

ORDINANCE NO. 00-1

AN ORDINANCE AMENDING ORDINANCE NO. 3,  
DOUGLAS TOWNSHIP ZONING ORDINANCE

The Board of Supervisors of Douglas Township ordains the following:

- SECTION I.** Section 101 of Ordinance No. 3 is amended by changing the name of the zoning district "RR-HC Rural Residential / Highway Commercial District" to "RR Rural Residential District".
- SECTION II.** Section 102 of Ordinance No. 3 is amended by changing the name on the Zoning Map "Rural Residential / Highway Commercial" to Rural Residential".
- SECTION III.** Section 201, Subsection D. CONDITIONAL USES of Ordinance No. 3 is amended by deleting "Mining".
- SECTION IV.** Section 201 of Ordinance No. 3 is amended by re-lettering existing subsection "E." as subsection "F." and inserting the following new subsection:
- E. INTERIM USES  
Mineral Extraction
- SECTION V.** Section 202 of Ordinance No. 3 is amended by changing the section title to read " District RR: Rural Residential".
- SECTION VI.** Section 202 Subsection B. PERMITTED USES of Ordinance No. 3 is amended by deleting "Commercial Retail Uses".
- SECTION VII.** Section 202 Subsection D. CONDITIONAL USES of Ordinance No. 3 is amended by deleting "Mining".
- SECTION VIII.** Section 202 Subsection E. PROHIBITED USES AND STRUCTURES of Ordinance No. 3 is amended by changing the name "RR / HC, Rural Residential / Highway Commercial" to "RR Rural Residential."
- SECTION IX.** Section 202 Subsection F. GENERAL REGULATIONS of Ordinance No. 3 is amended by changing the reference "including the six residences per quarter quarter section" to "including the one residence per ten (10) acres".
- SECTION X.** Sections 301 and 302 of Ordinance No. 3 are amended by changing the name in the tables "Rural Residential / Highway Commercial" to "Rural Residential".

**SECTION XI.** Section 517 of Ordinance No. 3 is amended in its entirety and replaced with the following:

**Section 517: Mineral Extraction**

A. Purpose

In addition to the purposes stated in the Introduction and Preamble of this Ordinance, it is the purpose of this section to establish regulations for mineral extraction which accomplish the following objectives:

1. Protect and preserve the agricultural economy and social characteristics of the agricultural community.
2. Protect agricultural land from premature conversions to non-farm uses.
3. Prevent the permanent conversion of productive farmland to non-farm uses.
4. Protect residents from potential negative impacts associated with mineral extraction.
5. Protect the natural environment from unnecessary and irreversible impacts from mineral extraction activities.
6. Preserve the natural landforms from uncomplimentary or incompatible alterations from mineral extraction activities.
7. Protect Township roads and local highways from unsafe conditions, over use and potential damage from mineral extraction activities.
8. Establish regulations and standards that clearly manage mineral extraction as a use incidental to long term agriculture.
9. Establish regulations and standards that manage mineral extraction as a short-term use of agriculture land.
10. Establish regulations and standards that restore or enhance extracted areas to suitable farm land conditions.
11. Encourage the extraction of minerals from hills, knobs or steeply sloped areas that will allow for site rehabilitation that flattens the natural landscape and makes the land more conducive to agricultural uses.
12. Restrict mineral extraction activities that create permanent depressions in the natural landscape, which are not conducive to agricultural uses because of poor drainage, permanent ponding problems or unworkable slopes.

13. Establish financial assurances that guarantee operational performance and compliance with the provisions of this Ordinance.
14. Ensure compatibility of mineral extraction activities with the goals, policies, environmental protection and agricultural preservation emphasis of the Douglas Township Comprehensive Plan.

B. Permit Required

It shall be unlawful for any person, firm or corporation to extract or process minerals in the Township without first obtaining a permit required in this Ordinance.

C. Exceptions

Exceptions to the permit requirement for mineral extraction in the Township include:

1. Excavation for a foundation, cellar or basement of a building if a building permit has been issued.
2. Excavation by state, county, city, or township authorities in connection with construction or maintenance of roads, highways, or utilities, conducted solely within permanent easement areas or rights-of-way.
3. Curb cuts, utility crossings or street openings for which another permit has been issued by the Township.
4. Excavation less than one hundred (100) square feet in area or one foot in depth.
5. Excavation or grading for agricultural purposes, but excluding the removal of extracted minerals for commercial purposes.
6. Other activities, in which a permit has been issued, site grading is allowed and mineral extraction is clearly an incidental activity.

D. Mineral Extraction Permit Application

An application for a mineral extraction permit shall be submitted to the Township on a form supplied by the Township. Information shall include but not be limited to the following:

1. Name, address, phone number, contact person for the operator.
2. Name, address, phone number of the landowner.
3. Acreage and complete legal description of the property on which the facility will be located, including all contiguous property owned by the landowners.

4. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
5. Estimated type and quantity of material to be extracted.
6. Estimated time frame to operate the facility.
7. A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
8. A description of the estimated average daily and peak daily number of vehicles accessing the facility, including a breakdown of operator owned and non-operator owned vehicles.
9. A description of the haul routes within the Township to be used in the operation of the facility.
10. A description of the soil, vegetation, mineral content and topography of the subject property.
11. A general description of surface waters, existing drainage patterns and groundwater conditions within one-half (1/2) mile of the subject property.
12. A general description of any wells or private sewer systems of record, pipelines, power lines and other utilities or appurtenances on the subject property.
13. Existing topography of the subject property, illustrated by contours not exceeding ten-foot intervals.
14. Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
15. Copies of MPCA application documents and operating permits.
16. A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.
17. A description of the plan to mitigate potential impacts resulting from mineral extraction.
18. A description of the method in which complaints about any aspect of the facility operation or off-site transportation are to be received and the method in which complaints are to be resolved.

E. Mineral Extraction Permit Process

1. Mineral extraction shall be reviewed, considered and processed as an interim use.
2. Applicants must obtain an Interim Use Permit application for mineral extraction from the Township Clerk.
3. Applicants are encouraged to appear before the Planning Commission and Town Board for conceptual presentations of the proposed mineral extraction activity.
4. A copy of the application and required supporting information shall be forwarded to the Township or its designee. Within ten (10) business days of receipt of the information a determination of the completeness of the application and supporting documentation will be made. If the application is incomplete, the Township will identify the information which must be submitted before formal review may commence.
5. Upon a determination of completeness, the application will be forwarded to the Planning Commission for formal review. The Township clerk or Planning Commission shall set a public hearing for consideration of the Interim Use Permit, according to the procedures identified in Section 612.
6. The Planning Commission shall hold the public hearing for the Interim Use Permit; make findings on the consistency of the application with the terms and conditions of this Ordinance; and make recommendations to the Town Board on the issuance of a permit.
7. If the application can not be acted upon by the Town Board within sixty (60) days of receipt of the completed application, the Township clerk, or designee, shall notify the applicant in writing that the permit can not be processed within that time frame because of the frequency of Township meetings and that action on the permit will be completed within one hundred twenty (120) days of receipt of the completed application.
8. The Town Board shall act on the permit after receiving a recommendation from the Planning Commission and within the timeframe specified above; however, the Town Board shall act on the permit regardless of a recommendation, if the Planning Commission has not made a recommendation within (90) days of receipt of the completed application.
9. The permit review timeline may be extended by written authorization from the applicant.
10. The Town Board shall make findings on the permit application and shall either approve the permit application, approve the permit application with modification or deny the permit application.

11. The term of the Interim Use Permit shall be for a maximum operational period of three (3) years and a maximum one (1) year period to complete site rehabilitation. The Town Board may, at its sole discretion, consider a one time extension of the operational term. The maximum term of the extension shall be three (3) years. Factors to be considered in any extension shall include, but not be limited to, the size of the permit area, the amount of material already extracted, the effect on site rehabilitation and agricultural end use, the effect on physical features of the site and potential impacts on neighboring properties.
12. An application for mineral extraction on the same site or abutting property for which an Interim Use Permit has been issued shall not be accepted or processed for a period of two (2) years from the date of expiration of that permit.
13. Reapplication for an Interim Use Permit which has been denied by the Town Board shall not be accepted or processed for a period of one (1) year from the date of denial.

#### F. Performance Standards

Mineral Extraction facilities shall operate and conform with the following performance standards and requirements:

1. **Maximum Extraction Area.** The maximum extraction area to be included in the facility permit shall be five (5) acres. The Town Board may consider expanding the permit area, if it is found that existing site conditions and the rehabilitation plan warrant a larger extraction area to fulfill the intent and comply with the conditions of this Ordinance.
2. **Maximum Density of Extraction Facilities.** The maximum density of active permitted facilities or the maximum number of permitted facilities within a geographic area shall be one permitted facility per section (640 acre area) of land in the Township.
3. **Minimum Separation of Extraction Facilities.** The minimum separation between active permitted facilities in the Township shall be a straight line distance of one mile.
4. **Mineral Extraction Permit Term.** The maximum term for mineral extraction, processing of material and the removal of material shall be three (3) calendar years. The Town Board may, at its sole discretion, consider a one time extension of the operational term. The maximum term of the extension shall be three (3) years. Factors to be considered in any extension shall include, but not be limited to, the size of the permit area, the amount of material already extracted, the effect on site rehabilitation and agricultural end use, the effect on physical features of the site and potential impacts on neighboring properties. Site rehabilitation must be completed by August 15 of the following year.

5. **Seasonal Duration.** Mineral extraction operations shall only occur between May 1 and November 15 of the operational permit year. Final site grading and rehabilitation must be completed between May 1 and August 15 of the final permit year. The Town Board may authorize the removal of material stockpiled on the site during the non-operational months (November 16 to April 30), provided all other provisions of this ordinance are met and the Interim Use Permit is amended consistent with the procedures in Section 612.
6. **Hours of Operation.** Mineral extraction facilities shall operate only between the hours of 7:00am to 6:00pm Monday through Friday and 7:00am to 12:00pm on Saturday.
7. **Access.** Mineral extraction facilities shall have direct property access to a 9-ton or greater design road. The Town Board may require financial guarantees from facility operators to ensure that potential damages to local roads or bridges from facility vehicles will be repaired. The facility operator and Town Board may agree to minimum roadway improvements or maintenance obligations as a condition of the permit.
8. **Haul Routes.** Haul routes for mineral extraction facilities shall be identified by the operator. In general, the haul routes designated shall minimize the use of gravel roads.
9. **Roadway Dust Control.** The permit shall specify the manner in which the operator will control dust on gravel roads used in hauling facility materials. In lieu of other approved remedies, water trucks must be used on gravel roads when the number of facility vehicles exceeds three (3) one-way trips per hour.
10. **Facility Dust Control.** The permit shall specify the manner in which the operator proposes to control potential airborne dust generated within the facility.
11. **Authorized Use.** The Interim Use Permit for the mineral extraction facility shall allow mineral extraction equipment, crushing equipment, screeners, conveyors, loading equipment, site rehabilitation equipment and material hauling vehicles for authorized activities and use of the facility. All other use, equipment or activities shall be considered accessory uses. Mineral extraction excludes the removal of topsoil from the site, unless specifically authorized in the permit.
12. **Accessory Uses.** Accessory uses are those uses not included as authorized use of the mineral extraction facility. The Town Board may consider accessory uses as part of the Interim Use Permit or an amended Interim Use Permit, provided the review and consideration for accessory uses is consistent with Section 612 of this Ordinance. All other accessory uses are prohibited.
13. **Backhauling.** No material may be hauled or backhauled from an off-site location to the mineral extraction facility unless specifically authorized in the Interim Use Permit.

Examples of authorized backhauling may include importation of clay for roadway mix or topsoil for site rehabilitation.

14. **Setbacks.** No extraction activity shall be allowed within fifty (50) feet of any adjacent property, roadway easement or utility, unless the Town Board finds that a lesser setback will result in more appropriate site rehabilitation. Facility equipment shall not be located closer than one thousand (1000) feet from a residence, unless a written waiver is received from the owner of the residence for a lesser setback. The Town Board may reduce the setback to five hundred (500) feet if it finds that the natural topography or artificial berming and screening are sufficient to protect the residence from facility impacts. No waiver or setback reductions shall be construed as a waiver of noise standards affecting the facility.
15. **Depth to Groundwater.** No excavations or extraction shall occur within ten (10) feet of the historical high groundwater elevation on the site.
16. **Noise.** Maximum noise levels associated with the mineral extraction facility shall be consistent with the daytime noise standards established by the Minnesota Pollution Control Agency.
17. **Air Quality / Water Quality.** All activities associated with the mineral extraction facility shall be conducted in a manner consistent with Minnesota Pollution Control Agency rules and operating permits.
18. **Vibration.** Operators must use all practical methods to minimize impacts of equipment vibration on adjacent properties.
19. **Explosives.** The use of explosives is prohibited, unless specifically authorized in the Interim Use Permit.
20. **Weed Control.** The facility operator shall be required to control noxious weeds on the site and mow or harvest other vegetation as needed or required by the Township.
21. **Fencing.** The Town Board may require the facility or portions of the facility to be fenced during operation or during the off-season. The Town Board may also require that fencing or a gate be placed at the facility entrance to prevent unauthorized access.
22. **Site Rehabilitation.** The rehabilitation plan must include final grade contours, topsoil replacement, seeding and fertilizing, erosion control and sedimentation control details and specifications. The plan must also identify seasonal erosion and sedimentation control measures during facility operation. Final site rehabilitation shall conform to the following minimum requirements:
  - (a) Final grades shall not exceed twelve (12) per cent. During final site restoration, grading may occur within the fifty (50) feet extraction setback area, if such



allowance enhances overall site grading and the relationship with adjacent properties.

- (b) All of the topsoil on the site prior to extraction, must be retained on the premises and re-spread on the surface of the final grade. Retained topsoil shall be spread at an even depth over the final graded surface.
  - (c) The exposed topsoil shall be seeded with alfalfa or pasture grasses consistent with specifications recommended by the Dakota County Soil and Water Conservation District, Minnesota Extension Service or National Resources Conservation Service. The Town Board may waive the above seeding requirement if the area is prepared for crop production in the same or following growing season.
  - (d) Soil erosion and sedimentation control practices during and after site rehabilitation shall be consistent with minimum recommendations of the Dakota County Soil and Water Conservation District.
  - (e) All equipment, machinery, vehicles, materials and debris shall be removed from the site prior to final site rehabilitation.
23. **Additional Regulations.** The Town Board may impose additional regulations and requirements necessary to protect the public health, safety and welfare.
24. **General Compliance.** The mineral extraction facility shall be operated in compliance with all federal, state and local regulations and laws.
25. **Inactivity.** In the event less than five thousand (5000) cubic yards of material are removed from the facility in any permit calendar year, the Town Board may declare the facility inactive, terminate the Interim Use Permit and require site rehabilitation.

G. Enforcement.

- 1. The operator grants the Township's officers and representatives access to the facility during normal operation hours to inspect the mineral extraction facility and enforce the provisions of this Ordinance.
- 2. The operator shall be responsible for the repair and maintenance of public and private property in the Township which is acknowledged by the operator to be or proven to be damaged by it, its agents or employees in conducting business or any other activity associated with the mineral extraction facility.
- 3. A development agreement will be required for all mineral extraction permits.
- 4. The operator shall hold the Township harmless against all claims by third parties for damage or costs incurred in the development of the subject property. The operator

shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorney's fees.

#### H. Termination.

The Township shall have the authority to terminate the mineral extraction permit on the happening of any of the following events:

1. The date of termination specified in the interim use permit.
2. Upon a violation of a condition under which the permit was issued, but only after the Township has first provided written notice to the operator (and the landowner, if different from the operator), describing with particularity the specific violation(s) and the steps necessary to cure the violation(s). Excepting threats to public health, safety and welfare or violations with simple remedy, the operator shall have a period not exceeding sixty (60) consecutive days to cure the specific violation(s). If the 60-day remedy period overlaps with or occurs within a period of seasonal shutdown, and the violation(s) are not easily remedied or do not pose a threat to public health, safety and welfare, the 60-day period may be extended to include the seasonal shutdown period. Upon notice of violation(s) which may threaten the public health, safety and welfare or are easily remedied, the operator shall respond promptly and cure the violation(s) in the shortest reasonable timeframe.
3. Upon a change in the Township's zoning regulations which renders the use non-conforming.
4. Upon a determination that the facility has been inactive.

#### I. Financial Guarantee

The Township shall require a cash escrow or a letter of credit, in a form acceptable to the Township, to guarantee compliance with this Ordinance and the terms and conditions of the development agreement. The Township shall have the right to use the financial guarantee to remove stockpiles and complete site rehabilitation and correct other deficiencies or problems caused by the operator, in the event the operator is in default of the permit obligations. The amount of financial guarantee shall be equal to Four Thousand Dollars (\$4000.00) for every acre authorized in the permit. The financial guarantee shall remain in full force and effect for a minimum period of one and one-half (1 1/2) years beyond the expiration date of the permit.

#### J. Liability Insurance

The operator shall, at all times procure and maintain at the operator's expense general public liability insurance and automobile liability insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the operator's performance of its duties under this Ordinance. Such insurance shall afford protection to a

limit of not less than Five Hundred Thousand Dollars (\$500,000) in respect to injuries or death to a single person, to a limit of not less than One Million Dollars (\$1,000,000) in respect to any one accident or occurrence, and to a limit of not less than Two Hundred Thousand Dollars (\$200,000) in respect to property damage. The Township shall be named an additional insured on all such policies of insurance. The operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit. The certificate shall provide that the Township must be given thirty (30) days written notice of the cancellation of insurance.

**K. Violations and Penalties.**

Any person who violates or fails to comply with any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the maximum extent authorized by law. Each day the violation continues shall constitute a separate offense.

**L. Fees.**

1. The applicant shall pay an application fee and the estimated expenses for processing the Interim Use Permit before the application will be considered complete.
2. The applicant shall reimburse the Township for all out of pocket expenses incurred by the Township in the review and processing of the mineral extraction permit, facility inspections and the enforcement of this Ordinance.

**SECTION XII.** Section 607 of Ordinance No. 3 is amended by adding the following:

Instruct Township representatives and official bodies that permit applications and other zoning actions need to be processed and acted upon within sixty (60) days of the receipt of a completed application of submittal, unless the Township notifies the applicant (before the 60-day period ends) in writing of the need and reason for a 60-day extension. In no case shall the Township take more than one-hundred twenty (120) days to approve or deny the action, unless a written waiver of time is received from the applicant.

**SECTION XIII.** ARTICLE VI of Ordinance No. 3 is amended by re-numbering existing Sections 612, 613, 614 and 615 as Sections 613, 614, 615, and 616 and inserting the following new section:

**612: Interim Use Permits**

An Interim Use Permit shall be required for uses which are temporary in nature and are allowed for a specified period of time. Interim Uses must be identified as an interim use within the zoning district in which a permit is sought.

The criteria for granting Interim Use Permits shall be similar to the criteria for issuing Conditional Use Permits, as outlined in Section 611.

The procedure for considering Interim Use Permits shall be the same as the procedure for Conditional Use Permits, except where more restrictive provisions of other sections of this Ordinance may apply.

**SECTION XIV.** Section 701 of Ordinance No. 3 is amended by inserting in numerical sequence the following:

(21a) Interim Use - A temporary use, which is not a permitted use or conditional use, and requires a special permit to be granted according to certain requirements and procedures outlined in this Ordinance. An Interim Use must be listed as such within the zoning district in which the use is requested.

**SECTION XV.** Section 701 (31) of Ordinance No. 3 is amended in its entirety to read:

(31) Mineral Extraction - The excavation, crushing, screening, blending, stockpiling and removal of sand, gravel, rock, clay, and other non-metallic minerals from the ground.

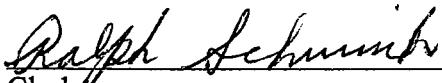
**SECTION XVI.** Effective Date.

The effective date of this Ordinance shall be upon its passage and publication according to law.

Adopted this 6 day of Nov, 2000.

ATTEST:

  
Chairman

  
Clerk

Published in the Hastings Star  
this 16 day of Nov, 2000.