

WATERFORD TOWNSHIP  
DAKOTA COUNTY STATE  
OF MINNESOTA

ORDINANCE NO. **2025-01**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF WATERFORD TOWNSHIP  
RELATED TO MINING

THE TOWNSHIP BOARD OF WATERFORD TOWNSHIP, DAKOTA COUNTY,  
MINNESOTA, DOES ORDAIN AS FOLLOWS:

**SECTION 1. RESCIND AND REPLACE ZONING MAP.** The existing Zoning Map is rescinded, and the Zoning Map attached hereto as Exhibit A is hereby adopted as the Official Zoning Map of Waterford Township.

**SECTION 2. REPLACE SECTION 6.04 F.6.** Section 6.04 F.6 is hereby added as follows: Adding “Seasonal mineral extraction” to the allowed Interim Uses in the Agricultural Preservation District.

**SECTION 3. Definitions:** Amendment to Waterford Township Ordinance Section 3 by adding the following definitions:

BERM: A shelf or raised barrier separating two (2) areas.

BOARD OR TOWN BOARD: The Waterford Township Board of Supervisors.

CLEAN FILL: As defined in Dakota County Ordinance 110 Sec.2.13 (as of the date of this Ordinance amendment).

CONCRETE: A mixture of paste and aggregates (sand and rock). The paste, composed of Portland cement and water, coats the surface of the fine (sand) and coarse aggregates (rocks) and binds them together into a cured solid, rocklike mass known as concrete.

CONSTRUCTION AGGREGATES OR AGGREGATE: A broad category of coarse particulate material used in construction, including sand, gravel, and crushed stone. It may include slag, crushed, recycled Portland cement concrete, and crushed recycled asphaltic concrete.

CONVEYING (CONVEYOR): A common piece of mechanical handling equipment that moves materials from one location to another.

CRUSHING/CRUSHING PLANT: A machine or plant designed to reduce large rocks into smaller rocks or gravel.

**DEWATERING:** The removal of surface or groundwater to dry and/or solidify a construction site to enable or facilitate activities such as, but not limited to, construction or mineral extraction. This can involve the collection of surface water traveling through a defined area and drawdown of groundwater (lowering the groundwater table at a given location generally achieved by various methods of pumping via wells or open sump pumping). The collected water may be transferred to another location by first submitting a detailed plan to the Township. The Township shall review the plan, make changes, if any, to comply with other ordinances, rules, and building codes, and either approve or reject the final plan.

**DRY MINING:** Mining and excavation that takes place above the groundwater table.

**DUST:** Airborne mineral particulate matter.

**DWSMA:** Drinking Water Supply Management Area. A surface and subsurface area surrounding a public water supply well, including the wellhead protection area, which must be managed by the entity identified in a wellhead protection plan.

**EAW:** An Environmental Assessment Worksheet is a state form required by the Minnesota Environmental Policy Act (MEPA) per Minnesota Rules Chapter 4410. The form is designed to briefly assess the environmental effects and summarize the basic facts of a proposed project for public notification, permit applications, and to determine whether the project requires an Environmental Impact Statement (EIS)

**EIS:** An Environmental Impact Statement provides detailed information about the extent of potentially significant environmental impacts of a proposed project, presents alternatives to the proposed project, and identifies methods for reducing adverse environmental effects. The required form and content of an EIS are described in Minnesota Rules Chapter 4410.

**EXCAVATION:** The movement or removal of soil and/or mineral.

**FLOATING DREDGE (DREDGING):** An activity of mining that is carried out underwater with a machine equipped to excavate material from underwater and bring it to shore where it can be processed into construction grade aggregates.

**FUELING, MAINTENANCE, and STORAGE AREA:** A location at the mine site underlain by an impervious surface that allows for containment of storage tanks, fueling operations, maintenance, and containment of spills, leaks, and changing of fluids containing hydrocarbons.

**HAUL ROAD:** An internal private road used to transport material.

**HAUL ROUTE:** An external public road used to transport material.

LICENSED PROFESSIONAL: An architect, professional engineer, land surveyor, landscape architect, or professional geoscientist licensed in the State of Minnesota, in good standing with appropriate training and expertise needed to direct referenced investigations, provide recommendations, prepare reports, plans and specifications and other work as designated and/or required by Minnesota Statutes Section 326.02.

MINERAL EXTRACTION: Extraction of inorganic materials such as ore, gravel, limestone, or sand.

MINING ~~BUFFER~~/SETBACK: The distance a structure or mining activity must be from the ~~edge of a~~ project boundary line, right-of-way adjoining a residential structure or other features as defined by this ordinance.

OPERATOR: Any person or persons, partnerships, corporations or assignees, including public or governmental agencies, engaging in business.

PERMITTEE: For purposes of this ordinance, Permittee shall mean the applicant, owner, and/or the operator.

PORTABLE PROCESSING EQUIPMENT: Equipment designed on a skid or axle assembly that can move from point to point allowing for shorter travel times and reduced emissions.

PROCESSING: Any activity which may include the crushing, washing, stockpiling, compounding, mixing or treatment of sand, gravels, rocks or similar mineral products into consumable products.

PROJECT/PROJECT BOUNDARY: The area of project or operation being considered for permitting. The project boundary ~~is the entire of the~~ project area, including buffering and future phases as defined by the project proposer in the permit application and the required reports, drawings, plans, and graphics included in the application package.

RECLAMATION ~~AND RESTORATION/REHABILITATION~~: The process of creating useful landscapes that meet a variety of goals. It includes all aspects of this work, including material placement, stabilizing, capping, regrading, and placing cover soils, revegetation, and maintenance.

RECYCLED ASPHALT AND/OR AGGREGATE PRODUCTS (RAP): Left over or demolished concrete or asphalt products. These products are recycled (reprocessed) and reused in production of new construction material products or road base products used on construction sites.

SCREENING ACTIVITY AND /SCREENING PLANT: A machine that takes granulated material and separates it into multiple grades by particle size.

SEASONAL MINERAL EXTRACTION: Grading and excavation of an area for removal of material, whether sod, dirt, soil, sand, gravel, stone or other matter that issued for a construction project elsewhere The time duration os one construction season. Also knows as a temporary borrow pit. Any cavity made by the removal of the natural surface of the earth, whether sod, dirt, soil sand, gravel, stone or other matter, creating a depression or depressions shall be considered temporary or seasonal extraction, also known as temporary borrow pits.;

SENSITIVITY AREAS: Areas within the mineral extraction area that have been assigned a sensitivity rating, and whose natural geologic factors create a significant risk of groundwater degradation through the migration of waterborne contaminants (MN Rules 103H.101).

STAGING: Setting up of equipment or a truck fleet in preparation for a day's activity.

STOCKPILE: A pile or storage location for bulk materials, forming part of the bulk material handling process.

STRIPPING: Removing topsoil (black dirt), clay, timber, brush, and waste aggregate products from the top of the mining deposit to expose the quality sand, gravel, and/or rock needed in the production of high-quality construction aggregates.

TON OF MATERIAL: A U.S. short ton (2,000 pounds) of material.

TOPSOIL: The upper outermost layer of soil, usually in the top four (4) to twelve inches (12). It has the highest concentration of organic matter and is where most of the earth's biological soil activity occurs.

TRUCK SCALE: A platform device that a truck will drive onto for weighing to ensure that the truck is of legal weight and/or dimension.

VULNERABLE AREAS: Mapped areas located in DWSMAs assigned a vulnerability designation ranging from very low to very high for the likelihood that activities at the land surface may degrade drinking water quality in public water supply wells.

WASHING/WASH PLANT: A machine into which aggregate is conveyed, separated by size, washed, dewatered, and then sent to stockpiles for load out.

**SECTION 4. REPLACE SECTION 6.06.** The following Section 6.06 shall be added to the Waterford Township Zoning Ordinance. ~~This provision was originally struck with the adoption of Ordinance 2019-3 on July 8, 2019.~~

#### 6.06 ME Mineral Extraction District

A. The ME Mineral Extraction District is intended to regulate areas in the Township that may be appropriate for mineral extraction, for terms longer than seasonal mineral extraction.

ME Districts shall not be established in areas of the Township other than those identified as Mineral Extraction in the Waterford Township Comprehensive Plan.

B. Permitted Uses:

1. Commercial Agriculture, except animal feedlots and poultry operations
2. Farm buildings and accessory structures.
3. Farm drainage and irrigation systems.

C. Conditional Uses

None

D. Interim Uses

1. Mineral Extraction, subject to the requirements of Section 7.23.

**SECTION 5. RESCIND AND REPLACE SECTION 7.23.** Section 7.23 of the Waterford Township Zoning Ordinance is hereby rescinded, and a new Section 7.23 is added as follows:

7.23 MINERAL EXTRACTION

A. Purpose:

In addition to the purposes stated in Section 2 and Section 7.01 of the Zoning Ordinance, it is intended that the provisions in this Section 7.23, protect the public health, safety and welfare through the following objectives:

1. Ensure compatibility of mineral extraction activities with the Waterford Township Comprehensive Plan.
2. Establish regulations to minimize ~~potential conflicts between mining and other conflicts with other~~ potential conflicts between mining and other land uses.
3. Protect and preserve the agricultural economy and social characteristics of the agricultural community.
4. Protect agricultural land from premature conversions to non-farm uses.
5. Protect residents from potential negative impacts associated with mineral extraction.
6. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.
7. Protect the natural environment and landforms from ~~unnecessary, irreversible negative impacts;~~ and incompatible alterations ~~due to from~~ mineral extraction activities.

8. Restrict mineral extraction activities that create permanent depressions in the natural landscape, which are not conducive to agricultural uses because of poor drainage, permanent ponding problems or unworkable slopes.
9. Establish regulations and standards that restore or enhance extracted areas to suitable farmland conditions.
10. Protect and mitigate Township roads from unsafe conditions, overuse and potential damage from mineral extraction activities.
11. Establish standards and financial guarantees that ensure that restoration extracted land to a condition compatible with adjacent properties and suitable for future uses which are compatible with the Waterford Township Comprehensive Plan.

B. Interim Use Permit Required: It shall be unlawful for any person, firm or corporation to remove, store or excavate rock, sand, gravel, clay, silt or other like material in the Township, or to fill or raise the existing surface grades, in the mineral extraction district established in this section without receiving an Interim Use Permit for mineral extraction (“IUP”). Such permits may only be issued for a property located within the mineral extraction district.

No permit will be required for any of the following:

1. Excavation for a foundation, cellar, or basement of a building if a building permit has been issued.
2. Excavation by state, county, or Township authorities as part of approved plans for construction or maintenance of roads, highways, or utilities. This exemption does not apply to seasonal mineral extraction areas~~borrow areas~~ located outside of the limits of construction as shown on a set of construction plans.
3. Curb cuts, utility hookups or street openings for which the Township has issued ~~another a~~ permit.
4. Excavation less than one hundred (100) square feet in area or one foot (1') in depth.
5. Excavation or grading associated with preparing for, or restoring from, natural disasters.
6. Excavation or grading exclusively performed for on-site domestic or agricultural purposes.

C. Application Process:

1. An Interim Use Permit for mineral extraction is required and may only be issued for properties in the Mineral Extraction District. The Interim Use Permit process requirements as provided in Section 5.06 apply to this process.
2. The Permittee shall appear before the Planning Commission to make a preliminary presentation on the mining project before the formal application Interim Use Permit submittal.
3. Criteria For Mineral Extraction Interim Use Permit Approval: The following factors will be evaluated when determining whether to approve an Interim Use Permit for a mineral extraction operation in addition to those factors in Section 5.06. The approval or denial of the Interim Use Permit shall include, but not be limited to, findings on the following factors:
  - a. Consistency With Zoning Ordinance and Comprehensive Plan: The proposed mineral extraction permit is consistent with the comprehensive plan and the location is suitable in that the excavation, mining, processing, stockpiling, or hauling of aggregate deposits can meet the requirements of the ordinance and mitigation of potential impacts as determined by the Town Board. ~~as determined to be needed to mitigate impacts of the operation.~~
  - b. Environmental Impacts: If an Environmental Assessment Worksheet (EAW) and/or an Environmental Impact Statement (EIS) is required to be completed by the Township Board, for the proposed mining excavation both as defined by Minnesota Rules Chapter 4410 as amended from time to time, are to be prepared for a proposed project then the application for an Interim Use Permit may not be acted upon in accordance with Minnesota Rules 4410.3100. The proposed project shall be so designed and operated as to minimize adverse impacts identified in the EAW and the EIS. The EAW or EIS shall be considered by the Board prior to any final decision~~action~~ on a mineral extraction Interim Use Permit application.
  - c. Mineral Extraction District: The boundaries of the proposed mineral extraction project boundary~~operation~~ shall be completely within the mineral extraction district. Notwithstanding this paragraph, mitigation of impacts may be required outside of the Mineral Extraction District off-site of the boundary of the property subject to the Interim Use Permit.
4. The approved Interim Use Permit shall be issued with a maximum duration of three (3) years.
5. As referenced in Section 5.06.C, the Interim Use Permit shall ~~terminate~~expire upon the sale of the property, when the use ceases, or if the owner or operator changes or is acquired by another company without prior Township Board approval. If the Town amends the mining zoning regulations rendering the use nonconforming, a lawfully existing interim use permit may continue until it is terminated in accordance with the

terms of the interim use permitted issued for the mine or until the use is discontinued or at least twelve (12) months, whichever occurs first.

6. Any application which is inconsistent with the Comprehensive Plan will be denied. The Permittee has the right to ~~apply submit an application~~ to the Township to amend the Comprehensive Plan, according to the procedures established by the Township.
  7. Any application denied by the Township Board or withdrawn by the applicant may not be resubmitted, whether the same or a modified application, for a period of twelve (12) months from the date of denial or withdrawal. Furthermore, there will be a one-(1) year moratorium on the proposed location.
  8. The applicant, owner, operator, and/or user has no entitlement to future re-approval of the Interim Use Permit.
- D. Application Submittal Requirements: The application for a mineral extraction Interim Use Permit shall include the following:
1. The correct legal description of the land upon which excavation is proposed.
  2. The name, address and contact information of the Permittee, the owner of the land and the person or corporation conducting the mineral excavation operation. ~~actual removal operation.~~
  3. The names and addresses of all adjacent landowners within one mile of the proposed project boundary.
  4. The purpose of the proposed excavation and the type of extraction.
  5. The estimated time required to complete the proposed excavation and rehabilitation.
  6. The names of the highways, streets, or other public roadways within the Township upon which the material shall be transported. The application shall provide a map of the haul route, the dimensions of the road, the load rating of the road, road ownership, and any other appropriate information regarding the road construction, location, and maintenance.
  - ~~7.~~ A map of the project boundary to a scale of one inch equals one hundred feet (1" = 100') showing the ~~current conditions~~ presently excavated area, the mining area proposed to be excavated during the permit period, ~~and~~ the minimum and maximum elevations of the mining area, and showing a minimum of five hundred feet (500') of the adjacent land on all sides of the proposed excavation area.
  - ~~7.8.~~ All accessory uses proposed as part of the ~~minin~~ excavation and operational information about each accessory use. The mining excavation plan shall include the location of each accessory use or structure.

8.9. A ~~rehabilitation,~~ reclamation, and restoration plan prepared by a licensed professional providing for the orderly and continuing ~~restoration~~ ~~habilitation~~ of all excavated land. Such plan shall ~~provide information~~ ~~illustrate~~, using appropriate photographs, maps and a survey to a scale of one-inch equals one hundred feet (1" = 100') and with a two foot (2') contour interval satisfactory to the Township engineer. ~~The restoration plan shall include, including~~ the following:

- a. Reclamation ~~and /Restoration~~ ~~Rehabilitation~~: ~~Regarding of the excavatioj mining area aftert site mining is completed. The Plan should depict the proposed future contours. The removal of planned contours of the land when the mineral removal operations are completed.~~
  - b. Timetable: The estimated period of time that the ~~mining excavation~~ ~~pit~~ will be ~~in operation~~ ~~ed~~ and a schedule, ~~or phasing plan~~, -setting forth the timetable for excavation and ~~restoration~~ ~~habilitation~~ of land ~~within the mining area. lying within the active, inactive and reclamation/rehabilitation areas.~~
  - c. Soil Stockpile: Those areas of the site used for storage of topsoil and overburden.
  - d. Slope and Revegetation: All slopes following ~~restoration~~ ~~habilitation~~ shall meet the approved plans. ~~The plans shall include, including~~ a description of the type and quantity of plantings ~~to be established for all disturbed areas within the restoration areas. where revegetation is to be established.~~
  - e. ~~Mining Restoration Plan~~ ~~Contour Extension~~: The ~~proposed restoration grading plan shall extend the~~ two-foot (2') contours ~~shall extend~~ at least five hundred feet (500') beyond the project boundary ~~of the operation or beyond the adjoining right of way, whichever is more inclusive.~~
  - f. Accessory Uses: Accessory uses ~~proposed as part of the restoration plan. rehabilitation, reclamation, and restoration.~~
  - g. Maximum Slope: The maximum slope of the reclamation area that is developable ~~including post-mining agricultural uses~~, shall be at no steeper than eight feet (8') horizontal to one foot (1') vertical. The maximum slope of the reclamation area that is undevelopable, such as the area between a water body and a right of way line shall be no greater than two feet (2') horizontal to one foot (1') vertical. Any slope greater than three feet (3') horizontal to one foot (1') vertical shall be designed by a licensed engineer and approved by the Township engineer.
9. ~~Grading and Erosion Control Plan; a~~ ~~Providing a~~ grading and erosion control plan ~~shall be submitted and~~ prepared by a licensed professional that assures the mining operations will not adversely affect the quality of surface or subsurface waters is required. ~~The plan shall extend five hundred feet (500') from the project boundary.~~

10. Viewshed Analysis per Section G.6.b
11. Landscape and Screening plan.
12. Dust Control Plan, including description of mitigation measures to be taken and actions to occur in the event of complaints.
13. Noise Control Plan, including description of mitigation measures to be taken, ~~and actions to occur in the event of complaints.~~
14. Location of any and all known existing wells, including shallow disposal systems, on the mining application site, highlighting any wells within moderate to highly vulnerable areas within DWSMA or sensitivity areas, or wells within one (1) mile of the entire mining application site, and the size and depth thereof. Prior to the start of mining operations, all water supply wells located within the proposed area to be mined shall be reviewed by a licensed well driller to determine if the well(s) require repair or sealing in accordance with MN Rules Chapter 4725 Wells and Borings.
15. Permittee shall provide a groundwater protection plan, including a map showing direction of groundwater flow within the deposit, and the location and construction of wells for mining operations or pre-existing (including dewatering/washing), and any surface water bodies at appropriate scale. The Town Engineer may request additional information to ensure appropriate groundwater projection in conjunction with the proposed mining operation.
- ~~16.~~ Permittee shall provide a surface water study and protection plan including a contingency response plan and employee training to facilitate immediate and remedial response should any accident, release of contaminant, or other spill occur.
- ~~16.~~17. Enforcement Plan that details how the applicant will address complaints associated with the mining operation, including a procedure for receipt of complaints, timing for addressing complaints and notification of residents and the Town regarding the process and final disposition of the received complaints.
- ~~18.~~7. Such other information as the Township Board may require from time to time.

E. Performance Standards:

1. Project Boundary: All mining eExtraction operations and accessory uses shall be conducted within the confines of the excavation site within the project boundary described in the permit.
2. Access: Extraction operations shall only be allowed on sites that have direct access to a state or county-designated principal arterial, or major or minor arterial as designated in the Township's Comprehensive Plan. A paved local street constructed to a 10-ton

per axle standard may be used if approved by the Board. However, such approval will be based upon minimizing the length of ~~indirect~~ access to ~~local~~the roadways ~~described above~~; minimizing potential impact on properties adjacent to the ~~local~~indirect access; ~~necessary local~~ roadway improvements; ~~and~~ ~~or~~ financial assurances for adequate maintenance of and improvements to the ~~local~~indirectroad system ~~us by the mining excavation operation. Authorization or permitting, as appropriate, by the governmental entity with jurisdiction over the proposed access road(s) is required prior to issuance of a final IUP. access, and authorization by the government entity with jurisdiction over the indirect access.~~

3. Setbacks: Setback boundaries from any mining excavation or associated accessory uses activity to the following land uses shall be as follows.
  - a. Property line: Setbacks from the project boundary for the mining excavation operation and all accessory uses shall be one hundred feet~~One hundred feet (100')~~ generally, except if the project boundary is shared with any lot zoned or used for residential purposes that are ~~and two hundred feet (200')~~ from property line shared with lots used for residential purposes that are ~~five (5) acres or less in size, the setback shall be two hundred feet (200').~~
  - b. Residential and Agricultural Structures: The project boundary shall be one ~~One~~ thousand feet (1000') from any existing residential or agricultural structure.
  - c. Right of Way: The project boundary shall be ~~s~~ seventy-five feet (75') from any road right-of-way and in the case of a utility or railroad ~~and in the case of a utility or railroad~~, one hundred fifty feet (150').
  - d. Delineated wetland: The project boundary shall be ~~o~~ one hundred feet (100') from the edge of any delineated wetland.
  - e. Mineral Extraction activities are not permitted in the Shoreland Overlay District, or the Floodplain Overlay District.
4. Height:
  - a. The height of all equipment, stockpiles, and all other operations, except those described in subsections ~~E~~~~F~~4b and ~~F~~4e of this section, within the permitted mineral extraction operation shall not exceed forty feet (40'). This standard does not apply to the potential ancillary facilities covered by a separate Interim Use Permit.
  - b. The Board may approve a limited number of conveyors to a height no taller than forty-five feet (45') provided that all practical means of screening and setbacks are employed as part of the ~~into the~~ conveyor's construction and installation.

~~e. If use of a floating dredge or dragline is allowed as part of an IUP, it shall not exceed fifty five feet (55') in height.~~

5. Depth to Groundwater: No excavations or extraction shall occur ~~within less than the first~~ ten (10) feet above the historical high groundwater elevation at the site.
6. Appearance, Screening, and Berming: The mining ~~extraction operation, including but not limited to excavation, stockpiling, washing or processing,~~ shall be screened from any public right-of-way ~~or residential property within 500' of the project boundary~~ through a combination of existing stands of trees, berming and installed landscaping designed by an experienced Minnesota-licensed landscape architect. Landscape plans, together with a ~~certified specification~~-project manual ~~certified by a Landscape Architect~~, shall be submitted to, reviewed, and approved by the Township Planning Commission and Board of Supervisors.

~~a. Screening with e~~Existing Tree Stands: The preferred method of screening the mining operati-on is by maintaining existing stands of trees that would provide a level of at least eighty percent (80%) ~~to ninety percent (90%)~~ opacity. If the stand of trees does not provide eighty percent (80%) ~~to ninety percent (90%)~~ opacity, ~~then~~ additional landscaping or berming shall be installed to provide eighty percent (80%) ~~to ninety percent (90%)~~ opacity. An annual ~~screening opacity~~ audit of the tree stands may be conducted ~~by the Town~~, and dead vegetation shall be removed and additional landscaping or berming shall be installed to maintain the required opacity. The methodology for the opacity measure shall be taken during full leaf growth from the shoulder of any ~~adjoining~~ public road or residential property to determine opacity in a band four feet (4') to twelve feet (12') off the ground.

~~a-b.~~Screening Installation. ~~If not exiting tree stands exist to meet the 80% screening opacity requirement, the applicant shall install landscaping, berms, or a combination of the two to meet the 80% opacity screening standard. The Town shall review the opacity annually as described in a above to sneure screening is consistent with ordinance performance standards.~~

~~b-c.~~Screening Barrier. ~~To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be required between the mining site and off-site residential properties. A screening barrier shall also be required between the mining site and any public road located within five hundred (500) feet of any mining, stockpiling or processing activities.~~ A viewshed analysis shall be submitted with the application including the development of a model of site-specific conditions such as topography, vegetation, equipment, stockpiles and proposed site structures. Key view areas shall be represented through drawings, photos, cross-sections, or other imaging methods. ~~The screening barrier shall consist of berms of heights documented through the viewshed analysis to be sufficient to provide screening. In addition, vegetative screening may also be used~~

~~to supplement the screening barriers, which if used shall be planted with a varied species of fast growing trees. The Township Board must approve the tree species.~~

7. Slopes:

- a. Mining: During the entire period of operations, all excavations other than the working face shall be sloped on all sides no steeper than ~~two feet~~two-foot (2') horizontal to one foot (1') vertical, unless a steeper slope is approved by the Township Board as part of an IUP.
- b. Berming: The public view or right-of-way face of the perimeter berms shall be sloped no steeper than four feet (4') horizontal to one foot (1') vertical. The ~~mining~~ extraction side of the ~~perimeter~~ berm shall be sloped no steeper than three feet (3') horizontal to one foot (1') vertical. All berms shall be vegetated and maintained to reduce erosion except where the active mining is occurring.
- c. Where excavations are adjacent to a public roadway or other right of way, the excavation shall have a maximum slope of four feet (4') horizontal to one foot (1') vertical.

~~8.~~ 8. Access Road: All ~~Access~~ roads from a mineral extraction operation shall have direct access to a paved public 10-ton ~~County~~ road. Sight distances for all truck maneuvering associated with the mining excavation operation including the location of the access road intersection, must be met and the County or Township Engineer must approve all haul routes. All public and private roads and driveways used by the mining operation shall be kept clean and free of dust, dirt, sand, gravel and other debris caused by the operation. Any new ~~The location of the intersection of haul roads within any public roads shall be selected such that traffic on the haul roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety as determined by the County and/or Township Engineer. The intersection of access roads and public rights of way shall at all times remain free of mining/extractive debris, dust, sand, gravel, etc. The mining extraction operation~~ access road shall be, designed by a licensed professional, ~~shall be and~~ paved with asphalt, ~~ie~~ concrete or Portland cement concrete from the intersection with the public road to a location at least one hundred fifty feet (150') past the property line (not including the public easement) and wide enough to accommodate appropriate turning radii and at least two semi-trucks and tractor trailers to pass one another in opposite directions of travel, to minimize dust conditions. All new access and haul roads shall be designed by an experienced licensed professional. Road plans, together with a certified specification project manual, shall be submitted to, reviewed, and approved by the Township Planning Commission and Board of Supervisors. The Board may require additional access road paving length if dust and mud tracking are identified as a problem by the Township. All unpaved roads within the mining

operation shall be treated with a dust suppressant as needed consistent with approved operational plan and the ordinance performance standards.

~~9. concrete or Portland cement concrete from the intersection with the public road to a location at least one hundred fifty feet (150') past the property line (not including the public easement) and wide enough to accommodate appropriate turning radii and at least two semi-trucks and tractor trailers to pass one another in opposite directions of travel, to minimize dust conditions. All access and haul roads shall be designed by an experienced licensed professional. Road plans, together with a certified specification project manual, shall be submitted to, reviewed, and approved by the Township Planning Commission and Board of Supervisors. The Board may require additional access road paving length if dust and mud tracking are identified as a problem by the Township. All unpaved roads within the mining operation shall be treated with a dust suppressant as needed consistent with the specification manual standards, including environmental.~~

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~~10-9. **Fencing and Security:** If fencing is required by the Township Board, the fencing shall be erected as per the layout and elevation plans provided in the approved plans. AnyThe site with a fence, requires an appropriately sized gate and fencing at the entrance/exit to prevent unauthorized ingress and egress. If maintaining security access to the site is required by the Township Board, the operator shall require all vehicles entering and exiting the site to be outfitted with an active RFID tag to maintain an accurate accounting for all vehicles entering and exiting the site.~~

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~~11-10. Lighting: Any lighting installed within the mineral extraction project boundary on site shall be shielded downward directed so that no light is visible from adjacent properties . emitted above 90 degrees to prevent lights from being directed at traffic on a public road or other properties in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. The level of lighting shall not exceed 1.0 footcandle at the project boundary. At no time, except in response to life threatening emergencies, shall any residence be illuminated within one (1) mile of the site.~~

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~~12-11. Landscaping: The Permittee must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of landscaped areas. Landscaping shall be designed by an experienced Minnesota-licensed landscape architect. Landscape plans, together with a certified specification project manual certified by a Landscape Architect, shall be submitted to, reviewed, and approved by the Township Planning Commission and Board of Supervisors.~~

- a. Existing tree and ground cover shall be preserved to the maximum extent feasible, maintained or supplemented by selective cutting, transplanting, and replanting of trees, shrubs and other ground cover along all setback areas.

b. The public view and right-of-way side of berms ~~shall be vegetated and consistent with the screening plans approved, that are planned to exist longer than fifteen (15) years shall be landscaped with a density of one tree per six hundred twenty-five (625) square feet. A minimum of sixty-six percent (66%) of the trees shall be conifer trees.~~

e. ~~The Board may consider staggering the timing of the installation of the landscaping if more berming is constructed than is required to screen the phase of mining permitted.~~

d. ~~Berms that are planned to exist less than fifteen (15) years shall be landscaped with a standard MN Department of Transportation right-of-way mix.~~

~~e.c.~~ All areas reclaimed shall be seeded with a Township approved seed mix within fourteen (14) days of the final grade being established. Additional seeding shall be applied as needed until the vegetation has been established.

~~f.d.~~ The Township may require cover over areas that have remained undisturbed for more than twelve (12) months if it is determined that these areas generate airborne dust particles.

~~13.12.~~ Phasing:

a. A phasing plan shall be prepared.

b. No ~~Interim Use Permit for Mineral Extraction permit~~ shall authorize extraction to be conducted on more than ten (10) acres at one time for extraction, processing, staging, and stockpiling, unless a different phasing plan is submitted as part of the application for an Interim Use Permit and if that phasing plan is approved as part of the IUP. Areas where extraction is completed shall be ~~restored~~ habilitated pursuant to the reclamation plan required by Paragraph ~~H.~~ of this ordinance.

~~14.13.~~ Haul Back Materials and Operations: The Board may permit the depositing of clean and compactable inorganic fill that is able to support the anticipated reclamation use as defined by the reclamation plan to achieve the reclamation grades. The Permittee shall submit a haul-back management plan that includes the types of fill that shall be deposited and where the fill comes from. Material testing of the fill or documentation regarding composition of fill shall be provided by the applicant and reviewed by the specified to the Permittee by the Township Engineer or Board. The testing results for the material proposed to be used as fill shall be submitted to and approved by the Township Engineer before the fill material is transferred within the project boundary. Only clean fill is allowed to be used per Dakota County ordinance 110 Section 2.13. The ~~clean~~ completed fill must only be used restore the land to its pre-excavation conditions and be sufficient to support future agricultural operations on the property.

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~~15.~~14. Compliance With Other Governmental Regulations: The mineral extraction operation shall comply with all applicable federal, state, county, and Township laws and ordinances, and regulations applicable to the operation of the mineral extraction facility, including, but not limited, to floodplain management regulations, and shoreland management regulations including, but not limited to Dakota County ordinances 110 and 111.

~~16.~~15. Other Requirements As Determined By the Board: The Township Board may impose additional regulations and requirements ~~on~~to the mineral extraction permit as the Township shall deem proper and necessary for the protection of its citizens' health, safety, quality of life, and the general welfare, including livestock, and the environment.

F. Operational Regulations:

1. Hours of Operations:

- a. Mining: The hours of operation shall be limited to seven o'clock (7:00) a.m. to four o'clock (4:00) p.m. Monday through Friday. The Township Board may appoint a Supervisor to approve additional operation hours if approved as part of the IUP.
- b. Crushing and Washing: The hours of operation shall be limited to seven o'clock (7:00) a.m. to four o'clock (4:00) p.m. Monday through Friday. The Township Board may appoint a Supervisor to approve additional operation hours if approved as part of the IUP.
- c. Truck Hauling: The hours of operation shall be limited to eight o'clock (8:00) a.m. to four o'clock (4:00) p.m. Monday through Friday. The Township Board may appoint a Supervisor to approve additional operation hours if approved as part of the IUP.
- d. Staging Activities: Staging activities will be permitted one-half (1/2) hour before normal operating hours and one-half (1/2) hour after ~~permitted-normal~~ operating hours. Staging activities include lining up and loading of trucks, equipment inspections, fueling, and other similar related actions. Trucks may enter the site within one-half (1/2) hour before the ~~permitted-normal~~ operating hours; however, no aggregate trucks may leave the site until ~~permitted-normal~~ hours of operation. Site cleanup and equipment maintenance operations may start one-half (1/2) hour before the a.m. ~~permitted-normal~~ hours of operation and continue to one-half (1/2) hour past the p.m. ~~permitted-normal~~ hours of operation.

- 2. Equipment: Vehicles, equipment, or materials not associated with the mineral extraction facility or not in operable condition may not be kept or stored at the facility. All equipment used for mining and extraction operations shall be

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~~assembled~~deconstructed, maintained, and operated in such a manner as to minimize, as far as is practicable, noises, dust and vibrations adversely affecting the surrounding property.

3. Maintenance of Mining Vehicles and Equipment:

- a. All machinery shall be kept operational, and any inoperable machinery shall be repaired within a reasonable time frame to be agreed upon with the Town or removed from the property.
  - b. Refueling with or storage and processing of oil, fuel, hydraulic fluid or other automobile fluids shall not occur within the sensitivity areas unless conducted on an impervious pad with secondary containment.
  - c. Above ground storage tanks (AST) with approved containment meeting the MPCA (Minnesota Administrative) Rules are permitted within the mining area. All other storage tanks are prohibited. The Permittee will prepare an Emergency Spill Response Plan.
  - d. All on-site storage of fuel must meet federal, state, and local standards. Fuel storage facilities or any equipment must be drained or removed during the off-season, or long periods (60 days) of inactivity.
  - e. No spraying of truck boxes with oil.
  - f. All machinery shall be periodically inspected, repaired, and painted as needed to prevent rusting or other deterioration of the machinery. All necessary compliance requirements shall be followed to prevent contamination of the site.
4. Haul Routes: The Permittee shall submit to the Township a detailed map of the streets on which the material removed shall be transported (haul routes). Haul route shall be on 10 ton paved public roads. The Township or the appropriate jurisdiction, shall inspect the haul routes proposed to be used by the Permittee or owner and shall recommend any necessary upgrades or repairs that may be needed to accommodate use as haul routes for the excavation activity. The Board shall designate the haul routes, and the Permittee shall notify any persons or entities, hauling from or to the mining operation, of the location of and requirement to use approved haul routes. The use of the haul routes shall be subject to any road and weight restrictions and other conditions imposed by the Township or other jurisdictional authority.
5. Fuel Storage: All fuel storage shall be managed in a designated area with no less than 10 feet of separation between the fuel storage and the bedrock and/or water table and ~~shall must~~ meet applicable federal, state, and local rules. Fuel storage facilities or any equipment must be drained or removed during the off-season, or long periods (60 days) of inactivity. All tanks, regardless of size, shall meet MPCA (Minnesota

Administrative) Rules and that apply to tanks with capacity greater than 1,100 gallons. The Permittee shall prepare an emergency spill response plan. Only above ground storage tanks shall be allowed with approved containment per MN Pollution Control Agency regulations.

6. Dust Control: Permittees shall use all practical means to reduce the amount of fugitive dust generated by excavation operations. In any event, the amount of dust or other particulate matter generated by the excavation shall not exceed air pollution standards established by the Minnesota Pollution Control Agency. A Dust Control Plan shall be submitted with the application for an Interim Use Permit. On days with wind advisory, as defined by the National Oceanic and Atmospheric Administration's National Weather Service, the Zoning

The Town Board or their representative Administrator may require during the time of wind advisory that any dry mining operation cease operations to eliminate additional dust generation.

7. Use of Explosives/Blasting: The use of explosives is prohibited.
8. Noise and Vibration Requirements: The mMaximum noise level at the perimeter of the project boundary shall comply with the ~~limits or~~ standards established by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency. Trucks may not idle before approved operational hours ~~commence~~ except for the ½ hour staging allowance. White noise backup and reverse warning alarms shall be used on all equipment owned or operated by the Permittee that is used on-site.

a. Noise and Vibration Screening

- i. The Permittee shall carry out ~~testing~~screening to determine if there may be significant impacts on offsite human noise receptors from the mining project's noise and/or vibration. Screening is required at all new mines, and also at existing mines if there is a proposed change to the mine plan that is likely to result in a new source of noise or vibration or an increase in existing noise or vibration levels. Maximum noise levels at the mining site will be consistent with the following parameters below and/or standards established by the Minnesota Pollution Control Agency, whichever are more stringent.
- ii. If ~~testing undertaken~~screening identifies potential human receptors of noise from mining-related activities, then the Permittee shall document baseline ambient noise levels at both the nearest and relevant offsite noise receptors.

b. Management and Mitigation of Impacts on Human Receptors

- i. If ~~testing~~screening or other credible information indicates that there are residential and other critical noise receptors that could be affected by noise

from mining-related activities, then the Permittee shall demonstrate that mining-related noise does not exceed a maximum one-hour LAeq (dBA) of 55dBA during operating hours and 25 dBA at other times at the nearest offsite noise receptor. If baseline ambient noise levels exceed 55 dBA (day) and/or 25 dBA (night), then noise levels shall not exceed 3 dB above baseline as measured at relevant offsite noise receptors.

- ii. If a credible, supported complaint is made to the Permittee that noise or vibration is adversely impacting human noise receptors, then the operating company shall consult with the Township to develop mitigation strategies or other proposed actions to resolve the complaint. Where complaints are not resolved then other options, including noise monitoring and the implementation of additional mitigation measures, shall be considered. Violations of the parameters may lead to the Township revoking the operator's permit.
  - iii. All noise and vibration related complaints and their outcomes shall be documented.
9. Security: Mining areas should be secured to reduce the risk of use as a public disposal site. The property owner or Permittee is responsible for any clean up on the site due to public or private disposal.

~~The property owner or Permittee is responsible for any clean up on the site.~~

#### G. Environmental Standards:

1. Dewatering for mineral access will not be allowed.
2. ~~No excavations or extraction shall occur less than ten (10) feet above the historical high groundwater elevation on the site. If a variance is requested, where mining is proposed below the water table or within ten (10) vertical feet of the historical high groundwater elevation, then a hydrogeological study shall be submitted. The study shall be prepared under the direction of a licensed professional and will include geotechnical borings and report, a study of sinkholes formed within five (5) miles of the proposed property boundary, up to a level two environmental assessment and report, testing of soils and groundwater and report to determine the presence of contaminants, if any, on the site that will, or could be, released to the groundwater or the environment by mining or related activities.~~ Hydrological Study: All contaminants of concern identified in the project boundary, as identified by ~~the~~ licensed professional, and any other contaminants identified by the Board will be studied unless the Permittee demonstrates to the satisfaction of the Board that such study is not warranted. ~~A~~ The hydrogeological study shall include the following:

- a. ~~Description of each groundwater excavation (size, shape and location) and proposed reclamation condition.~~
  - b. Inventory and description of the location and construction information of all wells within one (1) mile of the project boundary.
  - c. Description of the proposed fill activity (grain size distribution, quantity, and placement procedures), if any.
  - d. Description of the aquifer characteristics in the area of the mining project boundary ~~of each groundwater excavation to be affected by proposed fill activity~~ (aquifer thickness and general geological setting).
  - e. Description of the impacts of the proposed fill activity on groundwater flow regimes.
  - f. Description of a groundwater monitoring plan including evidence, to the Board's satisfaction, that the proposed monitoring will provide timely and effective notice of changes to the hydrology, the presence of contaminants of concern that were not previously identified, or the release, movement, or the threatened release of contaminants.
  - g. Identify and describe all measures that will be taken to avoid potential impacts on the groundwater from mining or related activities including, but not limited to, testing, monitoring, containment, and mitigation. The groundwater plan must specifically address:
    - i. Fueling, Maintenance, and Storage Areas.
    - ii. Potential impacts to private wells and wetlands, and monitoring/mitigation recommended from the EAW/EIS (if applicable).
    - iii. Describe how baseline well assessments will be conducted if applicable, and what actions will be performed if it is determined that wells are affected by the mining activities.
    - iv. ~~Potential impacts and mitigation from dewatering activities.~~
  - h. Such other information as the Township may require.
3. Minimize Impact to Surface Water:
- a. Surface drainage from adjacent properties shall be diverted away from the mining areas so no surface drainage will infiltrate into the ground or into areas with aggregate or minerals exposed, or the water table if exposed in a former pit.

- b. No hazardous material shall be stored on site, except as may be permitted within the Interim Use Permit and Paragraphs G 3. and 5. of this ordinance
  - c. Stockpiling of materials must be stored in such a manner that erosion of materials does not negatively affect surface water which may include vegetating stockpiled soils or fencing sand material.
4. Surface Water Pollution: The Permittee shall prepare a surface water protection plan to ensure that surface water quality is not impacted by the mining operation, accidents, or spills within the mining area. The mining plans shall comply with the Township's Surface Water Management Plan component of the Comprehensive Plan. The approved surface water protection plan shall be included as part of the IUP. The Permittee shall also comply with all applicable Minnesota Pollution Control Agency and Department of Natural Resources regulations and all applicable United States Environmental Protection Agency regulations for the protection of water quality. No waste products or processed residue, including untreated wash water, shall be deposited in any public waters of the State of Minnesota.
5. Minimize Impact to Groundwater:
- a. A plan for groundwater quality protection shall be submitted with the mining application. The groundwater plan shall include a minimum of 3 borings showing depth to groundwater with additional borings required at the determination of the Township Engineer depending on the size and characteristics of the property. The final plan and associated reports included in the permit application shall be prepared under the direction of and certified by a licensed professional. The approved groundwater quality protection plan shall be included as part of the IUP.
  - ~~b. No spraying of truck boxes with oil is allowed.~~
  - ~~e-b.~~ All wells within the proposed mining areas shall be accurately located and constructed according to MN Rules 4725 Wells and Borings.
  - ~~d-c.~~ All potential contaminant sources shall meet state required isolation distances from all wells.
  - ~~e-d.~~ The Permittee shall provide a map showing direction of groundwater flow in deposit, location and construction of wells (including dewatering/washing), and any surface water bodies at appropriate scale. Construction of Class V wells are prohibited within moderate to highly vulnerable areas within DWSMA or sensitivity areas.
  - ~~f-c.~~ Mining activities ~~shall~~~~will~~ not occur any closer than ten feet (10') above the historical high groundwater elevation at the site.

g-f. A separation between the bottom of sand and gravel mine excavation and the top of the bedrock surface is required to be fifteen feet (15'), or as otherwise determined by a hydrogeological study.

6. Groundwater Monitoring Plan: The Permittee shall prepare a groundwater monitoring plan to ensure that groundwater flow, level, or quality is not impacted. The groundwater monitoring plan shall comply with the Township, MN Department of Natural Resources, MN Pollution Control Agency, and MN Department of Health regulations and rules. The groundwater monitoring plan may include the surface water monitoring of any created water body that is fed by groundwater including the monitoring of any water bodies or channelized waterways tributary to the created water body. The groundwater monitoring plan shall be included as part of the IUP application and approval.
7. Well Interference: Potential well interference shall be addressed as prescribed in Minnesota Rules 6115.0730. The Permittee shall prepare a well interference plan that shall detail the methodology for identifying and monitoring private wells that have the potential to be impacted by mining activities. The plan shall also address contingency actions to be followed by the Permittee in the event that there are allegations of well interference received from neighboring property owners and well impacts are verified and caused by the Permittee. This plan shall be submitted with the IUP application and shall be included as part of the IUP.
8. Maintenance of Topsoil: All topsoil located within the project boundary before the mineral extraction operation begins shall remain within boundaries of the operation. All topsoil shall be retained at the mining site until the completion of rehabilitation/reclamation work in accordance with the rehabilitation/reclamation plan. Additional topsoil may be retained or imported to ensure that a minimum of six inches (6") of topsoil is placed on all areas reclaimed and restored as dry ground.
9. Water and Air Quality: All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits.
10. Washing of Aggregate:
  - a. Prior to locating a well that may be used for wash water, the Permittee or owner shall address impacts that groundwater pumping may have on altering the DWSMA boundary or sensitivity of the public water supply wells or how they affect local private wells. The impacts of groundwater pumping shall be studied and included in the groundwater monitoring plan and the surface water protection plan, including mitigation measures for any potential impacts identified in the EAW or EIS. A process for investigating reported impacts that occur during operation shall also be included in the IUP and may be addressed during annual permit review if necessary.

- b. A groundwater appropriation permit is required from the MN Department of Natural.
- c. Resources prior to any use of a high capacity well associated with a mining operation. The Permittee shall provide a map at scale showing well(s) location, proposed pumping point, volume and discharge location. Any changes to pumping volumes (or increases) requires an updated model to evaluate potential impacts to alter the DWSMA boundary or sensitivity of the public waters supply wells or private wells.
- d. Prior to approval for washing of aggregate the Permittee and/or owner shall consider and document methods to conserve water through implementation of water reuse measures.
- e. A hydrologic study shall be prepared under the direction of a licensed professional regarding potential for impacts to private wells, receiving waters (e.g., due to flooding), trout streams, and potential impacts to other surface water and wetlands.

11. Wastewater:

- a. The Permittee or owner may install an on-site sewage treatment system so long as they are not located within the one-year time of travel area from DWSMA or sensitivity areas.
- b. The Permittee or owner shall also verify proximity to private wells. A portable system that is cleaned out is required if no public sanitary sewer system is available and private wells are within the isolation distances as defined by MN Rules Chapter 4725. On-site sewage treatment systems shall conform with Dakota County ordinance 113, and all applicable state and federal regulations.

H. Site Uses:

1. Accessory Uses: ~~The principal use of the property is mineral extraction and~~ ~~Within a mineral extraction operation,~~ the following uses are customarily incidental ~~to and accessory to~~ its operation ~~and do not require a separate permit or approval~~. These accessory uses ~~may be processed for approval concurrently with the mineral extraction IUP and~~ must meet the same performance standards as the mineral extraction operation.

- a. Aggregate crushing.
- b. Aggregate washing.
- c. Vehicle and mining equipment maintenance and repair of equipment used on-site. ~~Maintenance and repair activities shall be limited to equipment used on-site.~~

- d. Offices associated with the mining operation.
  - e. Stockpiling.
  - f. Loading and hauling.
  - g. Storage of machinery used for the mining activity in the extraction area.
2. Ancillary Uses Prohibited: Any uses of the site that are not mineral extraction or one of the accessory uses listed in paragraph I.1. above are expressly prohibited including but not limited to:
- a. Storage and/or processing of recycled asphalt, concrete, and/or aggregate products
  - b. Asphalt or concrete production.
  - c. Casting yard.
  - d. Retail sales of products to the public.
  - e. Backhauling
  - f. Unauthorized storage of vehicles, equipment or materials not associated with the mineral extraction operation.
- I. **Site Reclamation:**

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- 1. ~~Rehabilitation, Reclamation, and Restoration Plan: The applicant shall reclaim and restor the mined area consistent with the approve dreclamation plan after mining has ceased in any mining phase, or subphase. Providing for the orderly and continuing rehabilitation of all excavated land shall be required. Such plan shall illustrate, using appropriate photographs, maps, and surveys drawn to a scale of one inch equals one hundred feet (1" = 100') and with a two foot (2') contour interval satisfactory to the engineer, the following:~~
- 2. ~~Mining reclamation will begin within three (3) months of the mining phase or subphase being completed. Reclamation/Rehabilitation: The planned contours of the land when the mineral removal operations are completed.~~
- 3. Timetable: The estimated period of time that the mineral extraction facility will be operated and a schedule setting forth the timetable for excavation and rehabilitation of land lying within the active, inactive and reclamation/rehabilitation areas.
- 4. ~~Soil Stockpiles: Those areas of the site used for storage of topsoil and overburden.~~

5. Slope; Revegetation: All slopes following rehabilitation shall meet the approved plans, including a description of the type and quantity of plantings where revegetation is to be established.
6. ~~Contour Extension: The two foot (2') contours shall extend at least five hundred feet (500') beyond the boundary of the operation or beyond the adjoining right of way, whichever is more inclusive.~~
7. ~~Accessory Uses: — Accessory use rehabilitation, reclamation, and restoration plan.~~
8. Maximum Slope: The maximum slope of the reclamation area that is developable shall be at no steeper than eight feet 8') horizontal to one foot (1') vertical. The maximum slope of the reclamation area that is undevelopable, such as the area between a water body and a right of way line shall be no steeper than two feet (2') horizontal to one foot (1') vertical. Any slope greater than three feet (3') horizontal to one foot (1') vertical shall be designed by a licensed civil engineer licensed in the State of Minnesota and approved by the Township.
9. Development: The reclamation and rehabilitation plan shall provide for reasonable development consistent with the adopted Comprehensive Plan. Grades provided on the plans must provide for installation of utilities and roadway systems consistent with the regulations of the Township and the engineering standards for road and utility installation.
10. Landscaping and Final Grading:
  - a. The excavation area shall be graded to blend in with the un-excavated area, without changing or impacting the natural course of drainage.
  - b. Topsoil shall be replaced and the disturbed area re-seeded prior to permit expiration.
  - c. All water areas resulting from excavation shall be eliminated upon rehabilitation of the site, unless previously approved by the Township.

~~J. End Use Grading Plan:~~

~~For mining operations that are expected to require more than twenty (20) years to complete, the Board may approve an interim end use grading plan for the area that is expected to be completed within twenty (20) years.~~

K. Removal of Buildings, Structures, and Vehicles:

Within eighteen (18) months of the completed reclamation of each phase, all buildings, structures and ~~materials~~plants incidental to that phase of operation shall be dismantled and removed by and at the expense of the Permittee ~~of the mining operation~~last operating the

~~building, structure or plant~~, or the owner of the property, unless the structure or use is compatible with future phases of the mining operation or the anticipated ultimate use of the property or unless otherwise negotiated in the IUP. All buildings, structures or ~~material plants~~ not removed as required by this section may be removed by the Township with the costs for the removal charged to the Permittee or the owner of the property.

L. Separation, Fill, and Topsoil:

1. Where the final mine floor is within 15 feet of the bedrock surface, a 15-foot separation buffer is required over the bedrock surface to protect groundwater and allow for future development.
2. A topsoil layer shall be placed above the buffer layer where the buffer layer extends above the water table. Lake and pond end uses are not allowable. Land should be remediated back to farmable land in accordance with the comprehensive plan's stated goal of preserving agricultural land to prevent premature, permanent conversion to non-agricultural uses.
3. Buffer layer material and topsoil should consist of clean, native fill material derived from the Project site. If imported off-site materials are necessary, a testing plan certified by a licensed professional shall be provided to ensure that the soils do not cause contamination. Topsoil material shall consist of suitable plant growth material, organic matter content, and thickness to support adequate plant growth. Vegetation selection should be based on rapid stabilization of the soil, avoidance of invasive species, and be sustainable with respect to long term weed management.
4. Vegetation used shall be native species or similar that do not require regular or seasonal application of nutrients or pesticides.

M. Annual Operating Review:

1. Annual Certificate of Permit Compliance: As a condition of any mining Interim Use Permit, the property owner and/or Permittee shall annually submit graphic and/or narrative information on the mining operation demonstrating compliance with the approved Interim Use Permit, progress on reclamation plans, and related conditions. Said compliance information shall be submitted by January 31<sup>st</sup> of each year or such other date that the Township Board may include in an IUP. Representative(s) appointed by the Township Board shall review the compliance information and conduct a field inspection to certify that the mining operation is in compliance with the approved Interim Use Permit and the financial surety are adequate to complete the restoration. Failure to submit the annual compliance information or violations of the Interim Use Permit may be grounds for revocation of the Interim Use Permit.
2. Annual Operating Review: ~~A mineral extraction operation may extend for years to complete.~~ The purpose of the annual operating review is to provide an opportunity for

the Board to review the operation of the mine and have a discussion with the Permittee regarding the progress of the mine, any noteworthy items and updates, provide updated contact information and to provide feedback on improvements that the Permittee is requested to make to mitigate for any unforeseen impacts of the mine and its operations on the community. The review shall be held at the March monthly meeting or at a date otherwise set by the Board but may be held earlier in the calendar year provided that the Permittee has previously submitted the Annual Certificate of Permit Compliance for Township review.

3. Annual Review Fee and Reimbursement of Township Expenses: The fee for annual review, if any, shall be as established from time to time by resolution of the Board. If the Township has its consultants review the Annual Certificate of Permit Compliance or complete inspections related to the Interim Use Permit, those direct costs shall be reimbursed to the Township by the Permittee.
4. Inspections: The Township may inspect all mineral extraction sites where a mineral extraction permit has been issued. The Permittee or owner of any mineral extraction operation found in violation of the requirements of this ordinance, or its extraction permit, shall remedy such violations within the time specified by written notice from the Township.

N. Financial Surety:

The operator must provide and maintain a ~~performance bond~~, cash escrow or a letter of credit (“financial guaranty” or “security”) in a form acceptable to the Township, to guarantee compliance with this ordinance and the terms and conditions of the approved IUP and development agreement. Costs include, but are not limited to, repairing any streets where such repair work is made necessary by the special burden resulting from mining truck hauling and travel, and removing material from any pit or excavation, conducting any required ~~restoration~~rehabilitation of the mining site pursuant to the Reclamation Plan, and to pay any expense the Township may incur by reason of doing anything required to be done by any Permittee to whom an IUP is issued.

The Township shall have the right to use the financial guaranteey to remove stockpiles, complete site reclamation, and correct other deficiencies or problems caused by the operator, in the event the operator is in default of the obligations under this chapter. The amount of financial guaranteey shall not exceed \$10,000 per acre of the mining operation used for extraction, stockpiling, and processing activities. This amount may be increased by the Township Board with reference to the increase in the Consumer Price Index (CPI) for the Minneapolis - St. Paul Area. The financial guaranteey shall remain in full force and effect for a minimum period of nine months or after reclamation or cleanup of the site is complete, whichever is longer. ~~The security shall remain in full force and effect until such time as all obligations to the Township have been satisfied.~~

O. Insurance and Indemnification:

1. Liability Insurance:

The Permittee shall at all times procure and maintain at the Permittee'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 chapter. Such insurance shall afford protection to a limit of not less than \$1,500,000 in respect to injuries or death to a single person, to a limit of not less than \$5,000,000 in respect to any one accident or occurrence, and to a limit of not less than \$500,000 in respect to property damage. The Township shall be listed as a noncontributory additional insured on all such policies of insurance. The operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit.

The certificate shall provide that the Township must be given 30 days' written notice of the cancellation of insurance.

2. 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, 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.

P. Reimbursement of Township Costs:

The Permittee shall reimburse the Township for all out-of-pocket expenses incurred during the review of the application, [environmental review](#), public hearings, preparation of documents, inspections and enforcement of the ordinance and Interim Use Permit. The Permittee shall pay for the third-party review of application [and environmental review](#) items and for submittal requirements like groundwater monitoring. The cost of periodic inspections and annual review for the purpose of determining that the provisions of the Interim Use Permit and this Chapter are being followed shall be reimbursed by the Permittee who shall maintain an escrow with the Township that shall be replenished as requested in writing by the Township. The Township may retain consultants at the Permittee's expense to evaluate the application requirements, monitoring and testing results, and compliance with the ordinances and Interim Use Permit.

Q. Termination:

The mineral extraction permit shall be terminated ~~based upon any of the on the happening of any of the~~ following events:

1. Occurrence of the date of termination specified in the Interim Use Permit.
2. Upon a violation of any applicable laws, rules, or Township Ordinances, or of a condition under which the permit was issued, but only after the Township has first provided written notice to the operator and the landowner (if different from the operator), describing with particularity the specific violation(s) and the steps necessary to cure the violation(s) and to be in compliance with the permit.

The notice of violation shall inform the operator that failure to correct the violation as directed in the notice may result in the revocation of the Interim Use Permit and the time period in which the violation must be corrected. Excepting threats to public health, safety, and welfare or violations with simple remedy, the operator shall have a period not exceeding sixty (60) consecutive days to cure the specific violation(s). If the 60-day remedy period overlaps with or occurs within a period of seasonal shutdown, and the violation(s) are not easily remedied or do not pose an imminent threat to public health, safety and welfare, the 60-day period may be extended to include the seasonal shutdown period. Upon notice of the violation(s) which may threaten the public health, safety and welfare or are easily remedied, the operation shall respond promptly and cure the violation(s) in the time period provided in the notice of violation.

3. If the operator fails to correct the violation as described in a notice of violation within the identified correction period, the Township may undertake a process to consider and act on the revocation of the Interim Use Permit issued for the operation. The Township shall provide the operator and landowner (if different from the operator) at least 10 days written notice of a public hearing before the Township to consider the revocation of the Interim Use Permit. The notice shall identify the violation or violations resulting in the proposed revocation. The operator and any other interested party will have an opportunity to be heard during the hearing. The Township may revoke the Interim Use Permit if it determines a violation occurred and the operator failed to correct it as directed in the notice of violation. As an alternative to immediate revocation, the Township may, in its sole discretion, allow the operator to enter into a correction agreement with the Township to allow the operation to continue provided it complies with the terms and conditions of the agreement. The correction agreement shall identify any corrective actions the operator must take, may require the posting of a bond or other security related to the performance of the required corrective actions, and may set out such other terms, conditions, and requirements as the Township determines are reasonable to ensure the operator corrects any existing violations and remains in compliance with the permit and all applicable laws, rules, regulations, and ordinances.

4. Upon a change in the Township's zoning regulations which renders the use non-conforming.
5. Upon a determination that the mine operation has been inactive.

R. Seasonal Mineral Extraction:

1. Purpose: The purpose of this section is to establish provisions for mineral extraction on a smaller scale and shorter-term basis than allowed in the Mineral Extraction District.
2. Eligibility: A seasonal extraction permit may be issued in areas of the township zoned AG Agricultural Preservation District when excavations are used exclusively for public infrastructure construction projects under the administration of a public entity where the contract requires erosion control, sediment containment and site restoration provisions at least as strict as those in the Minnesota Pollution Control Agency's NPDES General Storm Water Permit when the proposed site is located outside of the limits of the construction site.
3. Seasonal mineral extraction excavations require an Interim Use Permit approved by the Town Board according to the provisions and procedures in the Waterford Township Zoning Ordinance.
4. The maximum site area that may be included in a seasonal mineral extraction permit is five (5) acres square; may not occur less than ten (10) feet above the historical high groundwater elevation at the site. Dewatering is not allowed. The use of explosives is prohibited.
5. Excavations must be closed and restored at the end of each season. Operations are limited from April 15 to October 15. The following rehabilitation standards shall apply to the site:
  - a. Topsoil shall be removed from the excavation area(s) and stockpiled for rehabilitation.
  - b. Rehabilitation shall be continuous, occurring as quickly as possible after the extraction operation has moved into another part of the extraction site.
  - c. The excavation area shall be graded to blend in with the un-excavated area, without changing or impacting the natural course of drainage.
  - d. Topsoil shall be replaced and the disturbed area re-seeded prior to permit expiration.
  - e. All water areas resulting from excavation shall be eliminated upon rehabilitation of the site, unless previously approved by the Township.
  - f. The slope of the restored site shall not exceed a 5:1 ratio.

6. Inactivity. In the event less than five thousand (5000) cubic yards of material are removed from the facility in any calendar year, the Town Board may declare the facility inactive, terminate the Interim Use Permit and require site rehabilitation.

S. Enforcement:

1. The operator grants the Township's officers and representatives access to the facility during normal operating hours or by special appointment to inspect the mineral extraction facility and enforce the provisions of this ordinance.
2. The operator shall be responsible for the repair and maintenance of public and private property in the Township which is determined by the Township to be damaged by the operator, his or her agents or employees in conducting business or any other activity associated with the mineral extraction facility.
3. A development agreement will be required for all mineral extraction permits.
4. The operator shall hold the Township harmless against all claims by third parties for damage or costs 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 attorney's fees.

**SECTION 6. EFFECTIVE DATE.**

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

**SECTION 7. REPEALER.**

All prior ordinances to the extent that they are inconsistent with the terms and provisions of this Ordinance, shall be deemed repealed after the effective date of this Ordinance with regard to those inconsistent terms and provisions.

Passed by the Board of Supervisors of Waterford Township on this (number) day of (Month), 2025.

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Brett Stadler, Chairperson

ATTEST:

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Thomas Davis, Clerk



EXHIBIT A

To be added.