

CHAPTER 12

PUD – Mineral Removal

Section 12.1 Description and Purpose

The “PUD-MR” Planned Unit Development – Mineral Removal District is a Planned Unit Development zoning district established to authorize the planned removal, and in some cases processing, of mineral material. Rezoning to PUD-MR is required when mineral removal from a site exceeds a certain amount as specified in this Chapter on qualifying lands within the Township. The Township recognizes that mineral material is needed to develop and maintain the health, safety and general welfare of the Township, that mineral material is a limited resource, and that mineral material can only be removed from where it is found. The Township also recognizes that mineral removal may result in the loss of other Township resources, is generally incompatible with residential uses, has industrial-type characteristics, and creates the need for the reclamation of mined areas. This zoning district permits the use of qualifying land for mineral removal operations, but only after this proposed use of the land has been comprehensively reviewed and approved in the manner set forth below. This Chapter requires the reclamation of the land so that after completion, the land will be an asset to the community, rather than hazardous, unsightly, or unusable for purposes permitted under this Ordinance.

Section 12.2 Permitted Uses

Permitted uses in the PUD-MR District are:

- A. Agriculture, but not including any Buildings or Structures.
- B. Planned Mineral Removal.

Section 12.3 Eligibility Criteria

Land considered for rezoning to the PUD-MR District must satisfy all of the following requirements:

- A. **Minimum Size:** 20 acres.
- B. **Site Access.** The land must have direct access to a primary arterial street. Access must be by either:
 - 1. 66 feet of frontage on the primary arterial street. The land providing this access must be at least 66 feet wide at all points; or
 - 2. A 66-foot wide easement and right-of-way that benefits, is appurtenant to and runs with the land, and which permits general access to the land from the primary arterial street.

Land used to access the site must also be included in the PUD-MR district.

C. **Proximity to Residential District.** No portion of the land to be rezoned to PUD-MR may be closer than 1320 feet to any “R” District.

Section 12.4 Exclusive Method; Exceptions

This District is the exclusive method by which mineral material may be removed from lands located within the Township, except for the following situations:

A. **In General.** Mineral materials may be removed in the following quantities from any land in the Township without requiring a PUD-MR approval, subject to site plan approval by the Township Planner:

1. *A parcel between 0 and 5 acres in size – 5000 cubic yards in total*
2. *A parcel over 5 acres in size – 10,000 cubic yards in total*

The above limitations shall apply in a cumulative fashion regardless over what time period the removal of the mineral material may have occurred.

B. **Mineral Material Located in an Approved Plat or Approved Planned Unit Development or Pursuant to an Approved Special Use or Industrial or Commercial Site Plan Approval.** Up to 5,000 cubic yards of mineral material may be removed per acre from a property for which development has been approved by the Township as a plat, Planned Unit Development, or special use, or based on a site plan approval for an industrial or commercial use, provided that such mineral removal was also expressly approved by the Township as part of the approval process for that development. All such mineral material must be removed within 12 months of the date of final approval by the Township for the plat, PUD, site plan, or other development involved.

Section 12.5 Process

The following table describes the PUD-MR approval process:

PUD-MR Approval Process	
Step 1. Planning Commission Review of Preliminary Plan and Rezoning Request	
Submittal Requirements	<ul style="list-style-type: none"> • Rezoning Application (12 copies) • Project Description (12 copies) • Environmental Impact Assessment (12 copies) • End Use Description and Plan (12 copies) – See Section 12.8 “Approval of the End Use” • Application and Escrow Fees (See Section 12.6 “Preliminary Plan – Submittal Requirements for Step 1” for information about what is required for each item.)
Review Standards	Section 12.7 “Preliminary Plan – Review Standards for Step 1 and 2”
Public Hearing	Required.
Planning Commission action	Prepare and adopt a resolution with a recommendation to approve, approve with conditions, or deny the requested PUD-MR rezoning for the Township Board.
Step 2. Township Board Review of Preliminary Plan and Rezoning Request	

Table continued on next page	
Township Board Action at First Reading	The Township Board shall review the Planning Commission’s recommendation. If the Board has questions about the conditions or other matters, it shall forward those questions to the Planning Commission. If the Board proposes changes to the recommended conditions of approval, it shall forward changes to the Planning Commission.
Planning Commission Response	The Planning Commission shall consider comments from Township Board and forward a written response back to the Township Board. The response shall answer any questions and state whether it agrees or disagrees with any recommended changes to conditions of approval.
Township Board Action at Second Reading	The Township Board shall review the preliminary plan and the PUD-MR rezoning request according to the standards of review set forth in Section 12.7 and shall adopt a resolution to deny, approve, or approve with conditions the rezoning according to these standards following the procedures for rezoning set forth in Chapter 27.
Step 3. Final Mineral Plan –Review Operation and Restoration Plan	
Submittal Requirements	<ol style="list-style-type: none"> 1. <i>Final Mineral Plan</i> (see Section 12.8 “Final Mineral Removal Plan – Submittal Requirements for Step 3) <ul style="list-style-type: none"> • Must be submitted before any work at site can begin. • Must be submitted within one year of the effective date of the rezoning. 2. <i>Performance Guarantee</i> as required (see Section 12.10 “Performance Guarantee”)
Review Standards	Section 12.9 “Final Mineral Removal Plan – Review Standards and Operational Requirements”
Planning Commission Action	The Planning Commission shall approve, deny or approve with conditions the Final Mineral Removal Plan based on its conformance with the Preliminary Plan and the Final Mineral Removal Plan review standards.
Step 4. Annual Review of Operations	
Submittal Requirements	<p>Annual Operating Plan (see Section 12.11 “Annual Operating Plan – Submittal Requirements for Step 4”)</p> <p>Must be submitted each year by the submittal deadline for the regular January Planning Commission meeting. If the applicant submits the plan late, it shall be placed on the agenda for the next regular Planning Commission meeting if the agenda is not already full.</p> <p>Mineral removal operations cannot resume until the Planning Commission approves the Annual Operating Plan.</p>
Review Standards	See Section 12.12 “Annual Operating Plan–Review Standards for Step 4”
Public Hearing	The Planning Commission can hold an advisory public hearing. The applicant is responsible for the cost of the public hearing.
Planning Commission Action	The Planning Commission shall approve, deny or approve with conditions the Annual Operating Plan based on its conformance with the Annual Operating Plan review standards. The Planning Commission, or its designated subcommittee or agent, has the authority to inspect the site as a part of the review.

Section 12.6 Preliminary Plan - Submittal Requirements for Step 1

Applicants for a rezoning to the PUD-MR district must submit the following items to the Planning Department for the preliminary review:

- A. **Rezoning Application.** The rezoning application must be on forms provided by the Planning Department.
- B. **Project Description.** The project description must include the information required by Section 10.4 “Preliminary Plan – Submittal” and general information about mineral removal operations, including information on the following topics:
 - 1. Access to the site.
 - 2. Proposed buffers.
 - 3. Proposed methods for handling stormwater.
 - 4. Description of proposed on-site operations and the types of equipment that will be used.
 - 5. Efforts that the applicant will take to mitigate the adverse effects of the mineral removal operation, such as noise and dust.

The applicant can submit required information as a narrative or shown on plans.

- C. **Environmental Impact Assessment.** Must include the following information:
 - 1. A current aerial photograph displaying the area and all lands within 1320 feet of the site. The aerial map shall show the uses of the lands on the aerial map and the location of the various types and extent of existing natural features, such as soils, vegetation, and water bodies. Appropriate overlays at the scale of the aerial photograph may be used to depict topography, slope hazards, soils, vegetation, wildlife habitat, or any other information the Township reasonably requires in order to assess the environmental impact of the proposed mineral removal and restoration to an End-Use.
 - 2. A description of the various types and extent of existing major ground vegetation, particularly tree species, and endangered species found within the area proposed for mineral removal.
 - 3. A detailed description of any known, anticipated or likely adverse or detrimental effect upon any aspect of the community or element of the natural and built environment, with respect to both the site of the mineral removal and the surrounding area.
 - 4. A description of the type, quality, and amount of the mineral material at this site and of the current and potential market for the mineral material to be removed.
- D. **End Use Description.** The End Use Description must describe the proposed use(s), number of acres devoted to each use, projected number of units and density, utilities, methods for handling drainage, access to and within the site, and the zoning district to which the restored site is proposed to be rezoned. If the proposed End-Use is itself a Planned Unit Development to be approved together with the PUD-MR rezoning, the preliminary plan for the proposed End-Use shall include the content required by Section 10.4 “Preliminary Plan – Submissions and Content.”

Section 12.7 Preliminary Plan – Review Standards (Step 1 and Step 2)

The Planning Commission and Township Board shall review the preliminary plan and proposed PUD-MR rezoning based on the following standards:

- A. **Access.** Whether the Mineral Removal operation and proposed End-Use will have adequate and safe access from and onto the public streets of the Township, with particular reference to Vehicle and Pedestrian safety and convenience, traffic flow, frequency and control, dust management, traffic volume, and emergency access in case of fire or other catastrophe.
- B. **Storm Water Retention and Drainage.** Whether the site will have adequate and safe storm water retention capability, and whether the site will change drainage patterns or the amount of drainage going off the site during mining and for the End-Use.
- C. **Environmental Harm.** Whether the proposed mineral removal from the site will threaten any endangered or threatened species of plants or animals, or otherwise create an adverse or detrimental effect upon the environment. The Township can employ a consultant or consultants to assess the environmental effects. The applicant shall be responsible for the cost of the consultant(s).
- D. **Potential Harm Relative to the Value of the Mineral Material.** The value to the applicant and the public of the mineral material proposed to be removed from the site shall be balanced against any adverse effect of the proposed mineral removal from the site on adjacent property, the Township or the community, whether the adverse effect is on the natural or built environment.
- E. **Compatibility of Proposed End-Use.** Whether the proposed End-Use will be compatible with:
 - 1. The general purposes and requirements of this Ordinance, the Township’s Master Plan, and other ordinances, statutes and plans that regulate land development or uses in the Township.
 - 2. Adjoining properties.
 - 3. In the case of multiple uses on one site, whether the proposed uses will be compatible with one another.
- F. **Density and Intensity of End-Use.** Whether the density and intensity of the proposed End-Use is in conformance with the Township’s Master Plan.
- G. **Access to Utilities.** Whether the proposed End-Use will have adequate access to all public and private utilities necessary or desirable for its development.

- H. The general standards for a PUD contained in Chapter 11.1 “Planned Unit Development General Review Standards” and for a site plan in Chapter 25 must also be met for a PUD-MR.

Section 12.8 Approval of the End-Use

If it is clear that all mining and restoration will be fully completed pursuant to a PUD-MR within 7 years of the date of the PUD-MR approval, the applicant can, at its option, submit a request for an approval for a Planned Unit Development for a specific End-Use concurrent with the applicant’s application for a PUD-MR approval. In such case, the Planning Commission and Township Board shall have the option at the discretion of the Township of approving both a PUD-MR and a Planned Unit Development for a proposed End Use at the same time, with the End-Use PUD to be commenced upon completion of the mining and site restoration. Pursuant to such a concurrent approval, upon cessation of the mining and complete restoration having occurred, the PUD-MR shall cease and the PUD for the End-Use would commence. However, where such a concurrent approval has occurred and all mining and restoration has not been fully completed within 7 years, any End-Use approved as a Planned Unit Development at the same time the PUD-MR approval occurred would be null and void and the applicant would have to apply for a new End-Use Planned Unit Development approval or other rezoning.

If mining will not be completed within 7 years (or even if it will be completed within 7 years, but the applicant does not desire to pursue an End-Use Planned Unit Development approval at the same time when the PUD-MR is approved), the applicant must nevertheless still submit a conceptual plan for a proposed End-Use at the same time when the applicant files a PUD-MR approval request. In such case, even though mining ceases and restoration has been completed under the approved PUD-MR, the site will remain zoned PUD-MR (but dormant) until and unless the applicant receives approval from the Township for a Planned Unit Development for the End-Use or other rezoning approval. A conceptual End-Use plan submitted with a PUD-MR proposal (even if such End-Use plan is “approved” pursuant to the PUD-MR approval) shall not constitute an approved PUD or rezoning for the proposed End Use, and shall not accord the applicant any vested rights.

Section 12.9 Final Mineral Removal Plan – Submittal Requirements for Step 3

The Final Mineral Removal Plan must contain:

- A. **Map Drawing.** A map drawing of the site, or set of map drawings if necessary, done by a professional engineer, which meets the following specifications and containing the following information:
1. The name and address of the person responsible for preparing the Final Mineral Removal Plan shall be included. A Final Mineral Removal Plan shall also include the seal of any professional person involved in the preparation of it, the name and business address of the firm(s) of those professional person(s), and the date of

- preparation of the Final Mineral Removal Plan. Any revisions of the Final Mineral Removal Plan shall contain the revision date and number.
2. All lot or site lines shall be clearly drawn on the map and shall include, at a minimum, all bearings and dimensions mentioned in the legal description of the site.
 3. The general shape, size and location of all existing Structures on the site and on all adjoining properties.
 4. The location, pavement width, and right-of-way width of all abutting roads, Streets, Alleys, drives, or easements.
 5. The location and dimensions of all existing Buildings or Structures to be left on the site, all existing Buildings or Structures proposed to be removed or razed, and any proposed Buildings or Structures to be built or placed upon the site, including a description of the purpose or intended use of each Building, Structure, or part of the Building or Structure.
 6. All natural features including wetlands, streams, rivers, lakes, shoreline, wood lots, ditches and watercourses, and a topography map at a contour interval of not greater than 2 feet of elevation.
 7. The location and dimensions of all existing and proposed improvements on the site such as high tension towers, pipe lines, excavations, bridges, utilities, culverts, drains, docks, paths, parking areas.
 8. The location and size of all easements and rights-of-way for existing and proposed public utilities and any private on-site utilities such as provisions for lighting, sanitary sewage disposal, storm drainage and water supply.
 9. The size in acres and square feet of the site, both including and excluding road rights-of-way.
 10. The location and dimensions of all existing and proposed drives curb openings, signs and curbing.
 11. Shading indicating the extent of the area to be excavated on the site.
 12. Typical cross-sections showing the extent of overburden, the extent of mineral deposits, and the location of the water table.
 13. The location and direction of all watercourses and flood control channels that the excavation may affect, and areas to be used for ponds.
 14. The location of all mineral processing and storage areas.
 15. The location of all fencing and gates.
 16. The location of proposed berms and vegetative buffers, including descriptions of berms or buffers and cross-sections for the berms.

17. Additional information as the Planning Commission may request that is reasonably necessary to evaluate the proposed development of the site.
- B. **Operational Plan.** The operational plan shall include a narrative description of the proposed planned mineral removal together with the following information:
1. The date when the mineral removal is expected to begin and the date the mineral removal is expected to be completed.
 2. The proposed hours and days of operation.
 3. The estimated type and volume of mineral material to be removed (both in total and annually) and the location of same.
 4. The removal and processing methods, including a description of the number and type of all equipment expected to be used in the operation, and the noise rating of each type.
 5. Proposed slopes for banks of excavated materials.
 6. A description of the proposed measures to limit the dust generated by the mineral removal, including dust generated by the movement of vehicles on and off the site, and a description of the routes to be used by vehicles carrying the minerals off the site.
- C. **Site Restoration Plan.** The applicant shall provide a narrative description of the planned site restoration, including a description of the property after it is restored, the proposed grading for the restored site including maximum slopes (cannot exceed 1 foot of elevation for each 3 feet of horizontal distance), the methods that will be used to accomplish the restoration, the timing of the restoration, and the estimated costs of the restoration. The applicant must also provide a plan map showing the general outlines of the proposed restoration.
- D. Any other circumstances, matters, factors, or reasons that the applicant desires to offer or explain with respect to the Final Mineral Removal Plan.
- E. Any additional information required by the Planning Commission.

Section 12.10 Final Mineral Plan – Review Standards and Operational Requirements

The Final Mineral Removal Plan must demonstrate that the mineral removal operation will meet all of the following standards and requirements:

- A. **Beginning and Completion Date.** The date when the applicant expects to begin mineral removal must be within one year of approval of the Final Mineral Removal Plan. The completion date must be before the time limit required by Section 12.15 “Time Limit.”
- B. **Hours of Operation.** Mineral removal shall not be conducted as a 24 hour per day operation. The Planning Commission may establish reasonable hours and days of

operation, taking into consideration the needs and desires of neighbors and persons who live or work on the routes used by the vehicles engaged in the mineral removal.

C. **Setbacks for Mineral Removal Activity.**

1. *Mineral removal:* 100 feet from the edge of the PUD-MR District.
2. *Routes for the vehicles used for the mineral removal:* 50 feet from the edge of the PUD-MR District.
3. *Mineral removal:* 100 feet from a residential dwelling on any land not owned or within the possession of the applicant. This applies only for a dwelling which existed prior to the date of approval for the PUD-MR involved.

D. **Equipment Limits.** Equipment that emits noise louder than 85 decibels measured at a distance of 50 feet from the equipment when operating shall not be located closer than 1320 feet to the nearest occupied Building, except for beepers that are required by law. The Planning Commission may, at its discretion, approve an operational plan that allows equipment exceeding these noise limitations if the applicant's plan proposes to place a berm between the mineral removal operation and any occupied Building that is within 1320 feet of the planned mineral removal operation. Equipment can then be placed up to the base of the approved berm. The berm must be seeded, mulched and maintained to inhibit erosion. The slope on the outward side of the berm shall be graded to slopes of not greater than 1 foot of elevation for each 4 feet of horizontal distance, unless the Planning Commission approves an alternate slope. The berm shall be located above the source of the noise and its peak shall be at least up to the line of sight between the mineral removal operation and any occupied Building or Buildings located on adjoining property.

E. **Engine Brakes.** No engine brakes may be used within the mineral removal operation area.

F. **Excavated Material and Grading.** No mineral material or other excavated material shall be left in such a condition that it constitutes a danger to persons who may enter the mineral removal area. At a minimum, this means that all banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than 1 foot of elevation for each 2 feet of horizontal distance after the end of daily operation. The Planning Commission may approve a less restrictive grading requirement if a substantially constructed fence is located on the site. The fence must meet all of the following standards:

1. Be at least 4 feet in height.
2. Be maintained and located so that any slopes steeper than 1 foot of elevation for each 2 feet of horizontal distance cannot inadvertently be approached by any person who may enter the mineral removal area.
3. The driveway to the mineral removal area has a gate of the same quality material and at the same height as the fence.

4. The gate shall be locked whenever mineral removal is not occurring.
- G. **Drives.** At least one driveway shall enter onto a primary arterial street. There must be a maintained landscaped area around the site entrance as shown on the approved Final Mineral Removal Plan.
- H. **Processing of Minerals; Storage of Materials From Other Sites.** Processing of mineral material (including, but not limited to, sorting, crushing, and mixing of minerals) can occur on the site but only if expressly approved by the Township as part of the PUD-MR. Mineral materials which have originated on or been mined from properties not included within the PUD-MR may be brought on site for processing, mixing, or storage only if expressly approved as part of the PUD-MR and as shown on the approved site plan. Pursuant to an approval for any such mineral materials brought on site from other properties, the applicant shall disclose amounts of such materials to be brought on site and the frequency of such deliveries to the site from outside, as well as the total amount of such mineral materials from other properties which will be stored on site at any one time. Reasonable conditions can be attached to any PUD-MR involving the processing of minerals and the storage or utilization of materials from other sites. Cement or batch plants or facilities shall not be present on any site.
- I. **Ponds or Lakes.** Ponds or lakes may be created pursuant to a Mineral Removal as long as any created or altered body of water is expressly approved as a part of the PUD-MR. Ponds or lakes which are to remain after mining has been completed shall be of a sufficient depth, size and configuration so that water does not become stagnate or putrid. During the time the mining is occurring, fencing around all such bodies of water shall occur to the extent reasonably necessary as to make the site safe as shown on the approved site plan. Furthermore, the applicant will be responsible for receiving any applicable approvals or permits from the state of Michigan.
- J. **Amount of Area Being Excavated at One Time.** For a given site involving a mining operation, no more than 20 acres shall be stripped of topsoil and open for mining at any one time unless a larger area is expressly approved by the Planning Commission as part of an Annual Review and the Planning Commission also finds that all of the follow standards are met:
 1. Opening the larger area will not cause greater adverse impacts due to dust and noise than mining a smaller area.
 2. Opening the larger area will not cause greater adverse impacts in general to adverse impacts upon adjoining properties than mining a smaller area.
 3. The opening of a larger area will not conflict with the intent of the PUD-MR Chapter of this Ordinance or the Master Plan.

Section 12.11 Performance Guarantee

An applicant for a Final Mineral Removal Plan must submit a performance guarantee (i.e., letter of credit, security bond, or cash deposit) acceptable to the Township with the Township as the beneficiary in an amount that the Planning Commission reasonably requires before starting mineral removal. The performance guarantee shall be conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the Final Mineral Removal Plan and any other Township requirements. The Planning Commission shall consider the following when establishing the amount of the security:

- A. The size, scope, and timing of the proposed mineral removal.
- B. The probable cost of site restoration in the event of default or other non-compliance with the Final Mineral Removal Plan.
- C. The estimated cost to the Township of compelling compliance with the Final Mineral Removal Plan and enforcing this performance guarantee by judicial proceedings or otherwise.
- D. Other facts and conditions as are relevant in determining an appropriate amount.

The applicant shall renew the performance guarantee and provide the Township with the renewed security document each year during the mineral removal operations until the site restoration is complete. The Planning Commission shall review the performance guarantee each year when reviewing the Annual Operating Plan, and may adjust the amount each year based upon the expected cost of relevant factors including site restoration according to the Site Restoration Plan at that time. Failure to maintain and timely renew this performance guarantee shall be a breach of a condition of the Final Mineral Removal Plan. No mining, processing or similar operations shall occur on site at any time when the required performance guarantee is not in effect.

Section 12.12 Annual Operating Plan – Submittal Requirements for Step 4

The Annual Operating Plan must include:

- A. **Map Drawing:** A map drawing showing the area to be mined during the upcoming year and the areas that have been mined or restored. The site plan must include the information required by Section 12.9 (A) “Map Drawing for the Final Mineral Removal Plan.”
- B. **Site Restoration Plan:** A Site Restoration Plan showing the area to be restored during the upcoming year, including the following information:
 - 1. Final grades for the land after restoration at a contour interval not exceeding 2 feet together with a description of the soil type if the final grade of any portion of the land is greater than 1 foot of elevation for each 3 feet of horizontal distance. All reclaimed areas shall have topsoil with a depth of at least 4 inches unless otherwise approved by the Planning Commission.

- C. **Operational Plan:** An Operational Plan for the area to be mined during the upcoming year that includes the information required by Section 12.9 (B) “Operational Plan for the Final Mineral Removal Plan.”

Section 12.13 Annual Operating Plan – Review Standards for Step 4

In determining whether to approve, approve with conditions or deny a proposed Annual Operating Plan, the Planning Commission shall consider:

- A. Whether the Annual Operating Plan conforms to the approved Final Mineral Removal Plan and the standards contained in Section 12.10 of this Ordinance.
- B. Whether the restored site as shown on the Site Restoration Plan meets the following requirements:
1. The topsoil shall be stabilized with plantings or Structures to prevent erosion. All restored areas shall have topsoil to a depth of at least 4 inches, unless otherwise approved by the Planning Commission.
 2. Plantings of grasses, shrubs, trees and other vegetation shall be located on the site to maximize erosion protection, screen less attractive areas, and enhance the natural beauty of the site.
 3. No storage or dumping of stumps, boulders or other debris shall be permitted on the restored site.
 4. Final surface water drainage courses and areas of surface water retention shall be laid out and constructed at such locations and in such manner as to enhance the End-Use, and so that the original drainage patterns and amount of drainage off the site is not changed.
- C. Whether the site is in compliance with previous Annual Operating Plans.

Section 12.14 If the Annual Operating Plan is Denied

If the Planning Commission denies the Annual Operating Plan, the applicant shall have an opportunity to submit a revised Annual Operating Plan. The applicant must submit the revised Annual Operating Plan within 30 days of the Planning Commission’s denial. If the applicant does not submit a revised Annual Operating Plan or the Planning Commission denies the revised Annual Operating Plan, all mining, processing and related activity shall cease and the applicant must promptly restore the site according the approved Final Mineral Removal Plan and the Site Restoration Plan approved with the last approved Annual Operating Plan.

Section 12.15 Time Limits

Unless a lesser time limit is imposed as a condition of approval, mineral removal within an approved PUD-MR must be complete within seven (7) years of the beginning date of mineral removal operations as stated in the approved Final Mineral Removal Plan. The Township Board, upon a recommendation from the Planning Commission, can approve at its discretion one or more 2-year time extensions (but no more than four such 2-year extensions in total). Except as otherwise provided by a plan approved by the Township, full and complete restoration must occur within one (1) year of the cessation of mineral removal operations. The Township Board and Planning Commission shall consider the following standards when deciding whether to approve a time extension request:

- A. Whether the site complies with all requirements of this Ordinance and the Final Mineral Removal Plan and latest Annual Operating Plan.
- B. Whether there is a history of non-compliance with the requirements of this Chapter.
- C. Whether the applicant has proceeded diligently with mineral removal and restoration of the site.
- D. Whether the extension will create substantial adverse effects on adjacent properties, the environment, or the Township in general because of traffic, pollution, dust, noise or any other reason.

The Planning Commission may hold a Public Hearing when considering a time extension request if deemed in the public interest. Conditions may be attached to any time extension that is in addition to or different from those contained in the original approval.

Section 12.16 Completion of Mineral Removal; Beginning of an Approved End Use

After Planned Mineral Removal has been completed, the Township Engineer and Planner shall inspect the site or any portion of the site to determine whether the site or portion of the site has been fully restored according to the approved Site Restoration Plan. The Township may employ an outside consultant or consultants to inspect the site. The applicant shall pay the cost of the outside consultant(s). Upon receipt of a letter confirming compliance from the Planning Department, the applicant may develop the restored site or portion of the site according to the approved End-Use PUD if the End-Use PUD was approved at the time of rezoning to the PUD-MR District. Where approval of an End-Use as a PUD did not occur at the time of rezoning to the PUD-MR District or since that time, the applicant may apply for a rezoning for a Planned Unit Development or other appropriate zoning district.

Section 12.17 Change of Final Mineral Removal Plan or Annual Operating Plan

The Final Mineral Removal Plan or the Annual Operating Plan, including all conditions imposed upon either, shall remain unchanged except upon the mutual written consent of the Planning Commission and the applicant. If an applicant requests a change in the Final Mineral Removal

Plan or Annual Operating Plan, the Planning Commission shall decide whether the proposed change warrants a complete or partial review. In the case of a minor deviation that neither affects the intent of the approved plan nor violates any ordinance or statute, the Planner may approve field changes on behalf of the Township, who shall then advise the Planning Commission of all such changes in writing. The Planning Department shall maintain a record of all changes to the Final Mineral Removal Plan or Annual Operating Plan.

Section 12.18 Change of an Earlier Approved End Use for the PUD-MR District

If an applicant does not desire to develop the End-Use for a site according to the Planned Unit Development for an End-Use approved when the property was rezoned to the PUD-MR District, the applicant may request a different rezoning of the property according to the provisions of Chapter 27. Where there already exists an approved PUD for an End-Use, the Township shall not be required to rezone the site to another zoning designation unless it cannot be reasonably developed for the approved End-Use PUD, but the Township shall consider the new rezoning request according to the provisions of this Ordinance.

Section 12.19 Termination of Final Mineral Removal Plan Approval

A Final Mineral Removal Plan shall be valid for one (1) year from the date of approval. Final Mineral Removal Plan Approval shall automatically terminate in the following situations:

- A. **Failure to begin:** If mineral removal has not started within the one-year period, the Final Mineral Removal Plan approval shall automatically terminate.
- B. **Failure to meet conditions:** If the applicant has not satisfied a condition attached to the approval of the Final Mineral Removal Plan within the time limit included in the condition or, if no limit was included, within the one-year period, the Planning Commission may revoke the Final Mineral Removal Plan approval upon finding that the condition has not been satisfied after holding a hearing with the applicant. The Planning Department shall notify the applicant in writing of the time, date and place of the hearing at least 10 days prior to any hearings.

Nothing provided in this Section shall be construed to prevent an applicant from reapplying for Final Mineral Removal Plan approval after the termination or revocation of a Final Mineral Removal Plan.

Section 12.20 Termination of PUD-MR Zoning Upon Failure To Submit, Receive or Retain Approval For A Final Mineral Removal Plan

If an applicant does not submit a Final Mineral Removal Plan within one year of the PUD-MR rezoning or if the Planning Commission has approved a Final Mineral Removal Plan but subsequently revokes it pursuant to the provisions of Section 12.19, the Township shall be free to

rezone the land back to its prior zoning district designation or another zoning designation. The provisions of this Section shall not limit the Township’s authority to consider rezoning of the site or any portion of the site at any other time or to any other District in accordance with law.

Section 12.21 Applicability to Existing Approved PUD-MR’s

Existing PUD-MR’s with an approved Final Mineral Removal Plan must apply for approval of an Annual Operating Plan per the requirements of Step 4 “Annual Operating Plan” in Section 12.5 “Process.” Existing PUD-MR’s without an approved Final Mineral Removal Plan or where the Final Mineral Removal Plan has expired, must apply for Final Mineral Removal Plan approval per the requirements of Step 3 “Final Plan – Review Operation Plan” in Section 12.5 “Process.”

Section 12.22 Definitions

The words and phrases described in this paragraph shall have the following meanings:

- A. **End-Use.** A use or uses of lands that were formerly used, in whole or in part, for planned mineral removal.
- B. **Mineral Material.** Soil, dirt, clay, earth, sand, gravel, coal, gypsum, limestone, or any combination of them or other solid minerals, whether occurring naturally or artificially.
- C. **Mineral Removal.** The mining, extracting, excavating for, processing, removal and/or transport of mineral material, and other activities conducted for the purpose of the removal of mineral material, and the restoration, reclamation and improvement of lands after the removal of mineral material where all of these activities involve the final removal of more than 5000 cubic yards of mineral material per any 3 contiguous acres of qualifying lands within the Township.
- D. **Planned Mineral Removal.** The mining, extracting, excavating for, processing, removal and transport of mineral material, and other activities conducted for the purpose of the removal of mineral material, and the restoration, reclamation and improvement of lands after the removal of mineral material, where the same are accomplished in accordance with a plan submitted, considered and approved as a PUD-MR in accordance with this Chapter.
- E. **Restoration.** The process or act of causing land which has been mined (or where mining has occurred or ceased) to be put into a state appropriate for an End-Use or for open space or agricultural use. This process is governed by this Chapter.