

ARTICLE FIFTEEN (15)

TRANSITIONAL USE DISTRICT

Sec. 15.01 Purpose:

The purpose of the TU Transitional Use District is to protect public health, safety and general welfare; protect the area's natural environment, promote aesthetic values, and provide for environmentally sound reclamation of land disturbed by mining activities through an impartial series of standards and regulations governing the extraction of material from the earth.

It should be understood that excavation type land uses are transitional in nature and are by no means representative of the final end use. Accordingly, the intent of this zone is to designate those land areas which use is transitional by nature and establish operational and reclamation guidelines which promote the public health, safety and welfare and the reclamation of these land areas so they do not remain as visually obtrusive elements. Lands affected by mining and related activities shall be reclaimed and rehabilitated to a condition capable of supporting the uses that it was capable of supporting prior to any mining. Regulations in this designation are designed to implement Moran Township Master Plan goals, policies, and land use guidelines for mining activities.

Sec. 15.02 Definitions:

- a. Mining - The extraction, excavation, quarrying from the earth for sale or use by the operator, of mineral aggregates such as sand, gravel, or stone and includes any processes such as crushing, screening, scalping, dewatering and blending.
- b. Mining - Disturbed Land - Land which has been changed from its pre-excavating condition for the removal of materials from the earth. This term includes land that contains active or inactive, or reclaimed mines and quarries.
- c. Mining Operation - The process involved in the extraction of all materials from the earth, including sand, gravel, or stone from the earth, whether by surface or underground methods including all processing facilities, and related structures equipped waste dumps and tailing disposal areas.
- d. Operator - Any person engaged or who has applied for a permit to engage in mining operations whether individually, jointly or through subsidiaries, agents, employees, contractors, or any person engaged in or controlling a mining operation.
- e. Reclamation - The process of rehabilitation of the mined site including, but not limited to, establishment of adequate vegetative cover, stabilization of soil conditions, prevention of environmental pollution and where practical, restoration of natural resources, such as fish, plant and wildlife habitat or to an end use compatible with the Township Master Land Use Plan.

- f. Reclamation Plan - The operator's proposal for the reclamation and rehabilitation of the project site that must be approved by the Planning Commission and the Township Board.
- g. Tailing Ponds - Those areas where liquefied accumulations of waste from the processing of mining are placed on land surface.
- h. Waste Dump - All accumulations of unprocessed waste mine rock, and overburden placed on the land surface.

Sec. 15.03 Uses Permitted by Right:

The following uses and structures are permitted in the TU District as a matter of right.

- 1. Public buildings and public service installations, including municipal, administrative or public service buildings, utility and public service facilities and uses, excluding storage yards, transformer stations and substations.
- 2. Storage unit for recreational vehicles, such as snowmobiles, campers, and boats.

Sec. 15.04 Permitted Accessory Uses

The following are permitted accessory uses:

- a. Accessory uses or structures, clearly incidental to any of the above permitted uses.
- b. Any structural or mechanical use customarily incidental to the permitted principal use.

Sec. 15.05 Uses Permitted by Special Use Permit

The following uses of land and structure may be permitted in this District by the application for and the issuance of a Special Use Permit.

- a. Soil, sand, or gravel removal, including quarries and other mining operations.
- b. Wind Energy Conversion System.
- c. Telecommunication tower.

Sec. 15.06 Site Development Standards for Uses Permitted by Right

The following maximum and minimum standards apply to all uses permitted by right in the TU District.

- a. Minimum Lot Area:

The minimum lot area shall not be less than 20 acres.

b. Minimum Lot Width:

The minimum lot width shall be six hundred (600) feet.

c. Maximum Lot Coverage:

The maximum lot coverage shall not exceed two (2) percent.

d. Yard and Setback Requirements:

1. Front Yard: Fifty (50) feet.

2. Side Yard: Fifty (50) feet.

3. Rear Yard: Fifty (50) feet.

e. Maximum Height Requirements:

No structure shall exceed thirty-five (35) feet in height. Accessory buildings shall not exceed a height of twenty (20) feet.

Sec. 15.07 Site Development and Operating Standards For Mining and Related Activities

a. Setback - Mining operations, sedimentation ponds, and stockpiling of excavated materials shall not be conducted closer than two hundred (200) feet to the boundary of any district where such operations are not permitted, nor shall such operations be conducted closer than two hundred (200) feet to the boundary of any adjoining property residentially-zoned and continuing occupied single-family residence(s), unless the written consent of the owner in fee of such adjoining property is first secured. Mining operations, sedimentation ponds and stockpiling shall not be conducted closer than fifty (50) feet to the right-of-way line of any existing or platted street, road, or highway, except that mining may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway. Any area excavated along a street, road or highway within the fifty (50) foot setback shall be backfilled within twelve (12) months after completion of excavation to result in elevation in substantial conformity to the adjoining street, road or highway. The setback area shall not be used for any use in conjunction with the mining operations, except access roads, directional signs, public notice signs identifying quarry, business sign identifying occupant and landscaping. No mining operations shall have its outer boundaries nearer than one thousand (1,000) feet from the nearest property line of any church, school, recreational facility, or public building.

b. Property Protection

1. Each mining operation within five hundred (500) feet of a residential area shall be enclosed by a fence of chain link construction, with a minimum height of six (6) feet. Such fence shall be maintained at all times.
 2. Where practical, an earth bank or vegetative screen shall be erected and maintained to screen the mining operation from view. The Planning Commission shall determine the practicality and necessity of aesthetic screening in each individual mining operation.
- c. Minimum Area - Any tract of land to be granted a permit for mining operations shall have a minimum area of twenty (20) acres. However, there shall be no minimum area limitation where the tract applied for is contiguous to an active mining operation already permitted, provided:
1. Both tracts are developed by the same operator under a coordinated master restoration plan; or
 2. If tracts are developed by different operators, the Planning Commission shall review the operations and reclamation plans of both natural source developments, and certify the workability of such plans and the mutual boundaries, such as drainage, restoration, grades, timing and type of planting.
- d. Frontage and Access -
1. Each tract of land to be granted a permit for mining shall have a minimum highway frontage of two hundred fifty (250) feet, except that the Township Planning Commission may approve a tract with less or no frontage if:
 - (a) Proof of legal right of access is submitted; and
 - (b) All means of access to the property from any street shall be so located and designed as to avoid the routing of vehicles to and from the property over streets that primarily serve abutting residential development.
 2. Not more than one (1) entrance and one (1) exit from a highway or road shall be provided to the area of operations. Such vehicular access shall be permitted only to one of the following types of streets:
 - (a) Controlled access routes - major highway;
 - (b) Local access routes - major highway;
 - (c) Connection of secondary (arterial) highway; or
 - (d) Private road connecting only with any of the above highways and not directly connected with any residential subdivision stated.

3. If required by the Planning Commission, acceleration and deceleration strips shall be provided on either side of such entrance and exit, of not less than one hundred (100) feet in length each, and shall be paved of such material as shall be required by the County Road Commission having jurisdiction. Further, if also required, a paved road from the entrance and exit, a distance not less than three hundred (300) feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway. Such pavement shall be in accordance with the specifications of the County Road Commission.

e. Safeguards -

1. During operation, no slope steeper than 60° as measured from vertical shall be permitted to exist for more than thirty (30) days.
2. All operations shall be conducted in a safe manner, with respect to the likelihood of: (a) hazard to persons; (b) physical damage to adjacent land or improvements; and (c) damage to any street by reason of slides, sinking, collapse or blasting.
3. Where topsoil is removed, sufficient arable soil shall be set aside for respreading over the excavated area in accordance with the Reclamation Plan. Such overburden stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams, or adjacent residence(s).

- f. Screening - Mining operations shall be screened in such a manner that they are not readily visible from a public street or adjoining properties. An opaque screen shall be installed and maintained as necessary in order to minimize visibility. At this option, the operator shall install such screening along the street and along the perimeter of the visible portion of the area being operated.

The required screen shall have a total height of not less than six (6) feet. Where there is a difference in elevation on the opposite side of the screen, the height shall be measured from the highest elevation. A screen shall consist of one or a combination of the following types:

1. Walls: A wall shall consist of concrete, stone, brick, tile or similar type of solid masonry material with a minimum of four (4) inches thick.
2. Berms: A berm shall be constructed of earthen materials, and it shall be landscaped.
3. Fences, Solid: a solid fence shall be constructed of wood and shall form an opaque screen.
4. Fences, Open: An open weave or mesh-type fence, when not used in combination with a berm, shall be combined with plant materials to form an opaque screen.

5. Planting: Plant materials, when used as a screen, shall consist of dense evergreen plants. They shall be of a kind or used in such a manner so as to provide continuous opaque screen within twenty-four (24) months from commencement of operations in the area to be screened. Plant materials shall not be limited to a maximum height. Said design shall be prepared by a licensed landscape contractor or a registered professional landscape architect.
 6. Intersections: Required screening shall be set back at least twenty (20) feet from the point of intersection of:
 - (a) A vehicular accessway or driveway and a street;
 - (b) A vehicular accessway or driveway and a sidewalk; and
 - (c) Two (2) or more vehicular accessways, driveways or streets.
 7. Installation: Required screening shall be installed prior to commencement of operations.
- g. Hours of Operation - Except by special permission from the Township Board, said operations shall be permitted only between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday: 7:00 a.m. and 1:00 p.m. on Saturday. Operations shall not be permitted on Sundays or legal holidays.
- h. Environmental Protections -
1. All mining operations shall conform to applicable air and water quality standards.
 2. No mining operations, sedimentation ponds, or stockpiling of materials shall be conducted within three hundred (300) feet of Land Classes 1, 2, 3, or 4 as detailed in Article 17.
 3. All private access roads shall be surfaced with bituminous or other treated dust free surface for a distance of three hundred (300) feet from the public highway with a minimum width of twenty-five (25) feet.
 4. Noise, vibration and air pollution at the property lines shall be within the levels established within this Ordinance and by the Township Board, or applicable State laws.

Sec. 15.08 Site Reclamation

- a. Purpose - The land affected by mining and related activities shall be reclaimed and rehabilitated to a condition capable of supporting the uses which it was capable of supporting prior to any mining, so long as such use of uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit operator's declared proposed land use following reclamation is not

deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is in violation of Federal, State or local law.

In cases where the Township finds that unrehabilitated sites, previously used for extractive operations, are susceptible to misuse, may contain examples of gross erosion, constitute a threat to public safety, and allow an unproductive use of the community's land resources, therefore, additional purposes of this Section are:

1. To provide for the prevention of soil erosion which may menace life and limb, endanger property or affect the safety, usability or stability of any public property.
2. To curb misuse of previously mined tracts, which may become an unauthorized disposal area for solid wastes, which could not only pollute the ground water, but may become a breeding ground for insects and rodents.
3. To eliminate the unsightly appearance of unrehabilitated areas that detract from the aesthetic value of the landscape.
4. To protect against the unproductive use of the Township's land resources, to prevent the general decline of the community facilitated by a potential decrease in land value.

b. Reclamation Application Plan Requirements - The application submitted for a mining permit shall be accompanied by a reclamation plan that shall include the following information:

1. A map or plan and description of the proposed reclamation including final land use of site, final land shape, estimated final topography, physical structures, roads, parking areas, recreation facilities, and the staged sequence of reclamation activity to be conducted;
2. Hydrological data, including: (1) ground water levels; (2) rainfall data; and (3) capacity of streams and rivers on or in close proximity to site;
3. Location of all stream flow points, including: (1) inflow points; (2) outflow points; and catchment areas;
4. A description of the utility and capacity of the reclaimed land to support the proposed sequential use;
5. A description of soil types, soil erodability, stability of existing and proposed slopes; topsoil stripping, topsoil storage, topsoil replacement thickness and time sequence of replacement; and soil erosion and sediment control plan during storage and replacement;
6. A map or plan and description of grading and backfilling sequences, final slope angles, highwall reduction, benching and terracing of slopes, slope stabilization, and erosion control;

7. A map or plan and description of reclamation or removal of waste dumps, tailings ponds, sediment ponds, haulage roads, access roads, surface structures and related facilities;
8. A map or plan and description of final surface drainage, water impoundments, and artificial lakes on the affected property;
9. A planting plan including existing vegetation, proposed vegetation including description of plant types, planting sequences, and maintenance, or replacement of vegetative cover both during mining operations and upon completion of site reclamation;
10. A plan for disposal of any harmful or toxic materials found in any formations penetrated by the mining operation, produced during the processing of mineral materials on the affected land, and chemicals or materials used during the mining or processing operations;
11. The estimated cost of reclamation on a per acre of total project basis;
12. Other pertinent information may be required to determine the nature of the reclamation of the operation and the effect upon the surrounding area;
13. A description of the proposed use of the land following reclamation, including a discussion of the feasibility and capacity of reclaimed land to support a variety of alternative uses and the relationship of such uses to existing land use policies and plans;
14. A detailed description of the methods and materials proposed for reclamation including backfilling, seed stabilization and compacting, grading, restoration of topsoil, and revegetation;
15. A detailed estimated timetable for the accomplishment of each major step in the reclamation plan.
16. Plans illustrating appropriate assurance that the post mining land use will be:
 - (a) Compatible with adjacent land uses.
 - (b) Feasible according to data regarding expected need and market.
 - (c) Assured of investment in necessary public facilities.
 - (d) Supported by commitment from public agencies where appropriate.
 - (e) Practicable with respect to private financial capability for completion of the

proposed use.

- (f) Planned pursuant to a schedule attached to the reclamation plan to integrate the mining operation and reclamation with the postmining land use.
- (g) Designed by a registered engineer or registered landscape architect in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.
- (h) The proposed use shall be consistent with adjacent land uses, and existing Township's Land Use Plan and Zoning Ordinance and County development plans and programs.
- (i) In compliance with all other requirements of this Ordinance shall be met.

c. Timing - Restoration shall proceed in a continuous manner and shall be subject to review and approval at each annual inspection and at the end of the permit period. Specifically, the following standards shall apply:

1. Topsoil grading and planting of the area designated for restoration during the permit period shall be completed before a mining permit is renewed.
2. Overburden shall not be removed from an area larger than that mined within one (1) year.
3. Where groundcover or other planting is indicated on the approved reclamation plan, the planting shall be made in areas where excavation is completed and land is not being used for material storage, before further overburden is removed.

d. Standards -

1. All stumps, boulders, and other debris resulting from the excavation or related activities shall be removed from the site and disposed by approved methods. Under exceptional circumstances, such debris may be disposed on the site, if covered with a minimum of two (2) feet of soil.
2. All banks shall be left in accordance with topography established in reclamation plans, with no slopes greater than two (2) feet horizontal to one (1) foot vertical. If water is to be left in the pit in areas below the water table, the slope can be greater than 2:1.
3. When topsoil is removed, sufficient arable soil shall be set-aside on the site for respreading over the excavated area. These overburden stockpiles shall be used to minimize the effects of erosion of wind or water upon public roads, streams, or adjacent land uses and shall not be sold or removed from the property.
4. Reclamation shall be in a manner that natural and storm drainage, where it enters and

leaves the premises, be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of natural and storm drainage shall not adversely affect public roads or neighboring uses.

5. After the area is cleared of debris, it shall be covered with a layer of topsoil to a depth of at least two (2) inches, except for areas under water. If the pit is to be used as a basin for spreading water, the topsoil shall not be placed.
6. Plant a diverse, effective, and permanent native vegetative cover on the regraded areas. The vegetation shall be capable of self-regeneration.
7. In the event filling of the mined area is necessary during reclamation, fill material shall be non-organic only.
8. If on-site mining or processing operations are not continuously carried out for a period of one (1) year at any location, the same will be considered to have been abandoned and prior to any further excavation or processing, a new use permit under the current ordinance will be required.
9. If mining has ceased for a period of twelve (12) months, the Planning Commission and Township Board shall hold a hearing to determine the future disposition of the site and the source of liability for expenses incurred for restoration of the site.

Sec. 15.09 Mining Operator Reporting Requirements

- a. Each operator shall furnish a report to the Planning Commission for each project site every twelve (12) months after issuance of the permit and within thirty (30) days after cessation of all mining at the project site, which shall contain the following information:
 1. The name and address of the operator and the permit number;
 2. A map or plan of the operation and a description of the quantity of land affected during the report period for mineral extraction, reclamation, waste and tailings disposal, surface structures, haulage roads, stockpiles, storage yards, and water containment, storage and treatment facilities;
 3. A description of any actions taken to control both anticipated and unforeseen environmental conditions that occurred during the reporting period;
 4. A description of any environmental monitoring activities carried out during the reporting period;
 5. An estimate of the location and extent of land to be affected by the operation during the subsequent reporting period;
 6. A description of restoration activities that have occurred during the reporting period;

7. Such other pertinent information and maps as may be required to evaluate the extent of mining and reclamation, if any, accomplished during the permit year.
- b. Each operator shall submit a final reclamation report to the Planning Commission within one (1) year after cessation of operations and prior to final release of bonds that shall contain the following information:
1. Name and address of the operator and the permit number;
 2. A map or plan showing the final contours and slope angles of the affected land and the locations of any remaining structures and roads;
 3. A description of all final reclamation activities leading to completion of the approved reclamation plan including: topsoil disposition, topsoil replacement and thickness, revegetation practices and plant types, disposition of waste dumps, tailings ponds, sediment ponds, surface structures, haulage roads, and access roads, grading practices and slope angles, surface water drainage and sediment control, size, depth, and capacity of artificial lakes or ponds, and planned sequential use of the land;
 4. Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond.

Sec. 15.10 Existing Mining Operations

Any operator producing mining materials from a mining operation at the time of enactment of this Ordinance shall be issued a temporary operating permit valid for a one (1) year time period. The period of the temporary operating permit is establish to allow the operator time in which to submit a permit application as required under this Section. Failure to apply for and receive a valid permit by the end of the temporary permit period shall result in revocation of the temporary permit and cessation of the mining operation until such time as a valid operating permit shall be issued.

Sec. 15.11 Inspections

- a. Upon issuance of a special use permit for the purpose of mining, the Township is permitted to inspect the property. Such inspections shall be at designated times and with notice to determine compliance with the provisions of this Ordinance.
- b. The Township shall notify the operator by regular mail of any portions of the site that it deems abandoned and/or ready for reclamation. Upon receipt of such notification, the operator shall have said areas restored within ninety (90) days, or within ninety (90) days supply the Township a written reply indicating the dates of anticipated restoration. The Township or its designated agents may accept or reject such dates. If said dates are accepted, they shall be binding on both parties.

- c. The Township may inspect any required records of a mining operation to determine compliance with the Ordinance. Any public or private complaint against an operator may result in an inspection of the mining operation to determine the validity of the complaint.

Sec. 15.12 Regulation of Permitted Mining Operations

The Township may obtain the services of qualified technicians and professionals to monitor the operations of the permit holder at such intervals as they consider necessary to report to the Township whether the operations are being conducted in accordance with the terms of the permit and provisions of this Ordinance and whether or not the operations are resulting in any nuisance or any hazard to the public health, safety or general welfare or are causing pollution, impairment or destruction of natural resources.

Sec. 15.13 Payment of Cost of Mining Regulation - Effect of Failure to Pay

Upon receiving bills for the services and expenses of the persons designated to monitor the operations, the Township Treasurer shall forward them to the operation by first class mail. The mining operation shall pay them within thirty (30) days of mailing by the Township Treasurer. Whenever any such bill has not been paid within the time specified above, the permit shall automatically be suspended until payment is made.

Sec. 15.14 Mining Enforcement

The Township Zoning Administrator or any Ordinance Enforcement Officer appointed by the Township Board shall enforce this Ordinance. The Township Clerk and/or their representatives, and Enforcement Officers, shall have the authority to issue Appearance Tickets for a violation hereof pursuant to Act 175, of Public Acts of 1929, as amended, of the State of Michigan.

Sec. 15.15 Performance Bond

To ensure the required Site Reclamation is performed in accordance with this Ordinance, the Township shall require the permit applicant to furnish and post a performance bond in an amount not to exceed the estimated cost to restore the permitted acreage, as determined by an independent Licensed Professional Engineer.

Sec. 15.16 Repeal and Savings Clause

All ordinances or parts of ordinances inconsistent with the provisions of this Article are hereby repealed. The repeal of the above ordinances or parts of ordinances, and/or any amendments adopted to this Ordinance, shall not affect or impair any act, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted, or inflicted.

Sec. 15.17 **Severability**

This Article and the various parts, sections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, it is hereby provided the remainder of the ordinance shall not be affected thereby.

Sec. 15.18 **Other Provisions**

- a. If there exists more restrictive provisions of Federal, State or other regulations affecting any part or section of this Article, those more restrictive provisions shall prevail.

- b. All land uses are subject to the Performance Requirements listed in Article 16.