

Ordinance No. 450 (With Amendments)

AN ORDINANCE ESTABLISHING REGULATIONS AND STANDARDS FOR MINERAL EXTRACTION

The Board of supervisors of the Township of Empire ordains as follows:

SECTION 1. TITLE

1.01 This ordinance shall be known and cited as the Empire Township Mineral Extraction Ordinance, except as referred to herein as “this Ordinance.”

SECTION 2. PURPOSE

2.01 The purpose of this Ordinance is to protect the public health, safety and welfare through the following:

- A. Identify areas in the community where mineral extraction is most appropriate and minimizes conflicts with commercial agricultural, residential and other land uses.
- B. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.
- C. Establish standards which distinguish between longer term and shorter term mineral extraction activities.
- D. Establish standards which prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties and the community as a whole.
- E. Establish standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and suitable for future uses which are compatible with the Empire Township Comprehensive Plan.

SECTION 3. DEFINITIONS

3.01 When used in this Ordinance, the following terms shall have the meaning associated with them:

Accessory Uses: Accessory uses of a mineral extraction facility may include the manufacture, storage and sale of products made from minerals on the premises and storage and sale of minerals and topsoil not extracted on the premises.

Board: The Board of Supervisors of Empire Township.

Commission: The Planning Commission of Empire Township

Comprehensive Plan: The Empire Township Comprehensive Plan.

Dust: Airborne mineral particulate matter.

Excavation: The movement or removal of soil and minerals.

Mineral: Sand, gravel, rock, clay and similar higher density non-metallic natural minerals.

Mineral Extraction: The removal of sand, gravel, rock clay and other minerals from the ground.

Mineral Extraction Facility: any area that is being used for removal, stockpiling, storage, and processing of sand, gravel, topsoil, clay, and other minerals.

Mineral Extraction Permit: The permit required for mineral extraction facilities which may operate for several Years.

Operator: Any person or persons, partnerships or corporations or assignees, including public or governmental agencies, engaging in mineral extraction.

Principal Use: The principal use of a mineral extraction facility is the extraction, crushing, screening, mixing, storage and sale of minerals from the facility.

Processing: Any activity which may include the crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravels, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, concrete, concrete products, asphalt, and other similar products.

Rehabilitation: To renew land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Ordinance.

Seasonal Extraction Facility: Any area where mineral extraction is permitted on a temporary, seasonal basis, not to exceed two years in operation.

Seasonal Extraction Permit: The permit required for seasonal extraction facilities which may operate for one or two years.

Soil: A natural three dimensional body of the earth's surface.

Subject Property: The land on which mineral extraction is permitted.

Topsoil: The upper portion of the soils present that is the most favorable material for plant growth.

Township: The Township of Empire, Dakota County, Minnesota.

Zoning Ordinance: The Empire Township Zoning Ordinance.

SECTION 4. PERMIT REQUIRED

4.01 It is unlawful for any person, firm, or corporation to extract or process minerals in the Township without obtaining a permit required in this ordinance.

4.02 Mineral extraction shall only be allowed in that portion of the Township designated in the Mineral Extraction Overlay District of the Comprehensive Plan.

4.03 Mineral extraction shall only be allowed in that part of the Township zoned Mineral Extraction District.

4.04 Exceptions:

A mineral extraction permit shall not be required for any of the following:

- A. Excavation for a foundation, cellar or basement of a building if a building permit has been issued.
- B. 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.
- C. Curb cuts, utility hook-ups or street openings for which another permit has been issued by the Township.
- D. Excavation less than one hundred (100) square feet in area or one foot in depth.
- E. Excavation or grading for agricultural purposes.
- F. Mineral Extraction in which a seasonal extraction permit has been issued.
- G. Other activities in which a permit has been issued, site grading is allowed and mineral extraction is clearly an incidental activity.

SECTION 5. MINERAL EXTRACTON PERMIT APPLICATION REQUIREMENTS

5.01 Application form:

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:

- A. Name, address, phone number, contact person for the operator.
- B. Name, address, phone number of the landowner.

- C. Acreage and complete legal description of the property on which the facility will be located, including all contiguous property owned by the landowners.
- D. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
- E. Estimated type and quantity of material to be extracted.
- F. Estimated time frame to operate the facility.
- G. A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- H. 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.
- I. A description of the haul routes within the Township to be used in the operation of the facility.

5.02 Supporting Documentation:

Every application for a mineral extraction permit shall include submission of supporting documentation which shall include, but may not be limited to the following:

- A. A description of existing land uses on the subject property and all properties within one-half (1/2) mile.
- B. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-half (1/2) mile.
- C. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.
- D. A general description of surface waters, existing drainage patterns and groundwater conditions within one-half (1/2) mile of the subject property.
- E. A general description of any wells or private sewer systems of record, pipelines, power lines; and other utilities or appurtenances on the subject property and adjacent properties.
- F. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.

- G. Existing topography of the subject property, illustrated by contours not exceeding ten-foot intervals.
- H. Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
- I. A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access routes.
- J. Copies of MPCA application documents and operating permits.
- K. A description of the site hydrology and drainage characteristics during extraction for each phase. Identify any locations where drainage of any disturbed areas will not be controlled on the subject property and plans to control erosion, sedimentation and water quality of the runoff.
- L. 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.
- M. A description of the plan to mitigate potential impacts resulting from mineral extraction.
- N. A description of site screening, landscaping and security fencing.
- O. A description of site rehabilitation in each phase of operation and upon completion of mineral extraction on the subject property.
- P. 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 which complaints are to be resolved.

SECTION 6. PERMITTING PROCEDURE

6.01 Interim Use Permit

Mineral extraction permits shall be considered and processed by the Township as interim use permits. The procedures are defined in the Zoning Ordinance.

- A. Applicants are encouraged to contact the Township for an administrative interpretation of the compatibility of the proposed mineral extraction activity with the Comprehensive Plan and zoning Ordinance.
- B. Applicants are encouraged to appear before the Planning Commission to make a preliminary presentation on the conceptual nature of the proposed extraction activity.

- C. 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 complete, the environmental review process will begin. If the application is incomplete, the Township will identify the information which must be submitted before formal review may commence.
- D. Any application which is inconsistent with the Comprehensive Plan will be denied. The applicant has the right to submit an application to the Township to amend the Comprehensive Plan, according to procedures established by the Township.
- E. Within thirty (30) days of receipt of a complete mineral extraction permit application, the Township will order an Environmental Assessment Worksheet to be prepared, according to Minnesota Rules, Chapter 4410.
- F. Upon completion of the environmental review process, the Township will process the mineral extraction permit. The Township may require that the applicant submit additional information to address or clarify any issues raised in the environmental review. The formal review process will commence after completion of the environmental review or upon receipt of additional information required.
- G. Within thirty (30) days of receipt of all required information and upon completion of the environmental review process, the Planning Commission shall hold a public hearing for the mineral extraction permit. The hearing will satisfy the hearing requirements of the interim use permit.
- H. After the public hearing, the Planning Commission shall make findings on the permit application and submit recommendations to the Town Board.
- I. If the Planning Commission and the Town Board can not act upon the permit application within sixty (60) days of the receipt of all required information and completion of the environmental review process, the Township shall notify the applicant in writing of the delay and extension of review. The Planning Commission and Town Board must act upon the application within one hundred twenty (120) days of the date the final application was submitted, unless an extension of time is granted by the applicant.
- J. The Town Board shall approve the permit application, deny the permit application or approve the permit application with modification.
- K. A mineral extraction permit application denied by the Town Board may not be reapplied for, whether the same or modified application, for a period of twelve (12) months from the date of denial.
- L. Annual Review and Renewal. All mineral extraction permits shall be reviewed annually for renewal. Operators shall submit annual renewal fees, along with current aerial

topography or field surveys illustrating the extent of mineral extraction facility operations, material stockpiles, extraction areas, and any site rehabilitation, between January 1 and March 1. Operators shall also furnish the Township with the company's annual material sales reports for the permit facility. Operators shall also furnish the Township with a record of any complaints received at the facility during the previous year and a summary of each complaint resolution.

Within thirty (30) days of receipt of annual review data and renewal fees, the Planning Commission shall review the information for compliance with the terms and conditions of the permit and make recommendations to the Town Board for annual renewal. In its recommendations, the Planning Commission shall also advise the Town Board of the appropriate hours of operation for facility operations. Upon receipt of the Planning Commission's annual permit renewal recommendation, the Town Board shall make one of the following findings:

- 1) The Interim Use Permit shall be renewed according to the original permit conditions; or
- 2) The Interim Use Permit shall be renewed according to modified permit conditions; or
- 3) A violation of the permit has occurred which requires a remedy according to the procedures outlined in Section 8.01B. of this Ordinance, and permit renewal will not be considered until such remedy is completed; or
- 4) Termination of the permit is appropriate based on the provisions outlined in Section 8 in this Ordinance.

SECTION 7. MINERAL EXTRACTION PERFORMANCE STANDARDS

7.01 The following performance standards apply to all mineral extraction facilities in the Township:

A. Hours of Operation.

1.) Mineral extraction processing shall occur only between the hours of 6:00 a.m. and 6:00 p.m., Monday through Saturday. A mineral extraction facility may be opened one-half hour before and one hour after hours of operation to allow for the staging and loading of vehicles hauling extracted materials. The Town Board, at its sole discretion, may allow longer hours subject to a review of the operator's mine plan, site logistics, and impact mitigation plans. Longer hours shall be subject to annual review and amendment by the Town Board based on the performance of the previous year. The operational hours may also be extended on a temporary basis for government work required by agency contracts, with the prior approval by the Town Board Chair or designee.

2.) Trucking activities shall be conducted only Monday through Saturday during the same hours as the mineral extraction activities are permitted for, including any

extended hours of operation provided the operator's mine plan, site logistics, and impact mitigation plans are appropriate for extended hours of operation. Consideration for extensions of hours of operation for trucking activities will also be based upon access to major State and County roadways and mitigation or improvements to local roads providing direct access to major roadways. Longer hours shall be subject to annual review and amendment by the Town Board based on the performance of the previous year. The trucking hours may also be extended on a temporary basis for government work required by agency contracts, with the prior approval by the Town Board Chair or designee.

3.) Revocation of longer hours of operation and trucking shall be at the sole discretion of the Town Board, based upon findings that the mitigation measures approved for longer hours of operation and trucking are ineffective to protect the public health, safety, and welfare, and according to the following procedures:

(a) Within forty-eight (48) hours of a nuisance complaint regarding longer hours of operation received by an operator, the operator shall notify the Township in writing of the complaint.

(b) Within seven (7) business days of the complaint received by an operator from the Township or other complainant, the operator shall submit a written response to the nature and validity of the complaint to the Township and shall prepare a plan to remedy any problems identified or propose additional mitigation measures to prevent such problems from re-occurring.

(c) The Town Board shall review the written response from the operator and make a determination to terminate longer hours of operation and trucking, modify longer hours of operation and trucking, or continue longer hours of operation and trucking. The longer hours of operation and trucking shall remain in place until a determination on the complaint resolution is made by the Town Board and the Town Board shall allow a reasonable amount of time for all remedies to be implemented. Protecting the public health, safety, and welfare shall be the primary objective governing the Town Board's decisions.

- A. Fencing. The Board may require fencing, signs and barriers around artificial ponding areas and steep sloped excavation areas.
- B. Access. All mineral extraction facilities shall have direct access to a 9-ton or greater road.
- C. Haul Routes. All trucks traveling to or from the mineral extraction facility shall utilize 9-ton or greater roads within the Township. Operators may be granted a special permit to utilize roadways temporarily posted under 9-tons, provided adequate surety is guaranteed to cover the costs of repairing any damage to roadways.
- D. Roadway Dust Control. Operators will be responsible for providing water trucks to control dust on all gravel roads utilized by trucks hauling to or from a mineral

extraction facility. Unless waived by the Town Board in lieu of other remedies, watering roadways will be required when conditions warrant it and the number of one-way truck trips from a particular mineral extraction facility exceeds three (3) per hour.

- E. Mineral Extraction Facility Dust Control. The Township may require watering in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance. Other remedies to control dust may include berming, landscaping and enclosures for processing equipment.
- F. Noise. Maximum noise levels at the facility will be consistent with the standards established by the Minnesota Pollution Control Agency.
- G. Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment.
- H. Air Quality / Water Quality. All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits.
- I. Accessory Uses. Accessory uses, such as concrete, concrete products, asphalt production, and stockpiling and sale of materials not extracted on the subject property may be considered for approval by the Township
- J. Unauthorized Storage. No vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition may be kept or stored at the facility.
- K. Setbacks. No extraction activity may occur within one hundred (100) feet of any resident and fifty (50) feet of any adjacent property, road right-of-way or public utility. The setback along common mining lot lines with mining approved for each side of the shared lot line may be zero. Screeners, crushers, other processing equipment and manufacturing equipment may not be located closer than five hundred (500) feet without berming or two hundred fifty (250) feet with berming from any residence. Grading plans affecting pipelines or powerline corridors will be evaluated on a case by case basis.
- L. Phasing. Extraction and reclamation phasing plans must be prepared for all mineral extraction facilities. Mineral extraction properties shall be delineated between plant area, stockpile area, and extraction area. Portions of the extraction area where extraction has been completed shall be rehabilitated according to the provisions of this Ordinance and the terms of the Interim Use Permit, and shall be subject to annual review.
- M. Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.

- N. Explosives. If the use of explosives is desired by the operator, a conditional use permit shall be required for each incident to provide adequate public notice and input.
- O. General Compliance. The operators must comply with all other federal, state, regional, county and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shore land management regulations and zoning ordinance regulations.
- Q. Additional Regulation. The Township may impose additional regulations and requirements to the mineral extraction permit, including but not limited to mitigation and monitoring requirements to protect the public health, safety, and welfare.
- 1.) Mitigation plans outlined in any environmental assessment worksheet (EAW) or environmental impact statement (EIS) shall be required as minimum conditions in any Interim Use Permit for mineral extraction. Mine operators shall be required to adequately fund mitigation measures as a condition of any Interim Use Permit for mineral extraction.
 - 2.) Monitoring plans outlined in any environmental assessment worksheet (EAW) or environmental impact statement (EIS) shall be required as minimum conditions in any Interim Use Permit for mineral extraction. Mine operators shall be required to adequately fund monitoring measures as a condition of any Interim Use Permit for mineral extraction.
- R. Inactivity. In the event less than 5000 cubic yards of material has been removed from the facility in any calendar year, the Township may terminate the mineral extraction permit.
- S. Rehabilitation Plan. A rehabilitation plan must include the grading plans, topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The following minimum standards and conditions apply:
- 1.) Final grades may not exceed a 3:1 ratio (33% slope), except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty (20) feet from property lines.
 - 2.) A minimum of four (4) inches of topsoil shall be placed on all final graded and rehabilitated surfaces.
 - 3.) Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.

- 4.) 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.
- 5.) Soil erosion and sedimentation control measures shall be consistent with MPCA's "Protecting Water Quality in Urban Areas."
- 6.) Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the Rehabilitation Plan.
- 7.) Within twelve (12) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials and debris shall be removed from the subject property.
- 8.) Within twelve (12) months after completion of mineral extraction or after termination of the permit site, rehabilitation must be completed.

SECTION 8. TERMINATION

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

- A. The date of termination specified in the interim use permit.
- B. 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 thirty (30) consecutive days to cure the specific violation(s). If the 30-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 30-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.
- C. Upon a determination that the facility has been inactive.

SECTION 9. SEASONAL EXTRACTION PERMIT

9.01 Purpose. The purpose of this section is to establish provisions for mineral extraction on a smaller scale and shorter term basis than allowed in a mineral extraction permit.

9.02 Eligibility. A seasonal extraction permit may be issued in areas of the Township zoned Agricultural Preservation.

A. Seasonal extraction permits are intended to allow the opportunity for mineral extraction on land which is in close proximity to projects of short duration, such as road construction, in or near the Township.

B. Seasonal extraction permits are also intended to allow the opportunity for site grading, which will enhance the use of property, including land where mineral extraction has occurred in the past and rehabilitation has not been completed.

9.03 Process. A seasonal extraction permit will be processed as an Interim Use Permit, according to the provisions and procedures in the Zoning Ordinance Process.

9.04 Area Limitation. The maximum site area that may be included in a seasonal extraction permit is ten (10) acres. The Board may expand this limitation if the subject property includes a larger area where mineral extraction has previously occurred or the subject area was included in an environmental impact statement.

9.05 Duration. Seasonal extraction permits may be considered by the Township under one of the following options and terms.

A. One-Year Permit. Seasonal extraction permits are valid for a period not exceeding one calendar year. Mineral extraction operations may only occur between May 1 and December 1 of the permit year. Site rehabilitation must be completed by June 1 of the following year. The Board may extend the permit for a maximum of one additional year.

B. Four-Year Permit. In areas of the Township where mineral extraction has occurred prior to January 1, 2000 and current topographic conditions of the site warrant evaluation for further mineral extraction and site rehabilitation to restore the land to agricultural use, a maximum four-year seasonal extraction permit may be considered by the Township. Mineral extraction operations may occur only between May 1 and December 1 of each year authorized in the Interim Use Permit, not to exceed four calendar years. Site rehabilitation must be completed by June 1 of the year following the operational term specified in the permit. The four-year seasonal mineral extraction permit is specifically designed to create a term feasible for the final restoration of sites previously extracted and unrestored. No applications for any seasonal mineral extraction permit, on the same site or on property abutting a site on which a four-year seasonal permit has been issued, will be accepted or processed by the Township.

9.06 Application. An application for a seasonal extraction permit shall be submitted to the Township on a form provided by the Township. Information requirements shall be the same as identified in Section 5.01 of this Ordinance.

9.07 Supporting Documentation. An application for a seasonal extraction permit shall include supporting documentation identified in Section 5. 02 of this Ordinance.

9.08 Performance Standards. The performance standards identified in Section 7 shall apply to seasonal extraction permits, with the following exceptions:

A. **Hours of Operation.** The same hours of operation apply to seasonal extraction facilities, except the days of operation are limited to Monday through Friday and no evening activities are permitted. Exceptions to the hours of operation will be considered by the Town Board if the subject area was included in an environmental impact statement and subject to a review of the operator's mine plan, site logistics, and impact mitigation plans for extended hours of operation. Longer hours of operation may be revoked by the Town Board at any time if impact mitigation is found by the Town Board to be ineffective.

B. **Setbacks.** The Board may modify setback requirements where appropriate.

9.09 General. All other terms and conditions of this Ordinance not in conflict with Section 9 shall apply.

9.10 Reapplication. A seasonal mineral extraction permit application denied by the Town Board may not be reapplied for, whether the same or modified application, for a period of twelve (12) months. The application or reapplication of a one-year seasonal mineral extraction permit, on the same site or on property abutting a site on which a one-year seasonal permit has been issued, shall not be accepted or processed for a period of five (5) years from the date of the expiration of the previous permit. No applications for any seasonal mineral extraction permit, on the same site or on property abutting a site on which a four-year seasonal permit has been issued, will be accepted or processed by the Township.

9.11 Agreement Required. An Interim Use Permit Agreement shall be required as a condition of any seasonal mineral extraction permit approved by the Town Board.

SECTION 10. ENFORCEMENT

10.01 Upon reasonable notice, the operator shall grant 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. Any such inspection must be in the company of an employee of the operator following all site safety regulations.

10.02 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.

10.03 A development agreement will be required for all mineral extraction permits, including seasonal extraction permits.

10.04 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.

SECTION 11. FEES

11.01 The applicant shall pay for the application fee and any estimated expenses to be incurred by the Township before an application will be processed.

11.02 The applicant shall reimburse the Township for all out of pocket expenses incurred by the Township in the review of the application, public hearings, preparation of documents, inspections and enforcement of this Ordinance.

11.03 The following fee schedule is established for the issuance and renewal of mineral extraction permits:

MINERAL EXTRACTION FACILITY

Mineral extraction facility non-refundable application fee	\$2500.00
Application review escrow fund	\$5000.00
Environmental review escrow (requires development contract)	varies

Annual renewal fees (due before March 31st of each permit year)

Renewal fees are intended to cover the cost of permit administration, inspections, groundwater and surface water mitigation and monitoring requirements. Estimated expenditures for groundwater and surface water monitoring is illustrated on the attached Appendix A.

Sales of less than 25,000 tons	\$500.00
Sales of 25,001 to 50,000 tons	\$1000.00
Sales of 50,001 to 75,000 tons	\$1500.00
Sales of 75,001 to 100,000 tons	\$2,000.00
Sales of 100,001 to 125,000 tons	\$2,500.00
Sales of 125,001 to 150,000 tons	\$3,000.00
Sales of 150,001 to 175,000 tons	\$3,500.00
Sales of 175,001 to 200,000 tons	\$4,000.00
Sales of 200,001 to 250,000 tons	\$5,000.00

Sales of each 50,000 tons over 250,000 Additional \$1,000.00

The calculation of sales tonnage shall be based on the annual aggregate material summary prepared by Dakota County.

SEASONAL MINERAL EXTRACTION FACILITY

Seasonal mineral extraction facility non-refundable application fee	\$1000.00
Application review escrow fund	\$3000.00

Subsequent renewal fees (due before March 31st of subsequent permit year):

Renewal fees are intended to cover the cost of permit administration, inspections, mitigation requirements, and monitoring requirements.

Sales of less than 25,000 tons	\$500.00
Sales of 25,001 to 50,000 tons	\$1000.00
Sales of 50,001 to 75,000 tons	\$1500.00
Sales of 75,001 to 100,000 tons	\$2,000.00
Sales of 100,001 to 125,000 tons	\$2,500.00
Sales of 125,001 to 150,000 tons	\$3,000.00
Sales of 150,001 to 175,000 tons	\$3,500.00
Sales of 175,001 to 200,000 tons	\$4,000.00
Sales of 200,001 to 250,000 tons	\$5,000.00

Sales of each 50,000 tons over 250,000 Additional \$1,000.00

The calculation of sales tonnage shall be based on the annual aggregate material summary prepared by Dakota County.

SECTION 12. FINANCIAL GUARANTEE

12.01 The Township shall require a performance bond, 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 Interim Use Permit. 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 Three Thousand Dollars (\$3000.00) for every acre disturbed and not reclaimed. The financial guarantee shall be adjusted annually and shall remain in full force and effect for a minimum period of one and one-half (1-1/2) years beyond the expiration date or renewal date of the permit.

12.02 The Township shall also require a performance bond, cash escrow or a letter of credit, in an amount and form acceptable to the Township, to guarantee compliance with any mitigation and monitoring costs identified in the Interim Use Permit.

12.03 All out-of-pocket costs and expenses incurred by the Township for administering, monitoring, and enforcing the Interim Use Permit are intended to be covered by annual permit renewal fees. In the event such fees collected are inadequate to cover all

Township costs and expenses incurred by the Township for administering, monitoring, and enforcing the Interim Use Permit, the Township may at its discretion use financial guarantees secured for the Interim Use Permit to cover such out-of-pocket costs and expenses that have not been reimbursed by the operator.

SECTION 13. LIABILITY INSURANCE

13.01 The operator shall, at all times procure and maintain at the operator's expense general public liability insurance and automobile 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.

SECTION 14. VALIDITY

14.01 Should any provision of this ordinance be declared by the courts to be invalid, such decision shall not affect the validity of this ordinance as a whole or any other part thereof, unless so specified in the judgment. If the courts declare the application of any of the provisions of this ordinance to any individual, use, property or structure to be invalid, such judgment shall not affect the validity of said application of any provision to any other individual, use, property or structure, unless so specified in the judgment.

SECTION 15. VIOLATIONS AND PENALTIES

15.01 CIVIL REMEDY. In the event of a violation of this Ordinance, the Township may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the Township Attorney may institute such action.

15.02 CRIMINAL REMEDY. Any person, firm or corporation who shall violate any of the provisions of this Ordinance or who shall fail to comply with any of the provisions of this Ordinance or who shall make any false statement in any document required to be submitted under the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitute a separate offense.

SECTION 16. REPEALS

16.01 Ordinance No. 440 and all amendments thereto are hereby repealed. Parts of other ordinances in conflict with this Ordinance to the extent of such conflict and no further are hereby repealed.

SECTION 17. EFFECTIVE DATE

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

Adopted this 10 day of December, 1996.

ATTEST:

G.E. Stelzel, Chairman

Floyd G. Henry, Clerk-Treasurer

Published in the Farmington Independent this 19th day of December, 1996.

Included amendments:

450-A adopted December 9, 1997

450-B adopted July 25, 2000

450-C adopted May 23, 2006

450-D adopted March 20, 2007

450-E adopted July 25, 2023

EMPIRE TOWNSHIP

**Mineral Extraction Groundwater and Surface Water
Mitigation and Monitoring Plan
Estimated Costs**

March 2007

Initial One-time Monitoring Costs:

Area-wide Monitoring Well Nests (5 nests)	\$70,000.00
Water Level/Temperature Monitoring Devices	\$20,500.00
Flow Gauging/Automated Water Quality Station	\$30,000.00
Rain Gauges	<u>\$3,000.00</u>
Total	\$123,500.00

Bid Documents, Contingencies, Administration (15%)	\$18,525.00
WQ Station Upgrade Every 10 Years (50% Original)	<u>\$45,000.00</u>

Total One-time Costs **\$187,025.00**

Average Annual Monitoring Costs:

Contract Monitoring, Sampling, Recording, Reporting	\$40,500.00
Township Review, Analysis, Coordination, Administration	<u>\$6,075.00</u>
Total	\$46,575.00

Average Annual Costs: **\$46,575.00**

Estimated 40-year Monitoring Costs (2007 Dollars) **\$2,050,025.00**

Sources: "Groundwater and Surface Water Monitoring Plan," Barr Engineering Company, February 2007; Ray Wuolo, Barr Engineering Company, March 2007

EMPIRE TOWNSHIP

**Mineral Extraction Groundwater and Surface Water
Mitigation and Monitoring Plan
Estimated Costs**

March 2007

Initial One-time Monitoring Costs:

Area-wide Monitoring Well Nests (5 nests)	\$70,000.00
Water Level/Temperature Monitoring Devices	\$20,500.00
Flow Gauging/Automated Water Quality Station	\$30,000.00
Rain Gauges	<u>\$3,000.00</u>
Total	\$123,500.00
Bid Documents, Contingencies, Administration (15%)	\$18,525.00
WQ Station Upgrade Every 10 Years (50% Original)	<u>\$45,000.00</u>

Total One-time Costs **\$187,025.00**

Average Annual Monitoring Costs:

Contract Monitoring, Sampling, Recording, Reporting	\$40,500.00
Township Review, Analysis, Coordination, Administration	<u>\$6,075.00</u>
Total	\$46,575.00

Average Annual Costs: **\$46,575.00**

Estimated 40-year Monitoring Costs (2007 Dollars) **\$2,050,025.00**

Sources: "Groundwater and Surface Water Monitoring Plan," Barr Engineering Company, February 2007; Ray Wuolo, Barr Engineering Company, March 2007