

YANKEE SPRINGS TOWNSHIP

BARRY COUNTY, MICHIGAN

(Ordinance No. _____)

Adopted: _____, 2025

**Effective: EIGHT DAYS FOLLOWING
PUBLICATION AFTER ADOPTION**

AN ORDINANCE TO AMEND THE TOWNSHIP OF YANKEE SPRINGS ZONING ORDINANCE TO ADOPT NEW REQUIREMENTS FOR PLANNED MINERAL REMOVAL, TO PROVIDE AN EFFECTIVE DATE, AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith.

THE TOWNSHIP OF YANKEE SPRINGS
COUNTY OF BARRY, MICHIGAN
ORDAINS:

SECTION 1
AMENDMENT TO ARTICLE XII OF TOWNSHIP ZONING ORDINANCE

Article XII, General Regulations of the Yankee Springs Township Zoning Ordinance is hereby amended by adding a new subsection *12.18 Planned Mineral Removal*, which shall read as follows:

Section 12.18 - PLANNED MINERAL REMOVAL

A. Description, Intent and Purpose.

1. These Planned Mineral Removal (“PMR”) provisions are adopted for the purpose of authorizing the removal of mineral material on mining sites from specified lands within the Township, through the special exception use approval process, and also for the purpose of authorizing resulting land uses, after the completion of planned mineral removal operations, in accordance with an approved site rehabilitation plan. Under the terms of any PMR permit, mineral removal is required to be accomplished without serious adverse consequences (as identified by the factors listed in Section 12.18.E.9.c) to other lands and other land uses in the vicinity and elsewhere in the Township.

B. Definitions. The following words and phrases used in this Section shall have the following respective meanings:

1. “Mineral material” means soil, dirt, earth, sand, gravel, coal, gypsum, limestone, or any of them, or any combination thereof, or other solid minerals.
2. “Mineral removal” is the mining, extracting, excavating for, processing, removal and transport of mineral material to and/or from any property in the Township, or any of such activities, and other operations and activities for the purpose of removal of mineral material and the restoration, reclamation and improvement of the lands thereafter.
3. “Planned Mineral Removal” (“PMR”) is the mining, extracting, excavating for, processing, removal and transport of mineral material to and/or from any property in the Township, and other operations and activities for the purpose of removal of mineral material and the restoration, reclamation and improvement of lands thereafter, and where the same are accomplished in accordance with a plan submitted, considered and approved, as a special exception land use, in accordance with this section, and providing for the design, review and approval of mineral removal activities and operations; the restoration, reclamation and improvement of the lands thereafter; and the use of such lands for permitted resulting uses.

C. Planned Mineral Removal and Other Permitted PMR Uses.

1. Land, including the buildings and structures thereon, that is subject to a PMR permit may be used only for planned mineral removal and/or for the uses permitted and as regulated in the underlying zoning district. Planned mineral removal shall take place only in accordance with the provisions of this section. Any resulting use, following mineral removal activities and operations, shall conform to the Township Master Plan. Proposed PMR uses shall be considered for approval under this section only if all of the conditions for eligibility and requirements for permit applications are complied with, as set forth in this section.
2. No land shall be considered for a PMR permit unless it is located in the R-AG Rural Agricultural zoning district.

D. Application for PMR Permit. Applicants proposing an eligible PMR use shall submit an application for a PMR permit, together with the required application fee, to the Township Zoning Administrator, for a determination of whether the application is administratively complete,

prior to Planning Commission review. The application shall be accompanied by any required deposit into an escrow account for reimbursement of Township expenses in the matter, and shall include the following:

1. A legal description of the lands proposed for the PMR use.
2. One large-scale, hard copy and one electronic copy of the PMR plan, drawn and sealed by a registered civil engineer, which is subject to initial review by the Zoning Administrator for administrative completeness, in conjunction with the Zoning Administrator's initial review of all other required components of the PMR application. After the Zoning Administrator has made a determination of administrative completeness, the applicant shall submit ten (10) large-scale hard copies and one electronic copy of the PMR plan, drawn and sealed by a registered civil engineer, and which incorporates all revisions and/or additions required by the Zoning Administrator. All PMR plans shall include the following:
 - a. Name and address of owner(s) of the lands upon which planned mineral removal will take place.
 - b. Name address and telephone number of the person, firm, or corporation who will be conducting the actual planned mineral removal.
 - c. A north arrow, scale and date.
 - d. Local, size and legal description of the total site area upon which planned mineral removal is proposed to take place.
 - e. Shading or other marking showing the lands on which mineral removal operations and activities will take place.
 - f. The location, width and grade of all easements or rights-of-way on or abutting the lands.
 - g. The location, size and nature of all structures on the lands.
 - h. The identification, location and direction of all watersheds, streams and other water courses whether on or off the removal site and storm water drainage areas and flow ways on the lands, and also all water courses and storm water drainage areas or flow ways on other lands which may be affected by the mineral removal operations.
 - i. Existing elevations of the lands at contour intervals of not more than five feet.

- j. Copies of logs of all existing water supply wells on the mineral removal lands and on all adjacent lands.
 - k. Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material located in or on the lands, and the groundwater table.
 - l. Mineral processing and storage areas; and areas for stockpiling mineral material.
 - m. Proposed fencing, gates, parking areas and signs.
 - n. Roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust, dirt and other debris generated by mineral removal activities and movement of vehicles.
 - o. A map showing access routes between the subject lands and the nearest major streets, and also showing the streets and routes proposed to be used for the hauling of mineral material and the return of trucks to the site.
 - p. Areas if any to be used for ponding or other accumulation of water.
3. A narrative description and explanation of the following:
- a. The proposed mineral removal operations and activities including a narrative description and explanation of the proposed mineral removal operations and activities, including the date of commencement, proposed hours and days of operation, estimated type and quantity of mineral material to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to insure compliance with the provisions of this section.
 - b. A description of the type, quality and amount of the mineral material at the site and of the current and potential market for the mineral material to be removed.
 - c. A detailed listing and description of the potential serious adverse consequences (as identified by the factors listed in Section 12.18.E.9.c) that may result from the proposed mineral removal operations and activities, and the measures

proposed, if any, for the avoidance or moderating of such adverse consequences.

4. A plan for mineral removal for the total project, which shall include the following:
 - a. Pre-mining soil survey indicating soil depths and types for future reclamation of the site.
 - b. Surface overburden and topsoil stripping and stockpiling plans indicating erosion and runoff control measures, distance from property lines, length of storage time, and pile heights.
 - c. Provisions for grading, re-vegetation, and stabilization that will prevent soil erosion, sedimentation and public safety problems.
 - d. The estimated quantity of product in place and to be mined, an overall phasing plan and an approximate timetable for the facility.
 - e. The location and types of noise and vibration mitigation including earth berms, fences, vegetation in and within the required setbacks and other features.
 - f. The location and types of dust mitigation tools.
 - g. Phasing plan illustrating the portions of the site to be worked and an approximate schedule for opening, operation and closing of each phase.
 - h. The portions of the site (if any) that may be used for on-going operations, such as equipment staging, crew areas or other uses.
5. A feasible and detailed site rehabilitation plan including the following:
 - a. A narrative description of the restoration, reclamation and improvement of the lands, and the proposed resulting uses for the lands after mineral removal activities have ended, including any phasing of proposed site rehabilitation and the timing thereof.
 - b. A site rehabilitation plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; water courses, ponds or lakes, if any; landscaping and

plantings; areas of cut and fill; and all land features, improvements, streets and other aspects of the proposed uses for the lands after completion of mineral removal operations. The site rehabilitation plan shall otherwise comply with each of the requirements of subsection E.8.

- c. A description of all adverse effects, whether anticipated or reasonably possible, on the groundwater table and other underground sources of water supply, together with copies of reports or studies analyzing the effect, if any, of the mineral removal operations on the underground water supply of the subject land and adjacent and nearby lands.
 - d. A description of proposed methods or features which will assure that the resulting uses are feasible and will comply with the Township Master Plan and all applicable requirements of this Ordinance.
6. An environmental impact study that includes, as a minimum, the following:
- a. A current aerial photograph, at a scale of not less than 100 feet to one inch, displaying the lands proposed for a PMR permit and all other lands within 1,320 feet thereof, and also showing the location of current land uses, types and extent of existing natural features, topography, soils, vegetation, wild life habitat and other items or land features noted in the environmental impact statement.
 - b. A description of the type and extent of significant vegetation on the lands proposed for a PMR permit, including trees and endangered plant species.
 - c. A detailed description of any known, anticipated or possible adverse or detrimental effects upon any aspect or element of the environment, including lands proposed for a PMR permit and adjacent and nearby lands.
 - d. A description of all adverse effects, whether anticipated or reasonably possible, on the groundwater table and other underground sources of water supply, together with copies of reports or studies analyzing the effect, if any, of the mineral removal operations on the underground water supply of the subject land and adjacent and nearby lands.

7. Unless waived by the Planning Commission, the following studies, reports and assessments:
- a. A traffic impact study, which the Planning Commission will review in consultation with the County Road Commission, and also in conjunction with the MDOT, if impacts on state trunkline highways are anticipated;
 - b. A listing of known existing mineral removal operations within the Township and within reasonable proximity of the Township, including estimated quantity and type of mineral material available for removal and other aspects of such operations;
 - c. A study of the market demand and availability of supply, and other relevant factors and conditions, which determine the relative benefit to the public from the proposed removal operations and activities;
 - d. A site-specific property valuation study, for the purpose of showing the impact the proposed PMR operations will have on the value of surrounding and nearby lands; and,
 - e. Such other reports, studies or information that may be requested by the Planning Commission with respect to the proposed PMR operations.

At its option, the Planning Commission may contract with independent, third-party experts to prepare any or all of the above types of studies and reports, and/or to evaluate the studies and reports submitted by the applicant, in which case the applicant shall make sufficient deposits into its escrow account to reimburse the Township for the cost of such experts' work, including, without limitation, preparation or evaluation of studies and reports, appearances at Planning Commission meetings, or such other actions in furtherance of reviewing and advising on the PMR application.

- E. Standards of Review for PMR Permits. The Planning Commission shall review each PMR permit application. In such review, the Planning Commission shall consider, among other matters, the intent and purpose of this section and the Zoning Ordinance. The Planning Commission shall consider a PMR permit application for approval only if all of the following standards, conditions and requirements are satisfied by the application, the PMR plan, the Site Rehabilitation Plan and the other materials required to be submitted under the terms of this section.

1. Operations and activities for mining, extracting, excavating for, processing, removal and transport of mineral materials shall be located only as follows:
 - a. They shall not be closer than 1000 feet from any occupied dwelling, unless a closer distance to such an occupied dwelling is authorized by the Planning Commission in the approval of the PMR operations.
 - b. They shall not be closer than 1000 feet from any RSF, RLF, GLRLF, SR, RR, RMF, or MHC zoning district, or Residential PUD district.
 - c. Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet from the adjacent road right-of-way or adjacent property line.
 - d. Provided, however, that the above operations and activities may be located without any setback from a boundary line of adjacent lands for which a PMR permit has been granted if such adjacent lands are owned by the owner or operator of the subject lands, and if such zero-setback is approved, or if some other setback is approved, by the Planning Commission as a provision in the PMR permit.
2. There shall be not more than one combined entrance/exit on the site of PMR operations, from and to a public street, unless additional entrances or exits are approved as a part of the PMR permit. Any such entrance and exit shall be subject to the approval of the Barry County Road Commission. The location of the entrance and exit shall, if reasonably feasible, be placed so that the travel of mineral transport vehicles over primarily residential streets shall be avoided.
3. Not more than fifteen (15) acres of land shall be authorized for PMR operations or activities at any one time. Of this number or some lesser number of acres, not more than one-third thereof shall at any one time be used for site preparation; not more than one-third thereof shall at any one time be used for removal of mineral material; and not less than one-third thereof shall at any one time be used for site reclamation, in accordance with an approved site rehabilitation plan.
4. The maximum height of stockpiles of mineral materials shall be as determined by the Planning Commission, in consideration of the standards of subsection E.9. Stockpiles may not be located within

any required yard area, unless by approval of the Planning Commission in the PMR permit.

5. There shall be an inspection by the Township Zoning Administrator, or his representative, of each completed phase, so as to verify compliance with the terms of this subsection, unless the Zoning Administrator determines and advises the PMR permit-holder that some lesser frequency of inspections is appropriate, based on the PMR permit-holder's demonstrated history of consistent compliance with the requirements of this subsection.
6. Upon the completion of each phase, the PMR permit-holder shall notify the Township that the phase is ready for inspection. Until such inspection is made, and until approval of the completed phase has been given by the Township, the PMR permit-holder shall not commence work on any subsequent phase, unless the inspection has been waived by the Zoning Administrator under subsection E.5.
7. Any work or other action undertaken by the PMR permit-holder in or with respect to a subsequent phase, before the Township inspection and approval of the previous phase, shall be a violation of the PMR permit and a violation of the Zoning Ordinance, unless the inspection has been waived by the Zoning Administrator under subsection E.5. In the event of such a violation, the Township may take all appropriate enforcement measures, including issuance of an order for the stopping of all work within the PMR lands, until all required inspections have been made and Township approvals given.
8. Each Site Rehabilitation Plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:
 - a. Topsoil shall be replaced on the site to a depth of not less than six inches, except where the resulting uses do not involve the growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed resulting use. The plan shall indicate any phasing of site rehabilitation. If site rehabilitation is to be phased, topsoil shall be replaced and slopes shall be graded, stabilized, and seeded before mineral removal operations are commenced in another area of the PMR site. The placing of top soil and the grading, stabilization and seeding of slopes shall take place not only at the end of PMR operations at the site, but also upon the conclusion of

each mineral removal phase, as described in subparagraph E.3 of this section.

- b. Final slopes shall have a ratio of not greater than one foot of elevation within each three feet of horizontal distance, at the conclusion of PMR operations at the site and also at the conclusion of each individual phase of mineral removal, as described in subparagraph E.3 of this section.
- c. Final surface water drainage courses and areas of surface water retention shall be laid out and constructed at such locations and in such manner as to avoid adverse effects on adjacent or nearby lands as a result of storm water runoff, erosion or other damage to the lands, at the end of PMR operations at the site and also at the conclusion of each mineral removal phase, as described in subparagraph E.3 of this section. The applicant shall apply for any required storm water permit under any County or Township Storm Water Ordinance provisions, and the site rehabilitation plan shall comply with any County or Township Storm Water Ordinance provisions.
- d. Plantings/Landscaping.
 - (i) Plantings of grasses, shrubs, trees and other vegetation shall be located on the site so as to maximize erosion protection, and enhance the natural beauty of the site, and for the screening of view from other lands.
 - (ii) Landscaping shall be planted and maintained, and, where appropriate, earthen berms shall be constructed, in order to screen less attractive areas or resulting uses. In addition, landscaping and/or earthen berms may be required in order to screen PMR operations and activities from view from other lands and to moderate noise levels from operations of equipment and vehicles.
 - (iii) Trees and shrubbery shall be of such height when planted and shall be planted sufficiently close together so as to serve as effective screening of the view from adjacent lands and to moderate noise levels from operations. Dead or diseased trees and other vegetation shall be promptly removed and replaced, so as to assure the continuance and effectiveness of any landscaped screening.

- e. The site rehabilitation plan, both at the end of PMR operations at the site, and with respect to each mineral removal phase, shall not include the storage or dumping of stumps, concrete, asphalt, discarded materials or any other materials, objects or debris not associated with the mineral removal operations. Further, no such storage or dumping of any such materials shall occur at any other time during PMR operations, unless authorized in the PMR permit or the plan.
 - f. The resulting uses shall conform to the uses designated for the lands by this Ordinance and the Township Master Plan. In reviewing proposed resulting uses, the Planning Commission shall require compliance with the requirements of the zoning district which authorizes land uses having the greatest similarity to the resulting uses proposed in the Site Rehabilitation Plan, including requirements relating to density, location, bulk, area and height of buildings and structures.
9. The Planning Commission shall not approve an application for a PMR permit unless the applicant sufficiently demonstrates that the proposed mineral removal operations and activities will not create any very serious adverse consequences or serious environmental impact on adjacent or nearby lands or other lands elsewhere in the Township or the area.
- a. The Planning Commission, in considering whether any such very serious adverse consequences or serious environmental impact would result from the proposed removal operations and activities, shall determine the degree and extent of public interest in the removal of the minerals from the applicant's land, considering the type of resource involved, the market demand and availability of supply, and other relevant factors and conditions which determine the relative benefit to the public from the proposed removal operations and activities.
 - b. The Planning Commission shall approve a PMR permit only if the proposed removal operations and activities do not, considering the nature and extent of public benefit from the resource removal, result in very serious adverse consequences or serious environmental impact.
 - c. In determining whether very serious adverse consequences or serious environmental impact would result from the removal operations and activities, the Planning

Commission shall consider, but is not limited to, the following:

1. The relationship of the extraction and associated activities with existing land uses;
2. The impact on existing land uses in the vicinity of the property;
3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence;
4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property;
5. The impact on other identifiable health, safety, and welfare interests in the local unit of government; and
6. The overall public interest in the extraction of the specific natural resources on the property.

F. Operating Conditions on Mineral Removal Operations and Activities. The Planning Commission's approval of any PMR permit shall include provisions requiring compliance with specified conditions relating to mineral removal activities and operations. Such conditions shall include the following:

1. Mineral removal operations shall be approved for a duration of not more than five (5) years, unless the Planning Commission determines that there are special or unusual circumstances which justify a removal period of greater duration.
 - a. Upon or prior to the expiration of a PMR permit, the Planning Commission may approve renewals of the permit for successive periods of not more than five (5) years each in duration, if the applicant demonstrates that there are special or unusual circumstances justifying renewal of the PMR permit.
 - b. In considering whether to renew a PMR permit, the Planning Commission shall convene a public hearing.

- c. In the case of any Planning Commission public hearing on the proposed renewal of any PMR permit, the public notice for any such hearing shall be the same as that otherwise required for the original granting of a PMR permit.
 - d. Other matters concerning renewal of PMR permits shall be as provided in subsection N.
- 2. Mineral removal, processing and transport operations and activities shall commence not earlier than 9:00 a.m. and shall continue not after 5:00 p.m., Monday through Saturday only. However, the Planning Commission may place additional and/or alternative limitations on the hours and days of operation in order to avoid serious adverse consequences upon adjoining or nearby lands, or in reflection of the temporal noise ordinance standards of the township in which the PMR site is located. Mineral removal activity of all types are prohibited on Sundays and on the following legal holidays: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving; and Christmas.
- 3. Equipment for the processing of mineral material which emits noise louder than 80 dBA, measured at a distance of 50 feet from said equipment when operating, shall not be located closer than one-quarter mile from the nearest occupied dwelling, unless the Planning Commission authorizes other noise emission requirements in the PMR permit. In no case shall the noise from a PMR site exceed 65 dBA at any exterior property line or road right-of-way line.
- 4. For at least the first year of mineral removal operations on a mineral removal site, the PMR permit-holder shall conduct regular monitoring and reporting to the Zoning Administrator of groundwater levels in surrounding groundwater monitoring wells, and the monitoring and reporting to the Zoning Administrator of noise and dust levels at the exterior property lines and abutting road right-of-way lines, at such time intervals specified by the Planning Commission in the PMR permit, to ensure compliance with this Section and to determine whether serious adverse consequences are occurring. Such monitoring may be discontinued after one year if no violations or serious adverse consequences have been found, but the Planning Commission shall retain jurisdiction over the terms of the PMR permit to require continued monitoring and reporting, beyond one year, if any violations or serious adverse consequences are found in the first year of monitoring. Nothing in this provision shall limit the Township's ability to take other enforcement actions, as permitted by law, if

violations or serious adverse consequences are found at the mineral removal site.

5. Access to and from a mineral removal site, and the routes to be taken by vehicles hauling mineral material from the site and returning to the site, shall be only by means of those streets designated on the approved PMR Plan or by such other routes as may be specified by the Planning Commission, working in connection with the County Road Commission and/or MDOT, as applicable, as a part of the operating conditions attached to the PMR permit.
6. Non-Operating Hours.
 - a. During activities and operations for the removal of mineral material, no mineral material or other excavated material, shall be left during weekends or overnight in such condition or manner as to constitute a danger to persons who may enter the removal area.
 - b. After operations each day, all banks of excavated material shall be graded to slopes that are not steeper than one foot of elevation for each two feet of horizontal distance, unless the Planning Commission authorizes some other daily grading requirement and if the applicant takes approved measures so as to prevent harm to persons who may enter into the area of steep slopes, by constructing and maintaining a substantial fence, of at least four feet in height, so as to fully enclose all the areas of steep slopes. Alternatively, the Planning Commission may approve other measures deemed sufficient to protect persons from harm within the removal area during times when operations are not occurring.
7. All entrance and exit roads and other routes into or from the PMR site shall be securely gated. Such gates shall extend across the entire width of any entrance or exit road or route, and they shall be locked securely when PMR operations are not occurring. The placement of any such gates shall be at such locations as will prevent unauthorized vehicles from entering the PMR lands.
8. All roads, trails or other areas used by vehicles in mineral removal operations or activities shall have gates at specified locations. Measures to control dust and dirt arising from mineral removal operations shall be undertaken in accordance with conditions included in the PMR permit. Such dust control measures may include the application of dust inhibiting solvents or similar non-

polluting surface treatments, particular road-surfacing measures or other actions as specified in the PMR permit.

9. Storm water drainage on and from the mineral removal site shall be controlled so that adjacent or nearby lands will not be adversely affected by surface water drainage, erosion or other similar effects. The mineral removal site shall be contoured and graded so as to avoid the unintended impoundment of water, except where ponds or other bodies of water are proposed in an approved site rehabilitation plan.
10. Unless authorized by the terms of a PMR permit, no storage of soil from lands outside the mineral removal area, nor the dumping, disposal, storage or stockpiling of stumps, concrete, asphalt, discarded building materials or other waste or discarded material may take place on the mineral removal site.
11. Before the commencement of mineral extraction activities on the PMR site, white painted posts having minimum dimensions of 4" x 4" and a minimum of five feet in height above grade, shall be placed along the designated setback lines around the site. Such posts shall be placed at a distance, not to exceed 300 feet, from post-to-post. The posts should be placed at intervals so that, from the location of any post, two additional posts are visible.
12. Any processing plant and all equipment for sorting, crushing, loading, weighing, and other operations, shall not be located closer than 200 feet from any property line, 300 feet from a public road right-of-way, measured from a centerline, and 1000 feet from any existing dwelling.
13. Any processing plant shall be located within the excavation area, and, if possible, shall be located at a point lower than the general level of the surrounding terrain, so as to reduce the visual and sound impact of the processing plant.
14. Before the commencement of mineral removal activities, a fence of a type approved by the Planning Commission shall be erected around the perimeter of the site, in locations approved by the Planning Commission, and it shall be maintained in good condition until all mineral extraction activities have been completed.
15. The Planning Commission shall require the posting of "keep out – danger" or similar signs, placed every 100 feet along the entire perimeter fence.
16. No blasting shall be allowed at any time as part of any mineral removal activities.

17. The Planning Commission may require compliance with such other conditions as may be necessary to assure compliance with the terms of this section. Such conditions may include, though are not limited to, weed control; erosion and sedimentation controls; measures to prevent the tracking of dirt and other debris onto public streets; fencing and other visual screening; groundwater monitoring wells; preservation of trees and other vegetation; and limitations on the loading or storage of fuel for vehicles and equipment.
18. Each year, the applicant shall provide an annual report to the Zoning Administrator indicating progress in implementation of the mineral removal plan as outlined in Section 12.18.D.4. In the event the Zoning Administrator determines that progress on the site is not proceeding in general conformance with the mineral removal plan or the Zoning Administrator finds that the operations on the site have departed in a material way from the approved PMR permit, the Zoning Administrator shall require that the applicant submit, within ninety (90) days of being so notified, an amended PMR application pursuant to this Section which shall be reviewed by the Planning Commission as if it were a new application. No more frequently than every five (5) years, the Zoning Administrator may require that the applicant provide, at its own expense, an independent certification by a licensed surveyor or engineer, of the quantity of materials removed in the period since the last certification, the quantity of materials imported (if any) and their location on the site, the quantity of materials stockpiled and their location on site, the approximate quantity remaining on site but not yet extracted, the condition of any areas previously mined and reclaimed and the approximate remaining life of the facility.
19. Within twelve (12) months of cessation of PMR operations, all plant structures, buildings, stockpiles and equipment shall be removed, provided, however, that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which the property is located may be retained.

G. Public Hearing Procedures.

1. No PMR permit shall be granted unless and until a public hearing is conducted by the Planning Commission in accordance with the requirements of Article IV.
2. In its discretion, the Planning Commission may convene a public hearing upon any application for the renewal of a PMR permit. If the Planning Commission convenes a public hearing on a renewal

application, public notice and the procedures therefore shall be in accordance with Article IV.

- H. Approval and Issuance of PMR Permit. After the public hearing as required above, the Planning Commission shall either approve, deny, or approve with conditions any application for a PMR permit.
1. Issuance of Permit. The Zoning Administrator shall issue a PMR permit, without further public hearing, if such permit is granted by the Planning Commission, and further provided that the applicant has first submitted a performance bond and proof of insurance, as required by subsections H.2 and H.3.
 2. Performance Bond.
 - a. An applicant for a PMR permit shall submit a performance bond, with an approved surety, in an amount approved by the Planning Commission or Township Engineer. The performance bond shall be conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the PMR plan and the PMR permit.
 - b. The performance bond shall not be refunded or reduced until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection and approval by the Township.
 - c. If the applicant proposes to create a pond or lake on all or part of the PMR premises, the Planning Commission may nonetheless require the applicant to submit a performance bond in an amount sufficient to restore the area of the pond or lake to its original grade. The applicant must also comply with the Township Pond Ordinance.
 - d. If the performance bond is revoked or if it expires and is not renewed, the Zoning Administrator shall immediately suspend the PMR permit. The Planning Commission shall not thereafter reinstate or approve the renewal of the PMR permit, until such bond has been satisfactorily reinstated.
 3. Insurance. Prior to the issuance of a PMR permit, the applicant shall file with the Zoning Administrator a site-specific liability insurance policy of not less than \$2 million per occurrence for all liability claims arising out of the mineral removal activities. The liability insurance shall be for the purpose of covering property damage and bodily injury resulting from surface and/or subsurface mineral removal activities and shall name the Township, its elected

and appointed officials, employees and agents as additional named insureds. Said insurance shall provide an endorsement that provides that the general aggregate limit of the operator's commercial and general liability apply separately to the site. Failure of the operator, or any persons, firm or corporation named in a policy to maintain such insurance policy shall be cause for revocation of the PMR permit.

- I. Transferability of Permits. No permit authorized by this section shall be transferred to a person or party other than the applicant to whom it was issued unless such transfer is first considered and approved by the Planning Commission. A transfer shall be approved only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the mineral removal and reclamation activities, and such successor is found by the Planning Commission to have experience and credentials substantially equivalent to those of the original applicant.
- J. Expiration of Permits. Mineral removal operations and activities authorized by the terms of any PMR permit shall be commenced not later than one year after issuance of such permit and shall be diligently pursued thereafter, unless the PMR permit provides otherwise. In the absence of timely commencement and diligent prosecution of such operations and activities, the PMR permit shall be of no further force or effect. Mineral removal activities or operations shall not thereafter be commenced unless a new PMR permit has been obtained pursuant to the procedures set forth in this section.
- K. Re-Application for Permit. An applicant whose application for a PMR permit has been denied, in whole or in part, by the Planning Commission shall not re-submit an application covering the same lands, or substantially the same lands, within 18 months after the date of such denial, except that a new application may be submitted and considered if there are significantly changed conditions which are determined by the Planning Commission to be sufficient to justify reconsideration of the application.
- L. Existing Permits. Upon the effective date of this section, existing special land use permits which have been previously issued under this Ordinance shall continue in effect until, but not after, the authorized amount of mineral material has been removed and any required site rehabilitation completed. In the case of such special land use permits which do not designate the amount of mineral material which may be removed, such permits shall continue in effect for the remainder of the period of time for which they were issued or last renewed. Mineral removal activities and operations shall not thereafter be conducted on the lands covered by the special land use permit unless a PMR permit has been obtained pursuant to the procedures set forth in this section.

M. Application Fee; Surveillance Fee.

1. An applicant for a PMR permit shall pay the established application fee, and shall deposit the required amount into a zoning escrow account, when the application is filed with the Zoning Administrator.
2. The applicant shall also pay to the Township annually a fee (the "surveillance fee") to defray the Township's cost of administration, surveillance and enforcement of the PMR permit, including but not limited to costs for review of applications, testing, monitoring, sampling, surveying, personnel expenses, enforcement, legal, engineering and other consultant fees, and other related costs and expenses. The surveillance fee shall be calculated and assessed per ton, based on the tonnage of mineral material removed during the entire removal operation. The amount of the surveillance fee shall initially be \$0.005/ton, but that figure may be revised from time to time, in the Planning Commission's sole discretion, by resolution or in the terms of an individual PMR permit, based on the actual costs the Township incurs in the administration, surveillance and enforcement of PMR permits.
3. Funds received from the application fee shall be deposited in the Township's general fund, or in such other Township fund as is established for other zoning application fees. Funds received from the surveillance fee shall be accounted for separately on the books of the Township, as to each PMR permit.
4. The surveillance fee, at the above-stated rate of mineral material removed, shall be paid by the applicant annually. Not later than January 31 of each year, the Township shall notify the applicant in writing to submit copies of load tickets or other written proof accurately showing the total amount of mineral material removed during the preceding year (or during any such lesser preceding period, in the case of the recent commencement or termination of a PMR permit). Such notification by the Township shall indicate a period of time for response by the applicant, and the requested information shall be submitted by the applicant to the Township within that time.
5. Based upon the amount of mineral material removed as stated in the written response received from the applicant, the Township shall calculate the amount of surveillance fee due and shall then send to the applicant an invoice in that amount. The applicant shall pay to the Township the amount indicated on the invoice within 30 days. In the event that the Township desires further or more complete information as to the amount of mineral material

removed, the Township shall notify the applicant accordingly, and the applicant shall respond fully within 30 days.

- a. When the PMR permit expires, the Township shall also notify the applicant to provide in writing a statement of the amount of mineral material removed, since the last previous such statement, and the Township shall then prepare and forward a final invoice for payment of the surveillance fee based upon the above-stated per-ton rate, and the applicant shall promptly pay the amount indicated on the invoice.
 - b. If an expired or soon-to-expire PMR permit is renewed, the Township may retain any surveillance fee amounts then on hand, and apply them to defray the costs of review of the application for renewal and for applicable costs subsequently incurred following renewal of the PMR permit. As in the case of annual surveillance fee payments, the applicant shall furnish to the Township any requested load tickets or other written proof with respect to the amount of mineral material removed during the last removal period before expiration of the PMR permit.
 - c. After expiration of a PMR permit without renewal, the Township shall refund, without interest, any unused surveillance fee amounts that have been received from the applicant.
6. In its discretion, the Township may request from the applicant, and the applicant shall promptly provide, load tickets or other written proof of mineral material removed, at times other than the annual surveillance fee payment period.
 7. As to each PMR permit, the Township shall maintain a record of surveillance fee payments made by the applicant and expenditures made by the Township with respect to the PMR operation.
 8. Surveillance fee payments made by the applicant shall not limit the applicant's liability for civil infraction penalties, damages, or other sanctions for violation of a PMR permit, Township ordinances or other laws or regulations.

N. Renewal of PMR Permits.

1. This subsection applies only to the renewal of PMR permits for extraction of minerals from the same location or locations as permitted under an existing PMR permit. Applications for permission to expand mineral removal operations beyond the

location approved under an existing PMR permit shall comply with the procedure set forth in this section for issuance of a new PMR permit.

2. If renewal of a PMR permit is desired, an applicant shall apply to the Planning Commission for such renewal at least 120 days before the expiration of the existing PMR permit.
 - a. All of the applicant's rights and privileges arising under the permit shall terminate at the expiration thereof, if the permit has not then been renewed, and in that event all PMR operations covered by the expiring permit shall then cease, except approved emergency operations required to protect the public safety and except as stated in this subsection N.2.
 - b. The termination of rights and privileges under a PMR permit, at the time of expiration of the permit, shall take place even though an applicant may have applied for renewal thereof and even though proceedings for such renewal may have commenced, unless the Planning Commission in its discretion votes by majority vote of those present to temporarily extend an expiring PMR permit during the period required for proceedings to consider renewal of the permit (however, such vote for temporary extension of the permit may be rescinded in the event that the applicant unduly delays such proceedings, whether by action or inaction).
 - c. Upon the conclusion of proceedings for renewal of a PMR permit, if the permit is renewed, PMR operations may be resumed if and to the extent covered by the PMR permit as renewed.
3. An application for PMR renewal shall consist of the following:
 - a. The Zoning Administrator's Certificate of Compliance, as described in subsection N.4, below.
 - b. A copy of the original application for PMR permit, with an addendum updating the information from the original application and supplying any information missing from the original application.
 - c. A revised PMR plan, drawn and sealed by a registered civil engineer, showing the areas of the site which are currently under excavation, which are in the process of reclamation, and which have been reclaimed.

- d. A narrative describing the special or unusual conditions that justify renewal of the permit beyond the time provided in the original permit.
 - e. The required application fee and any required deposit of funds into an escrow account for reimbursement of Township expenses.
 - f. The Township may require additional information, if necessary, in the consideration of the requested renewal, or the Township may waive any of the above-stated application requirements, but the requirement of the Certificate of Compliance shall not be waived.
4. The Planning Commission shall not consider an application for renewal unless the applicant submits a Certificate of Compliance signed by the Township Zoning Administrator, which states that the mineral removal operation, as of the date of signing of the Certificate of Compliance, is in compliance with the present PMR permit and all Township ordinances, and that all required mineral removal fees and escrow deposits have been paid.
- a. Upon request by an applicant for a Certificate of Compliance, the Township shall promptly arrange to have the PMR operation reviewed and inspected. If the Zoning Administrator finds that the operation is in compliance, the Zoning Administrator shall issue a Certificate of Compliance. The Certificate shall also describe any past violations which have been rectified.
 - b. If the Zoning Administrator finds that the operation is not currently in compliance, the Zoning Administrator shall notify the applicant in writing of the steps necessary to cure such deficiency.
 - c. The issuance of a Certificate of Compliance does not require the Planning Commission to approve a renewal of the PMR permit.

5. In making decisions regarding renewal, the Planning Commission shall apply the standards for approval applicable to new permits under this Ordinance, taking into consideration current conditions in the vicinity, the operational history under the previous PMR Permit, any complaints or comments about the PMR operation, and whether there are special or unusual conditions justifying the renewal. The Planning Commission shall convene public hearings on the PMR Permit renewal application. Conditions may be attached to the renewal which are in addition to or different from those contained in the previous permit.
- O. Modification of the PMR Site Plan. The PMR site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology, or to correct an oversight, provided that the change otherwise complies with this section. The Planning Commission may require the modification of the PMR site plan when:
1. Modification of the plan is necessary so that it will conform to the existing laws.
 2. It is found that the previously approved plan is clearly impractical to implement and maintain.
 3. The approved plan is obviously not accomplishing the intent of this Ordinance.
- P. Enforcement.
1. Enforcement of the terms of a PMR permit may be directed against the PMR applicant and all operators acting or purporting to act under such permit, or any of them. Full and timely compliance with all of the terms of this section and all of the terms of the applicable PMR permit is a condition for the continued effectiveness of the permit or for any renewal thereof.
 2. In the enforcement of the provisions of this section and those of any PMR permit, the Township may avail itself of all procedures and remedies described in Article XXI of this Ordinance and all other remedies provided by law.
 3. The Zoning Administrator or other designated Township representative shall act as the agent of the Planning Commission in the administration, supervision and enforcement of PMR permits.
 - a. The Zoning Administrator or other designated Township representative shall be entitled to access to the applicant's PMR lands during reasonable business hours, for the

purpose of verifying compliance with the PMR permit requirements and requirements of this Ordinance.

- b. When activities on or the use of the PMR site, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the PMR operations, the Zoning Administrator shall give the operator written notice of their intention to declare the PMR site or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, it shall not declare abandonment.
- c. The Zoning Administrator is authorized to demand compliance with the terms of this section and the PMR permit. In the absence of such compliance, the Zoning Administrator may issue an order directing the applicant and any operator to cease immediately all mineral removal work on or from the premises and all other operations relating thereto.
- d. Upon the issuance of a stop work order, the applicant and any PMR operator shall have no further right or privilege to continue or to conduct any PMR operations, except permitted emergency operations required to protect the public safety and except any authorized limited operations which may be authorized by any such order.
- e. Failure to maintain all required State or Federal licenses for a PMR permit may result in the immediate revocation of the PMR permit by the Zoning Administrator.

Q. Zoning Administrator's Duties. Any duties assigned to the Zoning Administrator under this section may be performed by the Township Engineer or by any other qualified County personnel or officer so designated by the Zoning Administrator, Planning Commission or Township Board of Trustees.

R. Other Matters.

- 1. All signs on a PMR site shall be in compliance with the provisions of Article XVII of this Ordinance.

2. All off-street parking on a PMR site shall be in compliance with Township ordinances.
3. Landscaping on a PMR site shall be provided in accordance with Township ordinances.
4. All exterior lighting on a PMR site shall be in accordance with Township ordinances.

SECTION 2

OTHER AMENDMENTS TO THE ZONING ORDINANCE

Article II; Definitions, of the Township Zoning Ordinance is hereby amended by repealing section 2.1.26.1 “Earth Removal” and its associated definition.

Article II; Definitions, of the Township Zoning Ordinance is hereby amended by adding the following definition: section “2.1.65.5: Planned Mineral Removal: The mining, extracting, excavating for, processing, removal and transport of mineral material to and/or from any property in the Township. Planned Mineral Removal is further defined in section 12.18.”

Article IV; Special Exception Uses, of the Township Zoning Ordinance is hereby amended by repealing section 4.5.J “Earth Removal, Quarrying, Gravel Processing, Mining, and related commercial extraction businesses”.

Article IV; Special Exception Uses, of the Township Zoning Ordinance is hereby amended by adding section 4.5.J “Planned Mineral Removal as provided in sections 12.18.”

Article III Zoning Districts, of the Township Zoning Ordinance is hereby amended by replacing section 3.3.C the term “Gravel processing, mining and commercial excavation, earth removal and commercial excavation, or for quarrying or gravel processing” with the term “Planned Mineral Removal.”

SECTION 3

REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

All ordinances or parts of ordinances in conflict herewith are hereby repealed. This ordinance shall take effect eight (8) days following publication after adoption.

YANKEE SPRINGS TOWNSHIP

Tom Hopkins, Clerk

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