

Article II; Definitions, Section 2.2 of the Centerville Township Zoning Ordinance is hereby amended to add the following definitions:

Excavating – Excavating means the removal or movement of topsoil, clay, sand, stone, non-metallic minerals, aggregates or gravel, except for common household gardening, landscaping, building foundation construction, construction grading, farming, farm operations, and general land care.

Excavation Operation - means the excavation from the earth of mineral aggregates, non-metallic minerals, gravel, topsoil, subsoil, or sand for sale or use and includes the use of mining equipment or techniques to remove materials from the earth, as well as associated activities such as excavation, grading and dredging. It also includes processes carried out at a mineral and non-metallic mineral mining site that are related to the preparation, storage, loading/unloading, or processing of mineral aggregates or non-metallic minerals obtained from the mining site.

Existing Operation – an operation that has commenced prior to *(insert date of ordinance passage)*.

Expansion of Existing Operation – expansion of an existing operation outside of the district map as it was created on *(insert date of ordinance passage)*.

Gravel - means the unconsolidated, natural accumulation of rounded rock or rock created through erosion, glaciation or the natural movement of water consisting predominantly of particles larger than sand, having a diameter of between 2.0 mm to 7.6 cm (i.e., 3 inches) as defined by the USDA textural classification system.

Mineral - means a naturally occurring solid chemical substance formed through biogeochemical processes, having characteristic chemical composition, highly ordered atomic structures, and specific chemical properties.

Mining Operation - means the excavation, excavation operation, removal, movement, loading/unloading or processing, storage of soil, subsoil, sand, stone, gravel, minerals or non-metallic minerals. Mining operation does not include the following activities:

1. Excavation of a limited scope and duration undertaken primarily for the immediate use and development of land for the construction of buildings, structures or the installation of water wells, septic and sewage facilities, landscaping, activities within a cemetery, and construction which is otherwise ancillary to a land use.

2. Excavation done as part of a farm or farming operation as defined by the Michigan Right to Farm Act. P.A. 93 of 1981, as amended.

Nonmetallic mineral - means a product, commodity or material consisting principally of naturally occurring inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to stone, sand, gravel, clay, cobbles, and topsoil.

Owner/Operator - means an owner, lessee or any other person engaged in or preparing to engage in excavation operations, mining operations or quarrying operations, or any other person engaged in or preparing to engage in these activities.

Processing - means the washing, sorting, crushing, aggregating, grinding, blending, mixing, loading/unloading, storage or cutting of soil, clay, sand, gravel, cobbles, stone, minerals or non-metallic minerals.

Regolith – means unconsolidated, mineral material that is not capable of supporting life.

Sand - means the unconsolidated, natural accumulation of granular material created through erosion, glaciation or the natural movement of water consisting predominantly of particles having a diameter of between 0.05 mm to 2.0 mm as defined by the USDA textural classification system.

Sand and Gravel - means a mixture that primarily consists of sand and gravel as defined by this Ordinance. Sand and gravel may contain lesser amounts of silt and/or clay.

Surface waters - means drains, streams, rivers, creeks, ponds, lakes and other water bodies as defined by Michigan's Part 301: Inland Lakes and Streams Act of the P.A. 451 of 1994, as amended. The definition applies to public and private lands regardless of zoning classification or type of ownership.

Topsoil - means the unconsolidated, natural material that supports or is capable of supporting plant life, and naturally covers subsurface layers of regolith, glacial drift, and/or bedrock.

Section 2. Amendment to Replace Section 9.4 Mining or Removal of Topsoil

Article IX, Section 9.4 of the Centerville Township Zoning Ordinance is hereby replaced by the following.

A. Purpose. To promote the public health, safety and general welfare; to encourage the use of land in accordance with its character, adaptability and suitability for particular uses; to meet the needs of residents and industry; to promote the orderly development of quarrying, the encouragement of good quarrying practices, and the recognition and identification of the beneficial aspects of quarrying; to control possible adverse effects of quarrying; to preserve the rural character, natural resources and encourage the planning of future land use and to provide for reclamation of lands following the completion of the quarrying of minerals. To comply with MCL 125.320, Section 205(5) of the Michigan Zoning Enabling Act, P.. 110 of 2006, as amended.

B. Intent. To establish and zone lands for the preservation, protection and extraction of minerals; to prevent non-compatible land uses from denying the use of minerals; to protect mineral deposits; to provide for the orderly economic growth of Centerville Township and Leelanau County; to provide for proper environmental protection during the site planning, operation and reclamation stages of the extraction process; and to provide the Township with information important to the overall planning process. As set forth in *Silva v. Ada Township*, 416 Mich 153 (1982), an Applicant shall comply with this Section following the ***(Township Zoning Administrator, Planning Commission, or Township Board of Trustees)*** determination that very serious consequences would result from the proposed extraction, by mining, of topsoil, clay, sand, gravel, cobble, stone, regolith, mineral or non-mineral.

C. Permitted Uses: All uses and structures necessary or convenient for the mining, excavation, excavation operation, mineral extraction and processing of minerals, agricultural and silvacultural uses.

D. Special Uses: Special uses shall include all special uses in the Agricultural District of the Centerville Township Zoning Ordinance.

E. District Regulations. No new building or operation shall commence, after adoption of this Section, until the Owner/Operator has complied with this Section. If any of the following is available in the form of any existing environmental assessment, report, permit or other appropriate document which is required to be submitted to state and/or federal agencies, a copy of such assessment, report, permit or document may be submitted in place of the following appropriate items. As of *(insert the date of passage of the ordinance)*, any existing Owner/Operators shall be “grandfathered” and considered a legal nonconforming use under the regulations that were in place at the date they commenced their operation. Any expansion of existing operation as of *(insert amendment effective date)* shall fully comply with this Section.

The Applicant (a.k.a. Owner/Operator) shall provide the following plans and documents, including a cover letter with the signature of the Owner/Operator or the Owner/Operator's authorized agent, with the Township Zoning Administrator.

1. **Site Plan** containing:

- a. The boundary lines of the area included in the site plan including angles, dimensions and reference to a section corner or point on a recorded plat, an arrow pointing north, and the lot area of the land included in the site plan.
- b. Existing and proposed grades and drainage systems and structures with two (2) foot topographic contour intervals.
- c. The shape, size, location, height and floor area of all structures; the floor area and lot coverage ratios including all graded areas, driveways, parking areas, roads, etc. and the finished ground and basement floor grades.
- d. Natural and cultural features such as woodlots, wetlands, steep slopes, streams, lakes or ponds, historic features and man-made features such as existing roads and structures, with identification as to which are to be retained and which are to be removed or altered, and an assessment of the proposed operations impact on the natural, historic, economic and community features. Adjacent properties and uses shall also be identified.
- e. Proposed streets, roads, driveways, parking spaces, loading spaces and sidewalks. The width of streets, driveways, roads, and sidewalks and the total number of parking spaces shall be shown.
- f. The size and location of all existing and proposed public and private utilities and required landscaping.
- g. A vicinity sketch showing the location of the site in relations to the surrounding street and road system.
- h. A legal description of the land included in the site plan; and the name, mailing and email addresses, and telephone numbers of the Owner/Operator.
- i. Proposed location, with an areal view and an estimated depth and time table of mineral exaction.
- j. Proposed location of spoil piles, ponds, sediment basins, stockpiles and other permanent or temporary facilities used in mining.

- k. A hydrological study which will provide a description of the general surface and groundwater conditions, including streams, lakes, ponds and wetlands on and adjacent to the mining site. The study will describe the surface-ground water connections and the chemical characteristics of water on the site. In addition, the study will specify anticipated hydrological impacts of the operation. The owner/operator must identify plans to alleviate possible problems in the water table supply to adjacent land owners and indemnify adverse impacts.

2. Operation Plan containing:

- a. A description outlining the estimated life span which the operation will cover; the type of material to be extracted; the type of mining operation and processing equipment to be used; measures to control noise, vibration, dust and air, water and other pollution from the operation; plans for blasting, if any; effect on groundwater flow; proposed frequency of and travel route to be used to transport the mined material to processing plants and markets, and the proposed steps to be taken to relieve adverse effects.
- b. A description of the social and economic impact on Centerville Township and Leelanau County, including an estimate of the number of potential employees, proposed transportation routes for employees and product, and impacts or changes in the present road system that might be made necessary by the proposed operation. Roads to be used must meet the guidelines for Geometric design of local roads established by American Association of State Highway and Transportation Officials (AASHTO) for sight distance and stopping distance and driveway design standards set by Michigan Department of Transportation (MDOT). Additionally, proof that the existing roads, from point of egress from the site will utilize a road in each direction to connect to a Class A road, with a width of twenty (22) feet to twenty-four (24) feet with a cross section and depth capable of holding up under vehicles with a gross weight allowed to travel on Michigan roads.

The site plan application will include a study of the ability of all connecting road to handle the projected traffic, including a study of the road bed, shoulders, road width, expected road bed deterioration, site distance analysis, expected daily traffic at peak times, in compliance with the AASHTO and MDOT standards cited in this Section.

- c. Proof of all required county, state and federal permits or affidavit of application for county, state and federal permits relating to environmental protection and pollution control.

- d. A description of the measures to be taken to ensure that any dangerous excavations, pits, pond areas, banks, or slopes be adequately guarded by rail and/or fenced and posted with signs to prevent injury to any individual.
- e. Identification of plans for utilities, access, roads, drains, streams and water bodies, traffic plans, and other on-site improvements showing appropriate measures that have been or are to be provided to prevent very serious damages from occurring to the Township.
- f. Measures to limit noise, vibration, and dust levels at the property line to prevent harm or nuisance to adjacent and vicinity properties.
- g. A plan for the secondary containment, storage, loading and off-loading of petroleum products, associated wastes and any other hazardous or potentially hazardous substances and materials associated with the mineral extraction operation. A copy of an EGLE-approved Pollution Incident Prevention Plan (PIPP) or Spill Prevention Counter Control (SPCC) plan as required by state law.

3. Reclamation Plan containing:

- a. Final grading, anticipated final slope angles, wall reduction, benching and terracing of slopes, slope stabilization and re-vegetation, erosion control, and alternative future land uses. All site reclamation planting shall utilize native tree, shrub and form plant species, and include the control of invasive and exotic plant species.
- b. Description of topsoil stripping, if any, storage/staging location, and conservation measures during storage and replacement.
- c. Plan description of anticipated final topography, water impoundments, ponds, and/or other artificial waters on the property.
- d. Plans for disposition of surface structures, roads and related facilities after the cessation of mining.
- e. A plan for disposal or treatment of any harmful or toxic materials found in any formation penetrated by the mining operations or produced during processing or minerals, and of chemical or materials used during the mining or processing operations.

F. Regulations. All mineral extraction operations shall be subject to the following regulations.

1. Minimum lot size shall be forty (40) acres.
2. The Owner/Operator shall not cause or permit unreasonable air pollution, nuisance noise, blasting, or water contamination.
3. No land shall be mined, disturbed nor any structure erected (except for berm or required vegetative buffer and screen) within two-hundred (250) feet of any site lot line, wetland, lake, pond, or stream.
4. The Owner/Operator shall effectively berm or screen between a mineral extraction operation, and associated disturbed land areas, and any part of a boundary within two hundred and fifty (250) feet of any extraction operation and associated disturbed land areas. Such berm or screen shall be deemed effective by the Zoning Administrator and Planning Commission from any adjoining parcel and public right of way.
5. Vegetative buffers within the required 250 foot setback shall be placed and maintained: (1) existing natural vegetation shall not be removed from the required setbacks; (2) where existing vegetation is insufficient or nonexistent, three (3) rows of conifer trees (min. 8' in height) shall be triangularly planted, spaced seven (7) feet apart, and permanently maintained within the 250 foot required setback. Perimeter areas adjacent to public road right-of-ways will be planted outside the right-of way.
6. Reclamation. When mineral supply is exhausted, pit abandoned or inactive for a period of two (2) consecutive years, the Owner/Operator shall be responsible for the re-grading the site to conform and blend with the surrounding terrain, and the entire site shall be revegetated with native vegetation subject to a Part 91 Permit issued by the Leelanau County Soil Erosion Control Officer. Slopes shall not exceed 3:1 (i.e., one foot of vertical rise per three foot horizontal run).
7. Signs shall be conspicuously posted around the perimeter of any lot being used for mineral extraction operations in order to warn individuals of the hazards associated with trespass. The Owner/Operator shall post the portion of any boundary within five hundred (500) feet of a mineral extraction operation.
8. The Owner/Operator shall comply with state and federal law, including the common law and all environmental regulation.

9. The Owner/Operator shall post a surety reclamation bond within thirty (30) days of the effective date of the issuance of a permit under this Ordinance. The Township shall consult with an industry expert and/or attorney as the appropriate bond amount.
10. New Owners/Operators shall post a bond prior to commencement of new operations. The bond shall cover the entire period of the proposed mineral extraction operation.
11. The Planning Commission shall verify to the Township Board, Owner/Operator and the issuer of any surety bond the filings of such bond and the reclamation of any abandoned lands (or previously disturbed lands) and the number of acres so reclaimed within thirty (30) days following receipt of the Annual Plan and certification of such reclamation by the Owner/Operator.
12. The Owner/Operator shall install and maintain a minimum of three (3) groundwater monitoring wells as indicated by the hydrological plan on the lands of the Owner/Operator within this District. The location and depth of such wells shall be agreed upon by the Owner/Operator and the Township Zoning Administrator. The Owner/Operator shall submit to the Township Zoning Administrator data regarding water levels data and water quality data gathered at such wells at least annually, and more frequently at the request of the Township Planning Commission or Township Zoning Administrator.
13. The bonding requirements herein set forth shall be reviewed annually by the Township Board. In the event that the Township Board shall determine that such bonding requirements are inadequate or excessive, it shall immediately initiate proceedings for the adoption of an appropriate amendment to this Ordinance.

G. Procedure for submission, review, approval, rejection and revision of site, reclamation and operational plans. Within ninety (90) days of acquisition, expansion or transfer, a new Owner/Operator or existing Operator that is expanding an existing operation within the Mineral Extraction District shall submit a new administratively complete site plan, reclamation plan, and operational plan to the Township Zoning Administrator. No reclamation plan shall be required for the extraction of less than five hundred (500) cubic yards of minerals from a site of less than one (1) acre so long as such site is reclaimed within twelve (12) months following completion of extraction. Within ten (10) working days of receipt of such plans, the Township Zoning Administrator shall provide the Owner/Operator and the Township Clerk a written report identifying any information or document required by this Ordinance or inadequacy of any plan and any changes which the Township Zoning Administrator recommends. Within ninety (90) days of receipt of the written report and analysis from the Township Zoning Administrator, the Township Board shall conduct a public hearing for the purpose of receiving comment on the

Plans, and within thirty (30) days of the date of the conclusion of such public hearing the Township Board shall accept or reject the Plans and shall provide written notification to the Applicant of such approval, approval with conditions or denial. In the event of denial the Township Board shall simultaneously provide a written statement of the specific findings of fact and specific basis or bases for the approval, approval with conditions or denial of such Plans. The Applicant may request a rehearing before the Township Board or may appeal a final decision on the Plan by the Township Board to the Circuit Court for the County of Leelanau. If the Applicant requests a rehearing, and if all fees have been paid, the Township Board shall conduct same within fourteen (14) to thirty (30) days after its next regular meeting. No new mining activity shall commence, nor shall existing mining operator expand the boundaries of the mineral district until such Plans have received approval or approval with conditions from the Township Board or a court of competent jurisdiction.

H. Annual Plans. As of *(insert date of amendment adoption)* the Owner/Operator of a new mineral extraction operation or an expanded existing operation shall submit Annual Plans to the Township Zoning Administrator for review based upon approved Site, Operational and Reclamation Plans. The Annual Plans shall contain the following:

1. Location and perimeter of disturbed mining land;
2. Location and perimeter of abandoned mining land;
3. Location and perimeter of inactive and/or reserved mining land;
4. Open mining pit(s);
5. Stockpile(s);
6. Road(s) internal to the mining operation;
7. Changes in open pit and stockpile areas during the preceding year indicated by vertical (north-south) cross-hatching;
8. Anticipated changes in open pit and stockpile areas during the following year indicated by horizontal (east-west) crosshatching;
9. Dates of operation;
10. Name of and contact information for the individual responsible for the preparation of the Annual Plan.
11. Proof of liability insurance, pollution liability insurance or the ability to obtain such insurance in the total amount of at least \$5 million dollars, with at least one million dollars (\$1,000,000.00) per occurrence covering the proposed or existing operation.

The Township Zoning Administrator shall review the Annual Plan within thirty (30) days of its submission by the Owner/Operator, to ensure compliance with approved Site, Operation and Reclamation Plans, and the Township Zoning Administrator shall provide the Owner/Operator with written specification of any alleged non-compliance therewith. The cost of such a review will be borne by the Applicant. At the request of the Owner/Operator, the Township Zoning Board of Appeals shall review the findings of the Township Zoning Administrator.

I. Changes in Plans. The Owner/Operator may alter, change or amend a Site Plan, Reclamation or Operational Plan at any time by a submission of the same for review, reporting, hearing, decision, rehearing and appeal provisions. If alteration, change or amendments are made prior to the hearing, the process will re-start with the timelines delineated in the Section G above.

K. Costs. In addition to fees assessed by the Township for a land use permit, Site Plan Review and Special Use Permit review, the Owner/Operator shall comply with the Fee Schedule of the Centerville Township Zoning Ordinance including additional zoning fees assessed by the Township and held in escrow in the Owner/Operator's name to be used solely for the full cost of such additional review. New applications from a previous Owner/Operator under this Section shall not be accepted or processed by Centerville Township until unpaid Township fees, or escrow in arrears, if any, have been completely paid.