptions to the hours of operation for government agency contracts and other evening work must be approved by the Township Board if such operation has not been addressed in the original conditions of approval for the interim use permit. The operator shall be responsible for any costs incurred by the Township for holding an additional meeting to review a request under this section.
- b. **Source of Materials.** Only minerals from the site shall be processed at the mineral extraction/excavation facility subject, however to the following exceptions:

- i. Recyclable concrete and recyclable asphalt may be on site.
 - ii. The operator may import off-site materials onto the subject property for the purpose of mixing with minerals from the subject property provided the imported materials on an annual basis do not exceed 80,000 cubic uncrushed yards of material. Such material shall be recycled and removed from the site within five (5) years.
- c. **Fencing.** Fencing may be required as a condition of approval for the interim use permit.
- d. **Signage.** Warning signage (no trespassing, trucks hauling, etc.) and informational signage (contact information) may be required as a condition of approval for the interim use permit.
- e. **Berming.** Berming may be required as a condition of approval for the interim use permit. All berms shall have a minimum slope of 3:1 (run to rise) and shall have a maximum slope of 2:1 (run to rise). A silt fence shall be located at the base on the side closest to the adjacent property and shall be maintained until vegetation is established, at which time it shall be removed.
- f. **Access.** All mineral extraction/excavation facilities shall have direct access to a nine-ton or greater capacity road. The Township Board shall set minimum roadway improvements and maintenance obligations as a condition of the permit. The point of the mining site access shall be at least three hundred feet (300') from any intersection or residential driveway, or as determined by the Township Board under special circumstances. Circumstances will include, but not be limited to, topography, safety, traffic and existing land use. The Applicant shall be responsible for all road improvements, including turn lanes, as required by the Township, Rice County, or the Minnesota Department of Transportation.
- g. **Haul Routes.** All trucks traveling to or from the mineral extraction facility shall utilize nine-ton or greater road capacity within the Township. The Township reserves the right to require road maintenance paid by the operator on any haul route within the Township or those bordering the Township.
- h. **Roadway Dust Control.** Operators will be responsible for dust control on all gravel roads utilized by trucks hauling to or from the permitted mineral extraction/excavation facility. Dust control will be required. The Township reserves the right to require dust control on any haul route within the Township or those bordering the Township. The operator shall

provide proof that the facility is in compliance with MPCA standards for dust.

- i. **Mineral Extraction/Excavation Facility Dust Control.** The Township shall require dust control in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance or otherwise adversely impacts surrounding lands. Remedies to dust control may include watering, berming, landscaping and enclosures for processing equipment, and any other means deemed necessary by the Township Board.
- j. **Noise.** Maximum noise levels at the facility shall be consistent with the most current standards established by the Minnesota Pollution Control Agency (MPCA). The operator shall provide proof that the facility is in compliance with MPCA standards for noise.
- k. **Vibration.** Operators shall use all available means to eliminate adverse impacts of vibration from equipment on adjacent properties. If there is an issue with vibration, the operator shall provide proof that the facility has taken reasonable steps to eliminate adverse impacts from vibration on neighboring properties. The operator shall provide proof that the facility is in compliance with MPCA standards for vibration.
- l. **Air Quality/Water Quality.** All activities on the subject property shall be conducted in a manner consistent with operating permits issued by state and federal agencies. The Township Board may require other standards as it deems reasonably necessary. Increased run-off must be retained on site with retention or detention ponds. If there is an issue with air or water quality, the operator shall provide proof of compliance with all operating permits issued by state and federal agencies.
- m. **Accessory Uses.** Accessory uses shall be identified in the interim use permit application. Accessory uses not identified in the permit are not allowed. All structures, equipment and machinery necessary to the extraction/excavation operation shall be considered temporary and shall be removed from the site upon completion of extraction/ excavation activities.
- n. **Unauthorized Storage.** Vehicles and equipment not in an operable condition or materials not associated with the mineral extraction/excavation facility may not be kept or stored at the facility.
- o. **Setbacks.** The following setbacks for mineral extraction/excavation shall apply:

- i. No mineral extraction/excavation activity may occur within three hundred (300) feet of any dwelling not located on the subject property.
 - ii. No mineral extraction/excavation activity shall occur within fifty (50) feet of any adjacent property line, road right-of-way or public utility.
 - iii. No mineral extraction/excavation activity, including structures and the storage of excavated materials or topsoil, shall occur within three hundred (300) feet of any protected water.
 - iv. Screeners, crushers, other processing equipment and manufacturing equipment shall not be located closer than three hundred (300) feet from a dwelling not located on the subject property nor closer than fifty (50) feet from any adjacent property line, road right-of-way or public utility.
 - v. Setbacks from an off-site existing dwelling shall take precedence over setbacks for road right-of-way or public utility.
 - vi. Grading plans that impact pipelines or power line corridors will be evaluated on a case-by-case basis and shall comply with the requirements of the owners of the rights to the same. Grading plans shall indicate the cover or clearance over utility requirements.
 - vii. The Township Board may waive setback requirements when the common boundary area of an adjoining property is a legal mining operation, the common boundary is not within three hundred (300) feet of a residence, and both property owners of adjacent mining operations have agreed to a common reclamation plan that has been approved by the Township and have a written agreement with the Township establishing responsibility for reclamation.
- p. **Phasing.** Phasing plans must be prepared for all mineral extraction/excavation facilities. The operator and owner shall follow the phasing plan approved by the Township Board. No more than ten (10) acres of land may be exposed to extraction/excavation at any one time. A maximum of twenty-five (25) acres may be utilized at any one time for extraction, processing, staging and stockpiling. Areas where extraction has been completed shall be reclaimed according to the provisions of this Ordinance and the approved reclamation plan, except for the area currently being used in the maximum twenty-five (25) acre operational area.

- q. **Heights.** The maximum height of any excavation, temporary crushing equipment, or temporary stock piles located less than three hundred (300) feet from the property line shall be a minimum of eight (8) feet below the average height of adjacent berms within the mandatory setback.
- r. **Weed Control.** The operator shall be required to control noxious weeds and mow or harvest other vegetation to maintain a reasonable appearance of the site.
- s. **Explosives.** If the operator desires the use of explosives, a separate interim use permit shall be required to provide adequate public notice and input.
- t. **General Compliance.** The operator must comply with all other federal, state, regional, county, and local laws or regulations applicable to the operation of the mineral extraction/excavation facility, including but not limited to, floodplain management regulations, shoreland regulations and any other zoning ordinance regulations. The operator shall provide copies of any permits granted by agencies other than the Township.
- u. **Additional Regulations.** The Township may impose additional regulations and requirements to the mineral extraction/excavation permit to protect the public health, safety and welfare.
- v. **Depth of Excavation.** Excavation and extraction shall not occur beyond the depth set by the Township Board in the permit approval. In setting the depth of the excavation, the Township Board shall consider the standards set forth in this Section as well as recommendations from the watershed district, the Department of Natural Resources and the independent engineering firm retained by the Township Board to assist in review of the application.
- w. **Dewatering.** The Operator shall comply with all state agency regulations for dewatering. Copies of any permits for dewatering shall be provided to the Township. The use of equipment, such as draglines, trackhoes and backhoes to obtain materials intersecting groundwater shall be allowed.
- x. **Reclamation Plan.** A reclamation plan must be submitted at the time of application and shall include grading plans, on-site topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The operator and owner must follow the reclamation plan approved by the Township Board. Following completion of extraction/excavation activities, the approved reclamation plan must be implemented by the operator and owner or his or her heirs, assigns or successors within a reasonable period of time in accordance with the approved plan.

The following minimum standards and conditions shall apply to reclamation:

1. The peaks and depressions of the area shall be reduced to a surface that will result in a flat to gently rolling topography in substantial conformity to the land area immediately surrounding, and that will minimize erosion due to rainfall. No graded slope shall exceed a 4:1 ratio (twenty-five percent (25%)). The final grade slope shall commence at the property boundary. Berms shall be restored to the original elevation of the land, unless the Township Board has approved a different elevation as part of the End Use Plan.
2. Excavations made to a water producing depth must meet the following requirements:
 - i. The depth of the excavation for lake end-use must not be less than ten (10) feet nor more than thirty (30) feet below the natural low water mark, as determined by the Township Board after consultation with the Township Engineer and the Department of Natural Resources.
 - ii. The depth of the excavation for a wetland end-use shall be from one (1) foot above the natural low water mark to a depth not to exceed one (1) foot below the natural low water mark, as determined by the Township Board after consultation with the Township Engineer and the Department of Natural Resources.
 - iii. Or, a combination of subparts 2(i) and 2(ii) above, as approved by the Township Board.
 - iv. All banks shall be sloped to the water line at a slope that shall not be steeper than ten (10) feet horizontal to one (1) foot vertical (10:1) for a lake end-use, and ten (10) feet horizontal to one (1) foot vertical (10:1) for a wetland end-use.
 - v. All banks shall be seeded or surfaced with soil of a quality at least equal to topsoil of land areas immediately surrounding. Where no or minimal top soil was present, the Board may require the addition of top soil as a condition of approval for remediation.
 - vi. Such topsoil as required by the preceding sub-section shall be planted with trees, shrubs, legumes or grasses.

- vii. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
 - viii. Wetland or lake reclamation shall conform to the guidelines of the 1992 edition of "A Handbook for Reclaiming Sand and Gravel Pits in Minnesota," published by the Minnesota Department of Natural Resources.
3. Excavation not made to a water producing depth, but which must be graded or back-filled, shall meet the following requirements:
- i. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
 - ii. The graded or back-filled area shall not collect or permit stagnant water to remain therein.
 - iii. Such graded or back-filled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.
 - iv. Such topsoil as required by the preceding sub-section shall be planted with trees, shrubs, legumes or grasses.
4. Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production or natural prairie.
5. Soil restoration, seeding and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the processing, storage and staging areas within each phase.
6. Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protecting Water Quality in Urban Areas," the applicable sections of the Bridgewater Township Comprehensive Plan, and any other Township regulations related to soil erosion and sedimentation control measures.

7. Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the reclamation plan.
8. When the end-use is some form of open space, the type of vegetative re-growth must provide appropriate habitat for wildlife consistent with the form of end-use.
9. The end-use plan shall consider the safe use of the property. The end-use plan shall be consistent with the Bridgewater Township Comprehensive Plan and Zoning Ordinance.
10. Within nine (9) months after completion of mineral extraction/excavation or after termination of the permit, all equipment, vehicles, machinery, materials, stock piles of extracted mineral materials, and debris shall be removed from the subject property.
11. For each phase, within nine (9) months after completion of mineral extraction for that phase, reclamation must be completed. If the permit is terminated earlier, reclamation must be completed within nine (9) months after termination.
12. As a part of the original application for an interim use permit, the applicant shall submit grading plans, phased reclamation plans, and water control plans to the watershed and Department of Natural Resources for review and recommendation. Said recommendations on the phased reclamation, grading, soil and water retention plans shall be reviewed annually by the Township Board and may be included as conditions for the interim use permit.

9. Fees.

- a. **Application Fee.** Before an application will be processed, the applicant shall pay a non-refundable fee in an amount established by the Board.
- b. **Escrow and Reimbursement of Costs.** The applicant shall pay for all estimated expenses to be incurred by the Township before an application will be processed. The Township Board shall determine estimated expenses within fifteen working (15) days of the filing of the application. The applicant shall make such payment into an escrow account with the Township. The prepayment amount shall be a credit toward the costs of the attorney, planners, engineers, and other professional consultants that the Township uses to review the application, to prepare documents, to inspect the facility, to make recommendations and to enforce this

Ordinance. All such costs are the obligation of the applicant and the applicant shall reimburse the Township for such costs. All such costs, if not already paid by the escrow, shall be paid by the applicant within thirty (30) days of final action on the matter by the Township Board. If such costs are less than the escrowed amount, such escrow will be returned to the applicant within thirty (30) days of final action by the Township Board on the matter. In the case of an appeal, the Township shall return any remaining escrow within thirty (30) days of final action on the appeal.

- c. **Permit Fee.** The Township Board shall establish fees by ordinance for the issuance and review of mineral extraction interim use permits. Failure to pay review fees and expenses shall be a violation of this Ordinance.
- d. **Future Impositions.** If, in the future, state law enables the Township to impose a fee, tax, mineral charge or other governmental imposition to compensate the Township for the effects of a mineral extraction facility, then the Township reserves the right to impose such fees, taxes, charges, or other governmental impositions on all mineral extraction/excavation facilities, including but not limited to, those that exist at the time the fees, taxes, charges or impositions are established. Prior to imposing any such fee, tax, mineral charge or other imposition, the Town Board will hold a public hearing and will notify affected property owners of such hearing according to the process for public hearings contained in this ordinance.

10. Financial Guaranty (Escrow).

- a. The Township Board shall require the operator to furnish a financial guaranty if more than 400 cubic yards of materials/minerals will be removed from the extraction/excavation site over the life of the operation. The financial guaranty shall be either cash, certified check, an irrevocable bank letter of credit, or a performance bond and in the amount of the cost of the reclamation and rehabilitation as described and determined in the next paragraph.
- b. The cost of the reclamation work shall be estimated by the Township Engineer and approved by the Township Board, provided further that the Township Board is authorized to waive or reduce all or any part of the amount of such guaranty to the extent that the Township Board determines the same unnecessary to insure the completion of the work as provided in the Reclamation Plan. The Township Engineer's estimate will be based on a review of the work required as set forth in the Reclamation Plan and shall be in an amount sufficient to cover the cost of reclamation by another at that point in time when reclamation is scheduled to commence and the estimated expenses incurred to compel the reclamation by court judgment, if applicable. If the Township Engineer determines that the amount of the current guaranty is insufficient to reclaim the site, the amount of the

guaranty shall be increased accordingly. The Township Engineer shall also consider inflation and other reclamation cost increases during the annual guaranty review. Such escrow shall be maintained by successor owners.

- c. If an irrevocable bank letter of credit or performance bond is provided, it shall be valid for the full term of the permit and shall contain the expiration date. The Township Clerk shall each be provided the original letter of credit certificate or the performance bond for the Township's records. The letter of credit or performance bond shall include the parcel identification number and legal description of the area covered by the letter of credit or performance bond. Any letter of credit or performance bond must be approved as to form and issuer by the Town Board, in its reasonable discretion, before the same shall be considered to comply with the requirements of this Ordinance.
 - d. The minimum area covered by the financial guaranty shall be the area that is currently being mined or has been mined but has not yet been reclaimed and such reclamation fully and finally approved by the Town Board. The financial guaranty shall be kept in full force and effect until the area covered by the financial guaranty has been reclaimed according to the operator's approved reclamation plan. The operator shall comply with all provisions of this Ordinance, terms and conditions of the interim use permit and the Development Agreement, and shall complete all work set forth in the approved Reclamation Plan.
 - e. For good cause shown, the Township Board is authorized to grant the operator an extension of the time to complete the work included in the approved Reclamation Plan upon application of the operator for such extension prior to the expiration of the date for completion of such work. Any such extension may be accompanied by the conditions as set forth by the Town Board, and the financial guaranty shall be extended on terms and in amounts acceptable to the Town Board.
 - g. Upon the operator complying with the provisions of this Ordinance, the terms and conditions of the interim use permit and the Development Agreement including the Reclamation Plan, the Zoning Administrator shall issue to the operator a Certificate of Completion and the cash, certified check, irrevocable bank letter of credit or performance bond shall be returned to the operator.
- 11. Liability Insurance.** The operator shall at all times procure and maintain at the operator's expense general public liability insurance, automobile liability insurance and workers' compensation insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the operator's performance of its duties under the Development Agreement and under this Ordinance. Such insurance shall afford protection to a

limit of not less than the current statutory tort limits in respect to injuries or death to a single person, to any one accident or occurrence, and in respect to property damage. The Township shall be listed as an additional named insured on all such insurance policies. The operator shall file with the Township a certificate of evidencing coverage before the commencement date of the mineral extraction/excavation permit. The certificate shall provide that the Township must be given thirty (30) days written notice of cancellation of insurance. The Township shall be provided proof of coverage during all times of the period of the permit for extraction.

- 12. Indemnification.** The operator shall hold the Township harmless against all claims by third parties for damage or costs arising out of, resulting from or related to mineral extraction/excavation, processing and reclamation on the subject property or incurred in the development of the subject property. The operator shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorneys' fees.
- 13. Inspections.**

 - a. Inspection.** The operator shall allow the Zoning Administrator access to the facility during normal operation hours to inspect the mineral extraction facility and enforce the provisions of this Section and the conditions of the approved interim use permit. To defray the expenses incurred by the Township for monitoring of the extraction/excavation operation and inspections to insure compliance with the approved mining and reclamation plans, the operator shall pay an annual fee as determined by the Township Board. The Township Board may consult with the Zoning Administrator, Township Engineer and/or Township Attorney or others with expertise in reclamation and the costs associated with compliance inspections.
 - b. Renewal of Interim Use Permit.**

 - (1) An interim use permit issued for extraction will in effect for a period of five (5) years. Such permits may be renewed for an additional five-year period after review by the Planning Commission and approval of the Town Board. For renewal, the operator shall provide the following:

 - i. The area and amount of material removed from the site over the past five-year period and areas to be excavated during the next five-year period.
 - ii. The amount of material imported during the past five-year period.

- iii. Evidence that the financial guaranty and insurance are in full force and effect and will continue during the term of the permit and reclamation period.
- iv. Status and disposition of the operator's/permit holder's responses to all complaints or violations during the previous five-year period.
- v. The history of the operator's/permit holder's compliance with this section, the conditions of their approved permit, and other governmental regulations related to excavation/extraction.
- vi. The status of the phasing plan.
- vii. The status of the reclamation plan.
- viii. A report on the condition of haul roads that serve or abut the facility. The report shall include any road improvements that were required and/or made during the past five-year period.
- ix. The status of erosion control measures.
- x. Any change in ownership and/or operator; and
- xi. Any other items requested by the Zoning Administrator necessary to determine compliance with the standards of this section, the conditions imposed by the interim use permit, and the Development Agreement.
- xii. The operator/permit holder shall be prepared to provide ground control stakes for the aerial survey or surveyor's stakes for the contour map if the Zoning Administrator requests correlation with physical features on the site.
- xiii. After the inspection, the Zoning Administrator shall prepare a report on the results of the inspection. If the site is in violation of this Ordinance, the conditions imposed by the interim use permit, or the Development Agreement, the Zoning Administrator may direct the Township Engineer and/or Township Attorney to prepare supporting documentation of such violations. Upon a Township Board finding that the operator/permit holder is in violation, the Township Board shall notify the operator/permit holder in writing. The violation(s) shall be remedied within ninety (90)

Board, action will be taken to revoke the permit or take whatever action is necessary to terminate the permit.