

## ARTICLE X CONDITIONAL USE PERMITS

### Section 1005 Specific Conditional Use Standards

#### E. NATURAL RESOURCE EXTRACTION

Natural resource extraction is the removal and/or processing of iron ore, copper, gravel, sand, fill dirt, stone, frac sand, gypsum, peat, topsoil, (but not including sod production and/or removal) silver, gold, uranium, and other minerals. For extraction activities which are not regulated by Part 632 of Michigan's Nonferrous Metallic Mining Regulations, the Planning Commission may examine the following factors in order to determine whether the extraction may cause *very serious consequences*:

1. The relationship of extraction and associated activities with existing land use(s) already taking place on the property:
  - a) The use must be reasonably related to existing land use;
2. The impact on existing land uses in the vicinity of the property:
  - a) The use must not create an excessive burden on existing parks, schools, streets and other public facilities and utilities that serve or are proposed to serve the area;
  - b) Existing land uses nearby must not be adversely affected unreasonably by intrusion of noise, vibrations, glare or general unsightliness;
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):
  - a) The use must be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land;
  - b) The structure and site must have an appearance that will not unreasonably create an adverse effect upon adjacent residential properties;
4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property:
  - a) The use must not cause traffic hazard or congestion;
  - b) The location and number of vehicle access points;
  - c) All **natural resource**\* extraction facilities shall have direct access to Class A capacity road. The Planning Commission shall set minimum roadway improvements and maintenance obligations as a condition of the permit. The point of **resource extraction** site access shall comply with Table 5.2-1 or as

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determined by the Township Board under special circumstances. Circumstances will include, but not be limited to, topography, safety, traffic, and existing land use.

5. The impact on other identifiable health, safety, and welfare interests in Negaunee Township including, but not limited to:

a) Hours of Operation

- i. Hours of Operation: Natural resource extraction facilities shall operate only between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday. No weekend or holiday operations will be allowed. Holidays are New Years Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving and Christmas. When New Year's Day, July 4<sup>th</sup>, Easter or Christmas fall on a Sunday the following Monday shall be considered the holiday. When New Year's Day, July 4<sup>th</sup> or Christmas fall on a Saturday the previous Friday shall be considered the holiday;
- ii. Operators are allowed extensions to the hours of operation for emergencies only. Operators must notify the Township Zoning Administrator or the Township Supervisor in advance of the proposed exception;
- iii. The Township Board must approve other exceptions to the hours of operation, such as weekend operation, government agency contracts and other evening work.

b) Water Quality/Stormwater Drainage

- i. The use must not cause significant adverse impact to surface or ground water resources;
- ii. Dewatering to obtain materials intersecting the groundwater shall not be allowed. The use of equipment such as draglines, trackhoes and backhoes to obtain materials intersecting groundwater shall be allowed;
- iii. Increased stormwater run-off must be retained on-site with retention or detention ponds;
- iv. All activities on the subject property with the potential to impact water quality will be conducted in a manner consistent with operating permits issued by state and federal agencies. The Planning Commission may require other standards it deems reasonably necessary.

c) Air Quality/Dust Control

- i. Owner/operators will be responsible for dust control on all gravel roads utilized by trucks hauling to or from the permitted mineral extraction facility. Dust control will be required when conditions warrant it and the number of one-way truck trips from the **natural resource** extraction

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facility exceed three (3) per hour. The Township reserves the right to require dust control on any haul route within the Township or those bordering the Township;

- ii. An owner/operator shall sufficiently prevent or cleanup carryout and trackout on paved public roads or the paved shoulders of a paved public road. The use of blower devices, or dry rotary brushes or brooms for removal of carryout and trackout on public roads is expressly prohibited. Flushing with water may be utilized if curbs or gutters are not present and where the use of water will not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program. Trackout-control devices are highly encouraged.
  - iii. The Township shall require dust control in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance or otherwise adversely impacts surrounding lands. Remedies to dust control may include watering, berming, landscaping and enclosures for processing equipment, and any other means deemed necessary by the Township Board;
  - iv. All activities on the subject property with the potential to impact air quality will be conducted in a manner consistent with operating permits issued by state and federal agencies. The Planning Commission may require other standards it deems reasonably necessary.
- d) Site Security
- i. Regular fencing in good repair is required around the entire permitted area of operation. Fencing as a minimum must be chain link and at least six feet high.
- e) Noise Levels
- i. A 24-hour baseline audiogram collected at the property line shall be required in areas adjacent to a residential zone or within 2500' of a residence.
  - ii. Permissible maximum noise levels at the property line will be consistent with, and at no time exceed, the most current occupational noise exposure standards established by the Occupation Safety Hazard and Health Administration (OSHA).
- f) Setbacks
- i. No extraction activity may occur within one thousand (1000) feet of any dwelling and within fifty (50) feet of any adjacent property line, road right-of-way or public utility. Screeners, crushers, other processing equipment and manufacturing equipment may not be located closer than one thousand (1000) feet from a dwelling nor closer than one hundred (100) feet from any adjacent property line, road right-of-way or public utility. Setbacks from an existing dwelling

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shall take precedence over setbacks for road right-of-way, adjacent property line and public utility. If the processing equipment is placed within an enclosed structure, the Planning Commission may consider shorter setback distances. Grading plans affecting pipelines or power line corridors will be evaluated on a case-by-case basis. The Township Board may waive setback requirements when the common boundary area of an adjoining property is a legal mining operation, the common boundary is not within one thousand (1000) feet of a residence, and both property owners of adjacent mining operations have agreed to a common reclamation plan and have a written agreement with the Township establishing responsibility for reclamation.

- ii. Notwithstanding the setback requirements set forth above, at the time of permit issuance, the Zoning Board of Appeals (ZBA) may impose lesser setback requirements if the ZBA finds the following:
  1. Practical difficulties exist in complying with the setback requirements set forth above; and
  2. The protections afforded surrounding lands are not significantly lessened by the reduced setbacks when taking into account the following:
    - a. the scope and size of the natural resource extraction facility;
    - b. the time and duration that the mining will occur in proximity to surrounding lands;
    - c. reduced operating hours or restricted seasons of operation or additional berming, screening or other measures can be imposed to ameliorate the impact of mining in closer proximity to the surrounding lands than would be allowed by the setbacks stated above; and
- iii. The lesser setbacks are reasonable in light of all circumstances; and
- iv. There is a substantial volume of minerals in the more restrictive setback areas and it is reasonable to **extract** the substantial volume of **natural resource** in the more restrictive setback areas in light of the relatively small volume of **natural resource** that can be **extracted** on the remainder of the subject property.

If the Township receives a request for lessened setbacks, then prior to consideration of such request by the ZBA the request shall be referred to the Planning Commission for a recommendation.

- g) Blasting
  - i. Blasting shall take place in accordance with the Negaunee Township Blasting Ordinance (to be written).

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### h) Reclamation Plan

- i. A reclamation plan must include the grading plans, on-site topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The Operator and owner must follow the reclamation plan approved by the Planning Commission. The following minimum standards and conditions apply:
  1. The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No graded slope shall exceed a 4:1 ratio (twenty-five (25) percent). The final grade slope shall commence at the property boundary. Berms will be removed to the original elevation of the land, unless the Planning Commission has approved a different elevation as part of the End Use Plan.
  2. Excavations made to a water producing depth must meet the following requirements:
    - a. The depth of the excavation for lake end-use must not be less than ten (10) feet nor more than thirty (30) feet below the natural low water mark, as determined by the Planning Commission after consultation by its engineer and with the Marquette County Conservation District and/or the Department of Natural Resources.
    - b. The depth of the excavation for a wetland end-use shall be from one (1) foot above the natural low water mark to a depth not to exceed one (1) foot below the natural low water mark, as determined by the Planning Commission after consultation by its engineer and the Marquette County Conservation District and/or the Department of Natural Resources.
    - c. A combination of the requirements of (a) and (b) as approved by the Board.
    - d. All banks shall be sloped to the water line at a slope that shall not be steeper than ten (10) feet horizontal to one (1) foot vertical (10:1) for a lake end-use, and ten (10) feet horizontal to one (1) foot vertical (10:1) for a wetland end-use.
    - e. All banks shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three (3) inches.
    - f. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
    - g. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.

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3. Excavating not made to a water producing depth, but which must be graded or back-filled, shall meet the following requirements;
  - a. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
  - b. The graded or back-filled area shall not collect or permit stagnant water to remain therein.
  - c. Such graded or back-filled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.
  - d. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
4. Seeding and mulching shall be consistent with Michigan Department of Transportation or the Marquette County Road Commission specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
5. Soil restoration, seeding and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the processing, storage and staging areas within each phase.
6. Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the reclamation plan.
7. When the end-use is some form of open space, the type of vegetative re-growth must provide appropriate habitat for wildlife consistent with the form of end-use.
8. The end-use plan shall consider the safe use of the property. The end-use plan shall be consistent with the **Township Master Plan** and Zoning Ordinance.
9. Within nine (9) months after **the** completion of **natural resource** extraction or after termination of the permit, all equipment, vehicles, machinery, materials, stock piles of extracted materials, and debris shall be removed from the subject property.
10. For each phase, within nine (9) months after completion of **natural resource** extraction for that phase, reclamation must be completed. If the permit is terminated earlier, reclamation must be completed within nine (9) months after termination.

6. The overall public interest in the extraction of the specific natural resources on the property.