

Article 82 – Administration

8201 – Bear Lake Township Zoning Administrator

- A. The provisions of this Ordinance shall be administered by the Bear Lake Township Zoning Administrator. Applicants for the position of Township Zoning Administrator shall be interviewed by the Bear Lake Township Planning Commission. The Bear Lake Township Planning Commission shall make its recommendations to the Bear Lake Township Board regarding the qualifications of the applicants. The Bear Lake Township Board shall appoint, from the list of applicants recommended by the Township Planning Commission, a Zoning Administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Board shall determine, and the duty of the enforcement of this Ordinance shall rest with the Zoning Administrator as shall be authorized by law. The zoning Administrator shall, for the purpose of this Ordinance, have the power of a police officer.
- B. Eligibility: Elected officials of Bear Lake Township and/or Manistee County and/or members of the Bear Lake Township Planning Commission and Zoning Board of Appeals shall be ineligible for appointment to the office of the Township Zoning Administrator, except as otherwise provided in 8201 – C.
- C. Interim Zoning Administrator: In the event of the resignation, death, disability or disqualification of the Bear Lake Township Zoning Administrator, the Secretary of the Bear Lake Township Planning Commission shall serve as interim Zoning Administrator until a new Zoning Administrator shall be appointed by the Bear Lake Township Board.
- D. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the Zoning Administrator to reasonably conclude that in addition to the standards set forth in Article 84, 8402, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purpose of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services, and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare.

8202 – Public Notice

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, AP 110 of 2006 and the other provisions of this Section with regard to public notification..

- A. When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be

responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Manistee County and mailed or delivered as provided in this Section.

- B. All mail, personal and newspaper notices for public hearings shall:
 - 1. Identify and describe the nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 - 2. Indicate the location of the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created if none exist, parcels can be identified by tax ID number, or including a map. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 - 3. The date time and place of public hearing.
 - 4. A statement describing when and where written comments will be received concerning the request.
 - 5. The location where the demand for appeal or proposed amendments can be viewed and copied.
 - 6. Information concerning handicap access.
- C. When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - 1. The owners of property for which approval is being considered.
 - 2. Except for rezoning requests involving eleven or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Bear Lake Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.
- D. Unless otherwise provided in the Zoning Act or this Ordinance where applicable, notice of a public hearing shall be provided as follows; for a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance appeal, or ordinance interpretation: not less than fifteen days before the date the application will be considered for approval.

Article 84 – Permits

8401 – Land Use Permits

No land shall be occupied or used and no building or structure shall hereafter be erected, altered, relocated or demolished under the provisions of this ordinance until a permit authorizing the same shall be issued by the Zoning Administrator.

8402 – Land Use Applications

- A. The Zoning Administrator shall require that copies of plans, specifications and such other information as he may deem necessary shall be filed with the application for permit. Such other information shall include, but not limited to:
1. Site plans, including specifications and drawings showing the location, design and size of the proposed land use and the buildings and structures to be located thereon.
 2. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
 3. A concise statement of all operations and uses which will be conducted on the land and buildings.
 4. A concise statement of the services, if any, to be offered to the public, if applicable.
 5. Any other information required by this Ordinance.
 6. A non-refundable fee shall accompany each application for a permit under this Section. The fee shall be established from time to time by the Bear Lake Township Board.
- B. No permit shall be issued under this Section for any use which:
1. fails to conform to any relevant provision of Article 10, 1001, et seq
 2. which fails to conform to any minimum requirement established for land use district in which the proposed use is to be located or,
 3. which fails to conform to any standard set forth in the definition of the proposed use, as defined in this Ordinance.
- C. No new use shall be established or excavation or construction begins before such permit is issued, and a copy posted in a prominent position on the building site.

8403 – Permit Exceptions

No permit is needed under this Section for:

1. Exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner.
2. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for

modification or replacement, unless said modification structurally alters the premises or change the exterior shape or form in any manner.

8404 – Start Work Deadline

A permit issued under this Section is void if the use is not commenced within one (1) year. A renewal may be granted by the Zoning Administrator after a restudy of the permit for a fee as established by the Bear Lake Township Board.

8405 – Void Permits

- A. A violation of any condition or specification in a permit issued under this Section shall void the permit.
- B. Any improper or incorrect information contained in the application for permit issued under this Section shall void the permit until property corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

8406 – Fee

A non-refundable fee shall accompany each application for a permit under this Section. The fee shall be as established from time to time by the Bear Lake Township Board.

Article 86 – Special Use Permit

8601 – Introduction

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this Article until a permit authorizing the same shall be issued by the Township Planning Commission following an application for review and approval pursuant to the requirements of this Article.

8602 – Authority to Grant Special Use Permit

The Township Planning Commission may deny, approve or approve with conditions the request for special land use approval. Any conditions imposed shall be in accordance with the requirements of the Zoning Act.

8603 – Application and Fee

If a use is listed as a possible special use in any district, anyone with an interest in the property may apply for a Special Use Permit. A Special Use Permit application shall be made on a form provided by the administrator and submitted to the administrator along with a Site Plan and the required fee. The fee will be established from time to time by the Bear Lake Township Board. Any additional costs incurred in processing the application, beyond that covered by the fee, including, but not limited to publication costs, and attorney fees for the Township shall be paid by the applicant before the permit is issued. No portion of the fee shall be refundable.

8604 – Application Review for Completeness

- A. The Township Planning Commission as a condition to granting a special use permit under this Section, may require the applicant to submit such additional or further information as it deems necessary to make an informed decision on the request for special land use approval. The site plan, as approved by the Zoning Administrator and any supplementation required by the Township Planning Commission under the provisions of this paragraph shall become a part of the record of approval.
- B. The site plan shall be in writing and accompanied by a non-refundable fee established by the Bear Lake Township Board to cover the cost of processing.
- C. The Planning Commission may vote to waive or modify any requirements for information requested under the terms of this Section.
- D. Unless the Planning Commission votes to waive or modify any requirements of this Section, the application shall not be accepted unless the information required by this Article and Article 94 is supplied by the applicant. In the case of an incomplete application, the review and decision on the application shall not commence and no special use permit shall be issued.
- E. Transmittal to Township Planning Commission: Upon completion of review of the site plan by the Zoning Administrator who shall review the site plan for completeness, the Zoning Administrator shall transmit the same to the Township Planning Commission.

8605 – Notice and Hearing

Within thirty (30) days of receipt of the approved site plan from the Township Zoning Administrator, the Township Planning Commission shall give the public notice required by the Zoning Act, and thereafter, shall hold a public hearing in accordance with the Zoning Act. The date set for review of the application for a special land use permit may be either the date of a regular meeting of the Township Planning Commission or a special meeting called for the purpose of reviewing the request. The public hearing may be recessed for a reasonable period of time, as determined by the Planning Commission if it feels that additional information or study is needed.

8606 – Required Standards

No permit for a special land use shall be issued for any use, building or structure which:

1. fails to conform to any applicable provisions of Article 10;
2. fails to conform to any minimum requirements established for the land use district in which the proposed special land use is to be located; or
3. fails to conform to any standard set forth in the definition of the proposed special land use, as defined in this Ordinance.

8607 – Required Findings: For Making Determination

The Township Planning Commission shall review the particular facts and circumstances of each proposed special land use and shall find and record adequate data, information and evidence, showing that such proposed use:

- A. Will be consistent with and promote the intent and purpose of this Ordinance;
- B. Will be designed, constructed, operated, maintained and managed so as to be compatible with adjacent uses of land and harmonious and appropriate in appearance with the existing or intended character of the general vicinity;
- C. Will be served adequately by essential public facilities and services as highways, streets, police and fire protection, drainage structures, and solid and liquid waste disposal methods;
- D. Will not disrupt the orderly and proper development of the district as a whole or be in conflict with or discourage the principle permitted uses of adjacent or neighboring lands or buildings;
- E. Will not unnecessarily diminish land used to meet the needs of the State's citizens for food, fiber, energy and use of other natural resources;
- F. Will not be more objectionable to nearby properties by reason of traffic, noise vibrations, dust, fumes, smoke, glare, flashing lights or disposal of waste, than the operation of any principle permitted use;
- G. In the case of a special use permit for mining, whether on a regular or temporary basis, will result in no very serious consequences, which may be shown by meeting or exceeding the standards listed below, in addition to the required findings listed above:

- e. The base of the tower shall occupy no more than five hundred (500) square feet.
- f. The maximum height of a communication tower shall be the minimum height demonstrated by the applicant to be necessary for reasonable communication.
- g. Where the parcel adjoins any residentially zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than ten (10) feet to any structure.
- h. The base of all towers shall be set back from each lot line of the parcel a distance equal to at least the height of the tower.

(2) ACCESSORY STRUCTURES

- a. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty (30) feet.
- b. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.

(3) CONSTRUCTION STANDARDS

- a. The base of the tower and all wire cable supports shall be fenced with a minimum six (6) foot high fence designed to prevent access to the site and the wire cable supports.
- b. The tower owner shall agree to design and build the tower to provide for a minimum of four additional antennas. Subleases for this space shall be made available to the public at a rate reflecting current local industry standards.
- c. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- d. Tower construction plans shall be certified by a registered structural engineer.
- e. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- f. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.

- g. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- h. Antennas and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable statutes, regulations and standards.
- i. Towers with antennas shall be designed to withstand a uniform wind loadings as prescribed in all applicable building or construction codes.
- j. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- k. Existing on-site vegetation shall be preserved to the maximum extent practical.
- l. There shall be no displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- m. The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- n. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation and the environmental effects of radio frequency emissions. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standards or the Special use approval will be subject to revocation by the Zoning Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

4. USE STANDARDS

- a. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- b. The tower shall be removed by the property owner or lessee within six (6) months of being abandoned. For the purpose of this paragraph abandoned is defined as non-use. If the tower is not removed by the owner within the specified time, the Township shall have the right to remove the tower and assess a lien against the parcel to recover the costs associated with the removal.

5. MISCELLANEOUS STANDARDS

- a. All applications and special use permits for communication towers shall be signed by the licensed operator of the communication service.
- b. The applicant has demonstrated that it is not feasible to collocate on an existing tower by the payment of market rent or other market compensation to the owner of an existing tower, or that collocation on an existing tower is not technologically reasonable because of unreasonable interference or structural incapacity of an existing tower.

8608 – Other Informational Consideration

The Township Planning Commission, in reviewing an application for special use permit, may consider:

- A. The present use of the land involved in the application;
- B. The number and location of similar uses in the land use district in which the proposed special use will be located; and
- C. The comments received following the public notice and hearing; provided, however, that such information shall be considered only as it may affect the standards and findings required by this Article and shall not, alone, be sufficient grounds for the denial of a special use permit.

8609 – Voiding of Permits

Any improper or incorrect information contained in the application for a special use permit or the site plan submitted in connection therewith or the violation of any condition or standard imposed by the Township Planning Commission in the issuance of a special land use permit or by this Ordinance shall immediately void the special use permit. A special use permit is also void if the use is not commenced or construction is not begun within one (1) year of the date of issuance.

8610 – Performance Guarantees

- A. In granting a special use permit, the Township Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township Planning Commission and covering the estimated cost of improvements associated with a special use project and/or the estimated cost of reclamation of all areas distributed by mineral extraction operations and/or the estimated cost of removing a communication tower be furnished by the applicant to ensure compliance with an approved site plan and the special use requirements. Such bond shall be deposited with the Township Clerk at or before the time of the issuance of the special use permit.
- B. In fixing the amount of such bond for non-mining special use permits, the Township Planning Commission shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area including, but not limited to, roadways, lighting, public utilities,

sidewalks, screening, waste disposal, and drainage. The term "improvements" does not include the entire project, nor improvements for which a performance guarantee has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended. The Township Planning Commission and the applicant shall establish an agreeable procedure for the rebate of any bonds required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions of approval of the special use permit.

C. In the case of a special use for mining on a regular or temporary basis:

1. Any operator who obtains a mining permit from the Planning Commission for two or more project sites within Bear Lake Township may elect, at the time the second or any subsequent site is approved, to post a single bond in lieu of separate bonds on each site. Any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under each of his mining permits issued in Bear Lake Township less that amount deposited for the particular sites with the appropriate governmental agencies. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the Planning Commission.
2. At the termination of each bonding period, the Planning Commission shall review the bond amount on mining and reclamation progress and shall either maintain the existing bond, return all or a portion of the existing bond, or request the operator to increase the amount of the bond.
3. The operator may file with the Planning Commission a request for release of bond at such time as the operator feels that all reclamation has been satisfactorily completed or is in progress in accordance with the approved reclamation plan on any or all of the affected lands. Such request for release of bond shall include the name and address of the operator, the permit number, a legal description of the area, and a final reclamation report on the area for which the release of bond is requested. The final reclamation report shall contain the following information:
 - a. Name and address of the operator, permit number, and legal description of the land;
 - b. A map and/or aerial photograph on which the operator shall indicate the final contours, slope angles of the affected land, surface water drainage and ponds, and the locations of any remaining structures and roads;

- c. A description of reclamation activities leading to completion of the approved reclamation requirements including: topsoil disposition and thickness, revegetation practices, disposition of waste dumps, tailing ponds, and surface structures, haulage and access roads, sediment control practices, and maximum depth of artificial lakes or ponds;
- d. Operators of all underground mineral extraction operations shall also submit a complete plan of all entries, workings, and levels as well as a description of the sloping and ground support methods at the cessation of operations;
- e. For underground mining operations, a description of the stability of lands overlaying the underground workings and a description of methods to be used for sealing all shafts, adits, includes and other mine entries;
- f. Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond. Final release of the bond shall not occur until the operator files a final reclamation plan under the terms of this Ordinance.

D. Upon receipt of a request for release of the bond, the Planning Commission shall:

- 1. Inspect the designated lands;
- 2. Publish, in accordance with Article 86, 8601, notice that the release of bond application is pending and specify a 30-day period for filing of complaints with the Planning Commission against the release of bond;
- 3. Publish, in accordance with Article 86, 8601, notice of a public hearing at such time and place as the Planning Commission determines to consider the request for release of bond and make a determination on the validity of complaints. The notice required in (b) of this sub-section and this sub-section may be published at the same time, but in all cases the public hearing shall be held at least 30 days after the first notice required in (b) of this sub-section;
- 4. In the case of a special use permit for mining, if the reclamation is found to be satisfactory and all valid complaints have been satisfied, the Planning Commission shall release the appropriate amount of bond 30 days after the public hearing. If the reclamation is found to be

unsatisfactory; so notify the operator by registered mail setting forth the reasons for denial of release of bond and the corrective action necessary for release of bond.

5. In the case of non-mining special use permits, if the Planning Commission finds that the applicant has faithfully performed its agreement established under Article 94, 9410 above, it shall release the appropriate amount of bond 30 days after the public hearings, otherwise it shall so notify the applicant by registered mail setting forth the reasons for denial of release of bond and the corrective action needed to be taken.

- E. Nothing in this section shall be construed to infringe upon the Planning Commission's authority to take appropriate action on bonds, including forfeiture of all or part of the bond for cause. Forfeiture shall not be approved by the Planning Commission unless there has been publication of notice and a public hearing held consistent with the terms of this Ordinance.

8611 – Change, Renewals and Transfer of Special Use Permits

- A. The holder of a special use permit may at any time apply to the Planning Commission for amendment, cancellation, renewal, transfer, or change in the special use permit including a reclamation plan, provided that this section shall not include an expansion of a mining operation, a removal of mined lands from the aerial extent of the approved permit, a release of a bond or other security mechanism, or the renewal of a temporary mining special use permit.
- B. The application for the amendment, cancellation, or change shall be submitted to the Planning Commission which shall approve, approve conditionally, or deny the application subject to the standards set forth in this Ordinance.
- C. A regular mining special use permit shall be renewed at the end of the permit term for successive five-year terms after public hearing and notice as long as the operator continues to produce mineral materials from the property, conforms to the approved reclamation plan, and conforms to the provision of this Ordinance and is within the timetable of operations as established by 9403 of this Section.
- D. No holder of a special use permit shall assign, sell, lease or transfer in any manner any rights granted under the special use permit until his successor or assigns have complied with all the requirements of this Ordinance, including all requirements of a reclamation plan associated with a special use permit for mining and the filing of a bond of like amount with the Planning Commission. Upon compliance with the requirements of this Ordinance, the Planning Commission shall release the first holder from the requirements of this Ordinance, including any bond, and transfer the permit to the successor.

- E. Any application granted with conditions attached under the terms of this Section shall have the conditions attached in writing to the document of approval. Such conditions may cover any standard or requirement listed in this Ordinance. A violation of the conditions shall constitute a violation of this Ordinance, subject to penalties listed in this Ordinance.

8612 – Inspections

- A. Upon issuance of a special use permit, the Planning Commission or its approved agents may inspect the project site to determine compliance with the requirement of this Ordinance. Inspections may also include the required records of a mining operation.
- B. Such inspection shall be at reasonable times with notice provided to the operator.

8613 – Penalties

- A. Whenever the Planning Commission finds a violation of this Ordinance including unapproved deviation from a site plan or reclamation plan, it shall be recorded and the Planning Commission shall send the holder of the special use permit, by registered mail, an order specifying the nature of the violation, time of violation, and corrective steps necessary to achieve compliance with this Ordinance.
- B. The Planning Commission shall cancel the special use permit of any holder who fails to comply with the order within 30 days after the order is served unless the holder named therein, within 10 days after notice, requests in writing a hearing before the Planning Commission. Failure to show just cause for the continued violation and lack of compliance with the order shall result in permit cancellation and immediate cessation of all activities on the affected property.
- C. The penalties provided for herein shall in addition to the penalties provided in Article 98, 9803 of this Ordinance.

Article 94 – Site Plans

9401 – Site Plans

The site plan required under this Section shall include:

- a) Plans, specifications and drawings showing the location, design and size of the proposed land use and the buildings and structures to be located thereof; all abutting roads and streets; and the location of all existing structures.
- b) The legal seating and/or sleeping capacity of all buildings and structures
- c) A concise statement of all operations and uses which will be conducted on the land and buildings
- d) A concise statement of all services, if any, to be offered to the public
- e) Information concerning the intensity of use, including hours and times of operation and use, and the density of population which will occupy and use the premises
- f) Information concerning the generation of traffic and traffic movements
- g) Information concerning the requirements of the special land use for public services and utilities, including the number of sewer hoop-ups, generation and disposal of solid and liquid waste, and the amount of fresh water to be consumed
- h) The amount of soil, dirt, sand or gravel to be excavated and removed from the site, or the amount and composition of all fill to be placed on the site.
- i) The applicant's name and address in full and the principal offices and resident agent of the business if other than a sole proprietor; a statement that the applicant is the owner of the land involved in the application or is acting on the owner's behalf; and the address and legal description of the land involved including the Property Tax Roll Number involved in the application.
- j) The names and addresses of all owners of property which is assessed within 300 feet of the boundary of the property involved in the application, and the names of all occupants of all structures within 300 feet of the boundary of the property involved in the application.
- k) Information showing all setback distances for proposed structures from the front, side and rear lot lines, rivers, lakes, streams, or other bodies of water.

9402 – For Special Uses in the Agricultural District – AG-1

1. Location of past and present mining and land areas held for future extraction by operations.
2. The presence, location, extent and quality of potentially valuable mineral deposits both known and inferred.

9403 – For A Special Use Permit For Mining On A Regular Basis

A. A map and/or aerial photograph of the property which shall indicate:

1. Boundaries of the affected and adjacent lands;
2. Surface drainage of the affected land;
3. Location and names of all streams, roads, railroads, utility lines, and pipelines on or immediately adjacent to the area;

4. Location of all structures within one thousand feet of the outer perimeter of the area, present owners and occupants of such structures, and purposes for which each structure is used;
 5. Proposed location, aerial extent, and depth of intended mine excavation;
 6. Proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities or other permanent or temporary facilities used in mining
 7. Estimated depth to ground water.
- B. A description of the mining and processing equipment to be uses;
- C. A description of measures to be taken to control noise and vibrations from the operation;
- D. A description of measures to be taken to screen the operation from view;
- E. Proposed primary travel routes to be used to transport the mined material to processing plants or markets away from the property;
- F. A description of the plans for topsoil storage;
- G. A reclamation plan which shall include:
1. A map or plan and description of the proposed reclamation including grading, final slope angles, highwall reduction, benching and terracing of slopes, slope reduction, slope stabilization and revegetation where applicable, and erosion control, and alternative future land uses;
 2. Description of topsoil stripping and conservation during storage and replacement;
 3. Plan and description of anticipated final topography, water impoundment's, and
 4. Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining;
 5. A plan for disposal of treatment of any harmful or toxic materials found in any formations penetrated by the mining operation or produced during the processing of minerals on the affected land, and of chemicals or materials used during the mining or processing operations;
 6. The estimated cost of reclamation for the total project;
- H. A statement in writing and adequate evidence to indicate the duration of the lease in years;
- I. A timetable of he commencement, duration and cessation of mining operations;
- J. Any and all mining permits held by the applicant within the state.

9404 – For A Special Use permit For Mining On A Temporary Basis

- A. As may be required by the Planning Commission, a map and/or aerial photograph of the land with any or all of the information as listed in 9401 and 9403 of this Section, relating to requirements for maps and/or aerial photographs for regular mining special use permits;
- B. As may be required by the Planning Commission, any or all of the information listed in 9401 and 9403 of this Section, relating to requirements for information for regular mining special use permits.

Article 95 – Planned Unit Development

9501 – Planned Unit Development

This section recognizes that it may be desirable to modify certain restrictions of this Ordinance in the context of an innovative, efficient, planned unit development. The rationale for this departure from normal policy is virtually the entire ordinance is drafted in contemplation of regulating discrete, individually proposed uses. Whenever it can be demonstrated the needs of the community will be better served by a private plan which combines multiple structures or uses on a single area, it may be possible to modify some of the regulations which inhibit such a plan without formal amendment of this Ordinance.

9502 – Eligibility

No use shall be eligible for special treatment under this Section unless all of the following are determined:

- A. the application proposes a planned unit development as defined by this Ordinance; and
- B. planned unit development of the type contemplated is authorized by Special Use Permit in the relevant Land Use District; and
- C. every use contemplated in the planned unit development in the respective Land Use Districts are:
 - 1. legal uses and special uses in the respective Land use District in which it is located;
 - 2. duplexes; and
 - 3. apartment building with not more than four housing units; and
 - 4. the application is otherwise consistent with the legislative policy expressed in 9501

9503 – Procedure

Applications for planned unit development are essentially Special Use Permit applications which request a waiver of basic dimensional restrictions. Accordingly, they shall be processed by the Planning Commission under Section Article 86, 8601 et seq, except that any basic restriction relating to minimum lot size, minimum usable floor area, maximum height or setbacks may be modified in accordance with this Section.

9504 – Basis Restrictions and Modification Procedure

A. The Commission shall:

- 1. calculate the gross acreage of the site proposed for the planned unit development;
- 2. calculate the net land area as follows:

Given Total Land are in Proposal (in units of land area) + _____

Subtract Land which is cut off from main parcel by roads,

railroads, existing land use, or major water courses,
wetlands, such that common use is hindered or the
land is otherwise unavailable for buildings, and
shown on a site plan

- _____

Subtract Acreage set aside for street right-of-way
purposes, regardless of the amount of land actually
allocated for street right-of-way

- _____

Subtract Area of greenbelt as required in division
3 below, on a site plan

- _____

Equals Net Land Area

= _____

B. Planned Unit Developments shall be developed in accordance with the following regulations:

1. Minimum Gross Site Area. No structure shall be permitted unless they are part of a coordinated development with a gross site area of eight acres or more. Gross site area shall be defined for the purpose of this Section as the total land area described in a certified land survey and held in common ownership.
2. Minimum Net Land Area. No structures shall be permitted unless the minimum net land area shall not be less than one-half (1/2) of the gross area.
3. Structure Foundation Area Coverage. No development shall be approved with more than thirty-five (35%) percent of the net land area covered by structure foundation area.
4. Greenbelt Requirement. The necessity for, and specification of a greenbelt around the perimeter of a development shall be determined by the Planning Commission during site plan review. Any green belt so required and specified shall be at least ten (10) feet in width and landscaped and maintained with at least one (1) canopy tree, two (2) understory trees, and three (3) shrubs for each one hundred (100) linear feet of greenbelt. No structures shall be erected within a greenbelt area.
5. No structures shall be erected within the identified environmentally sensitive area (sand dunes, beach, water bodies, wetlands, floodplain, high risk erosion area, water setback areas, high risk erosion setback, slopes over 25 percent, unless specifically identified by the Planning Commission as necessary to protect the environmentally sensitive area or to enhance the environmentally sensitive area for passive recreational value.
6. The green belt and environmentally sensitive areas shall be shown spatially, with their boundaries, on the submitted site plan.

C. Following the above calculations:

1. The Commission then shall divide the gross area by the maximum number of principal structures allowed per given square feet in the

respective Land Use District in which the proposed Planned Unit Development is located in to determine density.

- a. When calculating available land area, all the land involved in the proposed Planned Unit Development may be used for gross acreage, regardless if the land is all in one Land use District or not.
 - b. If the gross acreage is located in more than one Land Use District, the Land Use District in which most of the land is located shall be used to determine number of principal structures or dwelling units permitted.
2. The Land Use District in which most of the land is located shall be used to determine which Land Use District regulations dealing with parking, setbacks, building heights, maximum percentage of lot coverage, minimum square feet of building area, and signs apply.
3. Nothing contained herein shall prevent the clustering of structures if desired by the applicant so long as the minimum densities and other regulations of the Ordinance are met.
4. The density obtained from the calculations in this Section represents maximum number of total dwellings, housing units and principal structures which may be permitted for development. Following these calculations, the Commission then may:
 - a. permit clustering of development and/or allow a reduction in the size of individual lots within the Planned Unit Development below the minimum area required so long as the density for the entire available land area is not exceeded; and/or
 - b. waive, wholly or in part any minimum usable floor area requirements, setback or maximum height, density, specified by the restrictions of the respective Land use District if doing so results in:
 1. Additional public property in the development and/or public easement on property in the development that is acceptable to the Township, and/or
 2. Lower costs for installation and/or maintenance of public utilities owned and operated, or to be owned and operated, by the Township, and/or
 3. Public Park land developed in or near the development, and/or
 4. Some other public value to the Township

Article 96 – Board of Appeals

9601 – Zoning Board of Appeals

- A. There is hereby established a Zoning Board of appeals which shall perform its duties and exercise its powers as provided by the Zoning Act, as amended, in such a way that the objectives of this Ordinance shall be enforced, the public health, welfare and safety secured, and substantial justice done.
- B. The Zoning Board of Appeals shall consist of five (5) members. Members of the Zoning Board of Appeals shall be appointed by the Township board in accordance with the Zoning Act, and shall be governed in accordance therewith. One member of the Zoning Board of Appeals shall also be a member of the Township Planning Commission. Members shall serve terms of three years. There shall also be two (2) alternate members for the same term as regular members as may be appointed, from time to time, by the Township board. An alternate member may be called to serve as a regular member of the Zoning Board of appeals in absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals. Appointments to vacancies must be made within one month after the preceding member's term has expired.

9602 Duties of the Zoning Board of Appeals

- A. The Zoning Board of appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Official Zoning Map. It shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of the majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or decide in favor of the applicant any matter upon which it is required to pass under, or to effect any variation in, this Ordinance. An appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state.
- B. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule by the filing with the Zoning Administrator of a notice of appeal specifying the grounds therefore. The

Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken.

- C. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give written notice thereof to the parties and their attorneys, if any, in accordance with Section 8202 of this ordinance. The Zoning Board of Appeals shall decide all matters within a reasonable time. Upon the hearing, any person may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the Zoning Administration, and, to that end, shall have all of the powers of the Zoning Administrator and may issue or direct the issuance of a permit. Upon the hearing of an appeal from any order, requirement, decision or determination of the Zoning Administrator, the Zoning Board of Appeals shall limit itself to a review and determination that the Zoning Administrator has correctly applied the relevant standards under this Ordinance, that the Zoning Administrator's order, requirement, decision or determination is based upon the competent material and substantial evidence on the whole record and that the Zoning Administrator's order, requirement, decision or determination is consistent with constitutional requirements of due process and equal protection. Nothing contained herein shall be construed as preventing the Zoning Board of Appeals from construing an appeal as a request for a variance from the strict terms of this Ordinance and proceeding in accordance with the succeeding Section.
- D. The Township Board shall remove a member of the ZBA for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.
 - 1. A member of the ZBA shall disqualify him or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office under the Zoning Act.

9603 – Variances

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of these rules or provisions of this Ordinance so that the spirit of the Ordinance is observed, the public health and safety secured, and the substantial justice done.

- B. The Zoning Board of Appeals may require the applicant for a variance from the provisions of this Ordinance to submit such surveys, plans or other information, in addition to such information already contained in the record, as is necessary for the Zoning Board of Appeals to investigate thoroughly the matters before it. The Zoning Board of Appeals may impose such conditions or limitations in granting a variance, not contrary to law, as it may deem necessary to comply with the spirit, intent and purpose of this Ordinance. A majority vote of the membership of the Zoning Board of Appeals is necessary to grant a dimensional variance and rule on an interpretation of the ordinance. The decision shall be in writing and reflect the facts, conclusions, and reasons for the decision.
- C. A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water or topography.
 2. The need for the variance is not the result of the actions of the property owner or previous property owners.
 3. That strict enforcement of the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will be unnecessarily burdensome.
 4. The requested variance is the minimum variance necessary to meet the property owner's needs as well as other owners in the district.
 5. The requested variance will not cause an adverse impact on surrounding property.
 6. The Zoning Board of Appeals shall not grant a variance to allow a use not permissible under the terms of this Ordinance.

9604 – Interpretation of Ordinance Text

- A. Interpretation – Pursuant to the requirement of MCL §125.297a; MSA §5.2963(27a) nothing contained herein shall be construed as prohibiting the Zoning Board of Appeals from interpreting the text of this Ordinance in such a fashion that will allow in a Land Use District buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use District, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance test.
- B. Standards – In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Zoning Board of Appeals shall consider the relevant policies for the Land Use District in question as set forth in the Land Use and Development Component of the Bear lake Township Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District in the Township.
- C. Precedent - An earlier determination under this Section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a special use permit in that Land Use District, but shall otherwise be subject to all requirements of Article 86, 8601 of this Ordinance.

Article 98 – Amendments, Validity, and Penalties

9801 – Amendments

The Township Board may, from time to time, amend, supplement, or change the regulations and boundaries of districts or provisions of this Ordinance in the manner prescribed by the Zoning Act.

9802 – Validity

This Ordinance and the various parts, sections, subsections, phrased and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more sections, subsections, phrases, sentences or clause be declared invalid.

9803 – Penalties

- A. Nuisance Per Se. Any building or structure which is erected, reconstructed, altered, converted, maintained, or used or any use of land or premises which is begun, maintained or changed in violation of any provisions of this Ordinance is hereby declar3ed to be a nuisance per se.
- B. Authorized Local Official. The Zoning Administrator is hereby designated as the authorized local official to issue municipal civil infraction citations.
- C. Violations; Civil Infractions. Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated voluntary association, who violates any provision of this Ordinance shall be guilty of a civil infraction. Violation of this Ordinance and its penalties shall be judicially enforced through the 85th Judicial District Court. Enforcement for violations of this Ordinance shall be as follows:
 - 1. Unless immediate action is necessary upon the determination by the Zoning Administrator that there is a danger to the public health, safety, or welfare, the person violating this Ordinance shall be served personally or through first class mail with a notice of violation requiring that the violation be corrected within thirty (30) days of this notice;
 - 2. Upon failure to correct the violation or in cases when immediate action is necessary, a person violating this Ordinance shall be issued a citation requiring their appearance in the 85th Judicial District Court. A person who violates this Ordinance shall be guilty of a civil infraction and shall be fined not less than \$150.00 nor more than \$500.00 plus costs.
 - 3. A person who violates this Ordinance shall be guilty of a civil infraction and when having been previously found responsible or

admitted responsibility for a violation of this Ordinance in a civil infraction proceeding, shall be fined not less than \$300.00 nor more than \$500.00 plus costs.

4. A person who violates this Ordinance shall be guilty of a civil infraction and when having been on at least two prior occasions found responsible or admitted responsibility for violation of this Ordinance in a civil infraction proceeding, shall be fined \$500.00 plus costs.

D. Violations; Civil Action. The Township board, the Township Zoning Administrator, the Board of Appeals, the Attorney for the Township, or any owner or owners of real estate within the Land Use District in which such building, structure or land is situated, may institute a nuisance, injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate, or remove any building or structure or use, which has been erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance.

E. Cumulative Remedies. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this Ordinance in a civil infraction proceeding shall not bar a civil action seeking equitable relief beyond the jurisdiction of the 85th Judicial District Court under sub-section D, hereof, arising from the same violation.

9804 – Conflicting Provisions

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.

9805 – Effective Date

The effective date of this Ordinance shall be April 11, 1995.

Amended #1 – Effective Date January 19, 1998

Amended #2 – Effective Date August 3, 1998.

Amended #3 – Effective Date September, 2000.

Amended #4 – Effective Date February, 2003.

Amended #5 – Effective Date May, 2006.

Amended #6 – Effective Date June 22, 2007.

