

Township Sand and Gravel Mining

TOWNSHIP OF MARENGO
COUNTY OF CALHOUN, MICHIGAN

March 26, 2024

At a regular meeting of the Township Board of the Township of Marengo, held in the Township Hall, Marengo, Michigan, on the 26th day of March 2024, at 7:00 p.m.

PRESENT: D.Fountain,D.VanSickle,C.Tabiadon,D.Hoffman,&T.Hazel

ABSENT: 0

The following ordinance was offered by Todd Hazel and supported by Duane Hoffman.

ORDINANCE NO. 2023-03

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE TOWNSHIP OF
MARENGO

[Article 2 Definitions, Article 3 General Provisions, Article 7 AG District, Article 8 RE District, Article 9 LD District, Article 10 MD District, Article 11 MF District, Article 12 MH District, Article 13 CM District; Article 14 I-1 District; Article 20 Special Land Use Sand and Gravel Mining (as alphabetized)]

Section 1. Amendment of Article 2, Section 2.02, Definitions: The Marengo Township Zoning Ordinance, Article 2, Section 2.02, Definitions, shall be amended to add the following definitions:

Mineral Removal - A mineral is a naturally occurring inorganic element or compound having an orderly internal structure and characteristic chemical composition, crystal form, and physical properties. Mineral removal refers to a method of extracting minerals from the earth through their removal from an open pit or borrow. This process is done on the ground surface of the earth. It is best suited for accessing mostly vertical deposits of minerals. Open-pit mining is the most common type of mineral removal. This type of mining is typically used to mine gravel and sand.

Sand and Gravel Mining - Sand and Gravel Mining requires four operations including: (1) site clearing (removal of trees and vegetation, soil, and other overburden; soil must be stockpiled and reused later), (2) mining, (3) processing (crushing, screening, washing, blending, and stockpiling of the mined material to conform to standards), and (4) reclamation of the mined area. Bulldozers, tractor scrapers, and front-end loaders extract the sand and gravel from glacial deposits like eskers, kames, and outwash plains. Many mining operations also include stone crushers, so that all the rock can be utilized. The mineral material is then sieved and sized, to the specs of the particular application. Construction-grade sand and gravel is a *high volume, low value* commodity, and *cannot be economically transported long distances*. Most commonly, large trucks are used to transport the sand and gravel, and the rule of thumb is that it cannot economically be transported more than 30 miles. Thus, Sand and Gravel Mining must be located near where it is needed.

Section 2. Amendment of Article 3, Section 3.28, General Provisions: The Marengo Township Zoning Ordinance, Article 3, Section 3.28, **General Provisions**, shall be amended as follows:

3.28 Mineral Removal

Mineral Removal ("MR") provisions are adopted for the purpose of authorizing the removal of mineral material equaling or exceeding one thousand (1,000) cubic yards in all zoning districts within the Township through the Special Land Use approval process.

Section 3. Amendment of Article 3, Section 3.28, General Provisions: The Marengo Township Zoning Ordinance Articles 7, 8, 9, 10, 11, 12, 13 and 14, is hereby amended by adding "Sand and Gravel Mining" to sections 7.04, 8.04, 9.04, 10.04, 11.04, 12.04, 13.04, 14.04 as Special Land Uses.

Section 4. Amendment of Article 20, Section 20.11 (19), Special Land Uses: - The Zoning Ordinance of the Township of Marengo is hereby amended by replacing the entirety of 20.11 (19) alphabetically within the Article, as follows:

Sand and Gravel Mining -

Sand and Gravel Mining ("**SGM**") provisions authorize the mining of mineral material exceeding one thousand (1,000) cubic yards from lands within the Township through the Special Land Use approval process, and for authorizing a "Reclamation Plan", after the completion of Sand and Gravel Mining removal operations. Under the terms of any SLU permit, Sand and Gravel Mining shall be accomplished without serious adverse consequences to other lands and other land uses in the vicinity and elsewhere in the Township.

Land, including the buildings and structures thereon, that is subject to a SLU permit may be used only for Sand and Gravel Mining and/or for the uses permitted herein and shall take place only in accordance with the provisions of this section. Any resulting use, following Sand and Gravel Mining activities and operations, shall conform to Township Zoning. Proposed SGM uses shall be considered for approval under this section only if all the following conditions for eligibility and requirements permit applications are met.

No lands shall be considered for an SGM unless they are located at least five hundred (500) feet from any dwelling.

A. **Application for SGM Permit** - Applicants proposing an eligible SGM shall apply for a SLU permit, together with the required application fee, to the Township. The application accompanied by all required fees and escrow deposit into an account for reimbursement of Township expenses shall include the following:

- i. A legal description of the lands proposed for the SGM.
- ii. Twelve (12) copies of a SGM plan, drawn and sealed by a registered civil engineer, and including the following:
 - a. A North arrow, scale, and date.
 - b. Shading or other markings showing the lands on which Mineral Removal operations and activities will take place.

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- c. The location, width, and grade of all easements or rights of way on or abutting the lands.
- d. The location and nature of all structures on the lands.
- e. The identification, location and direction of all watersheds, streams, and other water courses whether on or off the mining site and storm water drainage areas and flow ways on the lands, and all water courses and storm water drainage areas or flow ways on other lands which may be affected by the Mineral Removal operations.
- f. Existing elevations of the lands at contour intervals of not more than five (5) feet.
- g. Copies of logs of all existing water supply wells on the Mineral Removal lands and on all adjacent lands.
- h. Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material located in or on the lands, and the groundwater table.
- i. Mineral processing and storage areas including areas for stockpiling mineral material.
- j. Proposed fencing, gates, parking areas and signs.
- k. Roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust, dirt and other debris generated by Mineral Removal activities and movement of vehicles.
- l. A map showing access routes between the subject lands and the nearest major streets, and the streets and routes proposed to be used for the hauling of mineral material and the return of trucks to the site.
- m. Areas to be used for ponding or other accumulation of water.

The application shall include a narrative description and explanation of the proposed Mineral Removal operations and activities. The narrative shall contain:

- i. The date of commencement.
- ii. Proposed hours and days of operation.
- iii. Estimated type and quantity of mineral material to be removed.
- iv. Description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof.
- v. A detailed listing and description of the potential serious adverse consequences that may result from the proposed Mineral Removal operations and activities.

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- vi. The measures proposed, if any, for the avoidance or moderating of such adverse consequences.
- vii. A summary of the procedures and practices that will be used to ensure compliance with the provisions of this section.

The application shall include a site reclamation plan containing the following:

- i. A description of the restoration, reclamation and improvement of the lands, and the proposed resulting uses for the lands after Mineral Removal activities have ended, including any phasing of proposed site reclamation and the timing thereof.
- ii. A plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all land features, improvements, streets, and other aspects of the proposed uses for the lands after completion of Mineral Removal operations.
- iii. A description of all adverse effects, whether anticipated or possible, on the groundwater table and other underground sources of water supply, together with copies of reports or studies analyzing the effect, if any, of the Mineral Removal operations on the underground water supply of the subject land and adjacent and nearby lands.
- iv. A description of proposed methods or features which will ensure that the resulting uses are feasible and shall comply with the Township Comprehensive Plan and all applicable requirements of this Ordinance.

The application shall include an environmental impact statement, including the following:

- i. A current aerial photograph (at a scale of not less than one hundred (100) feet to one inch) displaying the lands to be mined and all other lands within one thousand (1,000) feet thereof. The aerial photograph shall also show the location of current land uses, types and extent of existing natural features, topography, soils, vegetation, wildlife habitat and other items or land features noted in the environmental impact statement.
- ii. A description of the type and extent of significant vegetation on the lands proposed for rezoning, including trees and endangered plant species.
- iii. A detailed description of any known, anticipated, or possible adverse or detrimental effects upon any aspect or element of the environment, including lands proposed for rezoning and adjacent and nearby lands.

Such other studies, reports, and assessments that may be requested by the Township, including though not limited to the following:

- i. A traffic impact study.

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- ii. A listing of known existing Mineral Removal operations within the Township and within reasonable proximity of the Township, including estimated quantity and type of mineral material available for mining and other aspects of such operations; and
 - iii. Other reports, studies or information that may be requested by the Township with respect to the proposed SGM operations.
- B. **Standards of Review for SGM** - Before consideration by the Planning Commission shall review each SGM application. In such review, the Planning Commission shall consider, among other matters, the intent, and purpose of this section and the Zoning Ordinance. The Planning Commission shall recommend approval of a SGM application, and shall consider the same for approval, only if all the following standards, conditions, and requirements are satisfied by the application, SGM plan, Site Reclamation Plan and other materials required to be submitted under the terms of this section.
- C. Operations and activities for mining, extracting, excavating for, processing, mining and transport of mineral materials shall be located only as follows:
- i. They shall be at least one hundred (100) feet from any property line and five hundred (500) feet from any adjacent structure.
 - ii. They may be located without any setback from a boundary line of adjacent lands for which a SLU permit has been granted if such adjacent lands are owned by the owner or operator of the subject lands. If such zero-setback is approved, or if some other setback is approved, by the Planning Commission and Township as a provision in the SGM permit.
 - iii. There shall be not more than one (1) entrance to and exit from the site of SGM operations, from and to a public street, unless additional entrances or exits are approved as a part of the SLU permit. Any such entrance and exit shall be subject to the approval of the Calhoun County Road Department. If reasonably feasible, the locations of entrances and exits shall be placed so that the travel of mineral transport vehicles over primarily residential streets is avoided.
 - iv. Not more than twenty (20) acres of land shall be authorized for SGM operations or activities at any one time and land previously excavated must be rehabilitated in accordance with the Site Reclamation Plan.
- D. There shall be an inspection by the Township Zoning Administrator of each completed phase to verify compliance with the terms of this section.

Upon the completion of each phase, the applicant shall notify the Township that the phase is ready for inspection, and the Township shall make the inspection within a reasonable time. Until such inspection is made, and until approval of the completed phase has been given by the Township, the applicant shall not commence work on any subsequent phase.

Any work or other action undertaken by the applicant in or with respect to a subsequent phase, before the Township inspection and approval of the previous phase, shall be a violation of the SLU permit and a violation of the Zoning Ordinance.

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In that event, the Township may take all appropriate enforcement measures, including issuance of an order for the stopping of all work within the SGM, until all required inspections have been made and Township approvals given.

- E. Each Site Reclamation Plan shall be reviewed by the Planning Commission and comply with all the following standards and requirements:
- i. Topsoil shall be replaced on the site to a depth of not less than six inches, except where the resulting uses do not involve the growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed resulting use. The plan shall indicate any phasing of site reclamation; if site reclamation is to be phased, topsoil shall be replaced, and slopes shall be graded, stabilized, and seeded before Mineral Removal operations are commenced in another area of the SGM site. The placing of topsoil and the grading, stabilization and seeding of slopes shall take place not only at the end of SGM operations at the site, but also upon the conclusion of each Mineral Removal phase, as described in this section.
 - ii. Final slopes shall have a ratio of not greater than one foot of elevation within each three feet of horizontal distance, at the conclusion of SGM operations at the site and at the conclusion of each individual phase of Mineral Removal as described in this section.
 - iii. Final surface water drainage courses and areas of surface water retention shall be designed and constructed at such locations and in such manner as to avoid adverse effects on adjacent or nearby lands because of storm water runoff. Erosion or other damage to the lands, at the end of SGM operations at the site and at the conclusion of each Mineral Removal phase shall be avoided.
 - iv. **Plantings/Landscaping -**
 - a. Plantings of grasses, shrubs, trees, and other vegetation shall be located on the site to maximize erosion protection, and enhance the natural beauty of the site, and for the screening of view from other lands.
 - b. Landscaping shall be planted and maintained, and where appropriate earthen berms shall be constructed, to screen less attractive areas or resulting uses. In addition, landscaping and/or earthen berms may be required to screen SGM operations and activities from view from other lands and to moderate noise levels from operations of equipment and vehicles.
 - c. Trees and shrubbery shall be planted sufficiently close together and shall be of such height that when planted they serve as effective screening of the view from adjacent lands and to moderate noise levels from operations. Dead or diseased trees and other vegetation shall be promptly removed and replaced, to ensure the continuance and effectiveness of any landscaped screening.
 - d. The site reclamation plan, both at the end of SGM operations at the site, and with respect to each Mineral Removal phase, shall not include the storage or dumping of stumps, concrete, asphalt, discarded materials or any other materials, objects or debris not associated with the Mineral Removal operations. Further, no such storage or dumping of any such materials shall

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occur at any other time during SGM operations, unless authorized in the SGM permit or the plan.

In reviewing proposed resulting uses, the Planning Commission shall require compliance with the requirements of the zoning district that authorizes land uses having the greatest similarity to the resulting uses proposed in the Site Reclamation Plan, including requirements relating to density, location, bulk, area, and height of buildings and structures.

The Planning Commission shall not recommend approval of an application for a SGM operation, unless the applicant sufficiently demonstrates that the proposed mining operations and activities will not create any very serious adverse consequences or serious environmental impact on the adjacent area or nearby lands.

- F. The Planning Commission, in considering whether any such very serious adverse consequences or serious environmental impact would result from the proposed mining operations and activities, shall determine the degree and extent of public interest in the mining of the minerals from the applicant's land. The Planning Commission shall consider the type of resource involved, the market demand, and availability of supply, and other relevant factors and conditions that determine the relative benefit to the public from the proposed mining operations and activities.

The Planning Commission shall approve such permit, only after considering:

- i. Whether the proposed mining operations and activities result in very serious adverse consequences or serious environmental impact.
 - ii. Safety concerns and additional noise occasioned by the proposed operations, including additional truck traffic.
 - iii. The possibility of decreased air quality caused by dust and odors from the operations and truck traffic.
 - iv. The possible diminution of nearby property values.
 - v. The possible decrease in residential or other development in the area.
 - vi. The nature and extent of public benefit from the resource mining.
 - vii. The possible loss of property tax revenues.
- G. **Operating Conditions on Mineral Removal Operations and Activities** - The Planning Commission's approval of any SGM, shall include provisions requiring compliance with specified conditions relating to Mineral Removal activities and operations. Such conditions shall include the following:
- i. Mineral Removal operations shall be approved for a duration of not more than three years, unless the Planning Commission determines there are extraordinary circumstances which justify a mining period of greater duration.
 - ii. Upon or prior to the expiration of a SLU permit, the Planning Commission may approve renewals of the permit for successive periods of not more than three

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years each in duration, if the applicant demonstrates that there are extraordinary circumstances justifying renewal of the SLU permit.

- iii. In considering whether the SGM be renewed, the Planning Commission may, but need not, convene a public hearing.
 - iv. In the case of any Planning Commission public hearing on the proposed renewal of any SGM, the public notice for any such hearing shall be the same as that required for the original granting of an SLU permit.
 - v. Other matters concerning renewal of an SGM as provided herein.
 - vi. Mineral Removal, processing and transport operations and activities shall commence not earlier than 7:00 a.m. and shall not continue after 5:00 p.m., Monday through Friday only, except that there may be minor equipment maintenance work at the site on Saturdays from 9:00 a.m. to not later than 3:00 p.m., but such minor equipment maintenance shall be limited to maintenance work that does not generate noise which carries beyond the SGM lands; and provided further that the Planning Commission may place additional limitations on the hours and days of operation in order to avoid serious adverse consequences upon adjoining or nearby lands. Mineral Removal activities of all types are prohibited on Sundays and on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.
 - vii. Equipment for the processing of mineral material which emits noise louder than eighty (80) decibels, measured at fifty (50) feet from said equipment when operating, shall not be located closer than one-quarter mile from the nearest occupied dwelling, unless the Planning Commission authorizes other noise emission requirements.
 - viii. Access to and from a Mineral Removal site, and the routes to be taken by vehicles hauling mineral material from the site and returning to the site shall be only by means of those streets designated on the approved SGM Plan. Other routes as may be specified by the Planning Commission as a part of the operating conditions attached to the SGM.
- H. **Non-Operating Hours** - During activities and operations for the mining of mineral material, no mineral material, or other excavated material, shall be left during weekends or overnight in such condition or manner as to constitute a danger to persons who may enter the mining area.
- i. After operations each day, all banks of excavated material shall be graded to slopes that are not steeper than one foot of elevation for each two feet of horizontal distance, unless the Planning Commission authorizes some other daily grading requirement and if the applicant takes approved measures so as to prevent harm to persons who may enter into the area of steep slopes, by constructing and maintaining a substantial fence, of at least four feet in height, so as to fully enclose all the areas of steep slopes. Alternatively, the Planning Commission may approve other measures deemed sufficient to protect persons from harm within the mining area during times when operations are not occurring.

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- ii. All entrance and exit roads and other routes into or from the SGM site shall be securely gated. Such gates shall extend across the entire width of any entrance or exit road or route, and they shall be locked securely when SGM operations are not occurring. The placement of any such gates shall be at such locations as will prevent unauthorized vehicles from entering the SGM lands.
- iii. All roads, trails or other areas used by vehicles in Mineral Removal operations or activities shall have gates at specified locations. Measures to control dust and dirt arising from Mineral Removal operations shall be undertaken in accordance with conditions included in the SGM permit. Such dust control measures may include the application of dust inhibiting solvents or similar non-polluting surface treatments, particular road-surfacing measures or other actions as specified in the SGM permit.
- I. Storm water drainage on and from the Mineral Removal site shall be controlled so adjacent or nearby lands shall not be adversely affected by surface water drainage, erosion, or other similar effects. The Mineral Removal site shall be contoured and graded to avoid the unintended impoundment of water, except where ponds or other bodies of water are proposed in an approved site reclamation plan.
- J. Unless authorized by the terms of a SGM permit, no storage of soil from lands outside the Mineral Removal area, nor the dumping, disposal, storage, or stockpiling of stumps, concrete, asphalt, discarded building materials or other waste or discarded material may take place on the Mineral Removal site.
- K. Before the commencement of mineral extraction activities on the SGM site, 4" x 4" white painted posts, a minimum of five feet in height above grade, shall be placed along the designated setback lines around the site. Such posts shall be placed at a distance, not to exceed three hundred (300) feet, from each post. The post should be placed at intervals so that, from the location of any post, two additional posts are visible.
- L. Any processing plant and all equipment for sorting, crushing, loading, weighing, and other operations shall not be located closer than two hundred (200) feet from any property line, three hundred (300) feet from a public highway, measured from a centerline, and five hundred (500) feet from any existing dwelling.
- M. Any processing plant shall be located within the excavation area, and if possible, shall be located at a point lower than the general level of the surrounding terrain, to reduce the visual and sound impact of the processing plant.
- N. Before the commencement of Mineral Removal activities, a fence of a type approved by the Planning Commission shall be erected around the perimeter of the site, in locations approved by the Planning Commission, and it shall be maintained in good condition until all mineral extraction activities have been completed.
- O. The Planning Commission may require the posting of "keep out - danger" or similar signs installed and spaced one hundred fifty (150) feet apart along the entire perimeter.
- P. No blasting shall be allowed at any time as part of any Mineral Removal activities.

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- Q. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this section. Such conditions may include, though are not limited to, weed control; erosion and sedimentation controls; measures to prevent the tracking of dirt and other debris onto public streets; fencing and other visual screening; groundwater monitoring wells; preservation of trees and other vegetation; and limitations on the loading or storage of fuel for vehicles and equipment.
- R. **Public Hearing Procedures** - No SGM permit shall be granted unless and until a public hearing is conducted in accordance with the following requirements:
- i. The Planning Commission shall convene a public hearing before recommending action by the Township on any application for an SGM.
 - ii. The giving of public notice for the public hearing and the convening of the hearing shall proceed in accordance with this Ordinance.
 - iii. In its discretion, the Township may convene a public hearing upon any application for a SGM permit or an application for the renewal of a SGM permit, after receiving the recommendation of the Planning Commission on the same. If the Township convenes a public hearing, public notice and the procedures therefore shall be in accordance with the standards above.
- S. **Approval and Issuance of SGM Permit** - Applications for and issuance of SGM shall be approved only in accordance with the following procedures:
- i. Planning Commission - After the public hearing as required above, the Planning Commission shall approve, deny, or approve with conditions the application for an SGM.
- T. **Issuance of Permit** - The Zoning Administrator shall issue an SLU permit, without further public hearing, if such permit is granted.
- U. **Performance Bond** - An applicant for a SLU permit shall submit a performance bond, with an approved surety, in an amount approved by the Township. The performance bond shall be conditioned upon the timely and faithful performance by the applicant of all the terms and conditions of the SGM plan and the SLU permit.
- i. The performance bond shall not be refunded or reduced until the Mineral Removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection and approval by the Township.
 - ii. If the applicant proposes to create a pond or lake on all or part of the SGM premises, the Planning Commission may nonetheless require the applicant to submit a performance bond in an amount sufficient to restore the area of the pond or lake to its original grade.
 - iii. If the performance bond is revoked or if it expires and is not renewed, the Township shall immediately suspend and shall not thereafter reinstate or approve the renewal of the SGM permit, until such bond has been satisfactorily reinstated.

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- V. **Insurance** - Prior to the issuance of a SLU permit, the applicant shall file with the Zoning Administrator a site-specific liability insurance policy of not less than Two Million and no/100 Dollars (\$2,000,000.00) per occurrence for all liability claims arising out of the Mineral Removal activities. The liability insurance shall cover property damage and bodily injury resulting from surface and/or subsurface Mineral Removal activities and shall name Marengo Township, its elected and appointed officials, and employees as additional named insureds. Said insurance shall provide an endorsement that provides that the general aggregate limit of the operator's commercial and general liability applies separately to the site. Failure of the operator, or any persons, firm or corporation named in a policy to maintain such insurance policy shall be cause for revocation of the SGM permit.
- W. **Transferability of Permits** - No permit authorized by this section shall be transferred to a person or party other than the applicant to whom it was issued unless such transfer is first considered and approved by the Planning Commission and Township.
- X. **Expiration of Permits** - Mineral Removal operations and activities authorized by the terms of any SGM permit shall be commenced no later than one year after issuance of such permit and shall be diligently pursued thereafter unless the SGM permit provides otherwise. In the absence of timely commencement and diligent prosecution of such operations and activities, the SLU permit shall be of no further force or effect. Mineral Removal activities or operations shall not thereafter be commenced unless a new SGM permit has been obtained pursuant to the procedures set forth in this section.
- Y. **Re-Application for Permit** - An applicant whose application for a SGM permit has been denied, in whole or in part, by the Township shall not re-submit an application covering the same lands, or substantially the same lands, within eighteen (18) months after the date of such denial, except that a new application may be submitted and considered if there are significantly changed conditions which are determined by the Planning Commission and Township to be sufficient to justify reconsideration of the application.
- Z. **Existing Permits** - Upon the effective date of this section, existing Special Land Use permits which have been previously issued under this ordinance shall continue in effect until, but not after, the authorized amount of mineral material has been removed and any required site reclamation completed. In the case of such Special Land Use permits, such permits shall continue in effect for the remainder of the time for which they were issued or last renewed. Mineral Removal activities and operations shall not thereafter be conducted on the lands covered by the Special Land Use permit.
- AA. Application Fee; Surveillance Fee -**
- i. An applicant for an SGM shall pay the established application fee and shall deposit the required amount into a zoning escrow account when the application is filed with the Township.
 - ii. The applicant shall also pay to the Township annually a fee (the "surveillance fee") to defray the Township's cost of administration, surveillance, and enforcement of the SGM, including but not limited to costs for review of applications, testing, monitoring, sampling, surveying, personnel expenses,

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enforcement, legal, engineering, and other consultant fees, and other related costs and expenses. The fee shall be \$.06 per ton of mineral material removed during the entire mining operation.

- iii. Funds received from the application fee shall be deposited in the Township's general fund, or in such other Township fund as is established for other zoning application fees. Funds received from the surveillance fee shall be accounted for separately on the books of the Township, as to each SGM.
 - iv. The surveillance fee, at the above-stated rate of mineral material removed, shall be paid by the applicant annually. Not later than January 31 of each year, the Township shall notify the applicant in writing to submit copies of load tickets or other written proof accurately showing the total amount of mineral material removed during the preceding year (or during any such lesser preceding period, in the case of the recent commencement or termination of an SGM permit). Such notification by the Township shall indicate a period for response by the applicant, and the requested information shall be submitted by the applicant to the Township within that time.
 - v. Based upon the amount of mineral material removed as stated in the written response received from the applicant, the Township shall calculate the amount of surveillance fee due and shall then send to the applicant an invoice in that amount. The applicant shall promptly pay to the Township the amount indicated on the invoice. In the event that the Township desires further or more complete information as to the amount of mineral material removed, the Township shall notify the applicant accordingly, and the applicant shall respond promptly and fully.
- BB. When the SGM permit expires, the Township shall also notify the applicant to provide in writing a statement of the amount of mineral material removed, since the last previous such statement, and the Township shall then prepare and forward a final invoice for payment of the surveillance fee based upon the above-stated per-ton rate, and the applicant shall promptly pay the amount indicated on the invoice. If an expired or soon-to-expire SGM is renewed, the Township may retain any surveillance fee amounts then on hand and apply them to defray the costs of review of the application for renewal and for applicable costs subsequently incurred following renewal of the SGM permit. As in the case of annual surveillance fee payments, the applicant shall furnish to the Township any requested load tickets or other written proof with respect to the amount of mineral material removed during the last mining period before expiration of the SGM permit.

After expiration of a SGM without renewal, the Township shall refund, without interest, any unused surveillance fee amounts that have been received from the applicant.

In its discretion, the Township may request from the applicant, and the applicant shall promptly provide, load tickets or other written proof of mineral material removed, at times other than the annual surveillance fee payment period.

As to each SGM permit, the Township shall maintain a record of surveillance fee payments made by the applicant and expenditures made by the Township with respect to the SGM operation.

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Surveillance fee payments made by the applicant shall not limit the applicant's liability for civil infraction penalties, damages, or other sanctions for violation of a SGM permit, Township Ordinances or other laws or regulations.

CC. Renewal of SGM - This subsection applies only to the renewal of SLU permits for mineral removal from the same location or locations as permitted under an existing SLU permit. Applications for permission to expand Mineral Removal operations beyond the location approved under an existing SGM permit shall comply with the procedure set forth in this section for issuance of a new SGM permit.

If renewal of a SLU permit is desired, an applicant shall apply for such renewal at least one hundred twenty (120) days before the expiration of the existing SGM permit.

All of the applicant's rights and privileges arising under the permit shall terminate at the expiration thereof, if the permit has not then been renewed, and in that event, all SGM operations covered by the expiring permit shall then cease, except approved emergency operations required to protect the public safety and excepting as stated in this subsection.

The termination of rights and privileges under a SGM permit, at the time of expiration of the permit, shall take place even though an applicant may have applied for renewal thereof and even though proceedings for such renewal may have commenced, unless the Planning Commission in its discretion votes by majority vote of those present to temporarily extend an expiring SGM permit during the period required for proceedings to consider renewal of the permit (however, such vote for temporary extension of the permit may be rescinded in the event that the applicant unduly delays such proceedings, whether by action or inaction.)

Upon the conclusion of proceedings for renewal of a SLU permit, if the permit is renewed, SGM operations may be resumed if and to the extent covered by the SLU permit as renewed. An application for SGM renewal shall consist of the following:

- i. The Zoning Administrator's Compliance Report, as described below.
- ii. A copy of the original application for a SGM permit, with addendum updating the information from the original application and supplying any information missing on the original application.
- iii. A revised SGM plan, drawn and sealed by a registered civil engineer, showing the areas of the site which are currently under excavation, which are in the process of reclamation, and which have been reclaimed.
- iv. A narrative describing the extraordinary conditions that justify renewal of the permit beyond the time provided in the original permit.
- v. The required application fee and any required deposit of funds into an escrow account for reimbursement of Township expenses.
- vi. The Township may require additional information, if necessary, in the consideration of the requested renewal or the Township may waive any of the above-stated application requirements, but the requirement of the Compliance Report shall not be waived.

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Neither the Planning Commission nor Township shall consider an application for renewal unless the applicant submits a Compliance Report signed by the Township Zoning Administrator, which states that the Mineral Removal operation follows the present SGM and all Township ordinances, and that all required Mineral Removal fees and escrow deposits have been paid.

Upon request by an applicant for a Compliance Report, the Township shall promptly arrange to have the SGM operation reviewed and inspected. If the Zoning Administrator finds that the operation is complying, the Zoning Administrator shall issue a Compliance Report. The Compliance Report shall also describe any past violations, which have been rectified.

If the Zoning Administrator finds that the operation is not currently in compliance, the Zoning Administrator shall notify the applicant of the steps necessary to cure such deficiency.

The issuance of a Compliance Report does not require the Planning Commission or Township to recommend approval of or to approve a renewal of the SGM permit.

In making decisions regarding renewal, the Planning Commission and the Township shall apply the standards for approval applicable to new permits under this Ordinance, taking into consideration current conditions in the vicinity, the operational history under the previous SGM permit, any complaints, or comments about the SGM operation, and whether there are extraordinary conditions justifying the renewal. In their discretion, the Planning Commission and/or Township may convene public hearings on the SGM permit renewal application. Conditions may be attached to the renewals which are in addition to or different from those contained in the previous permit.

DD. Enforcement -

Enforcement of the terms of a SLU permit may be directed against the SGM applicant and all operators acting or purporting to act under such permit, or any of them. Full and timely compliance with all the terms of this section and all of the terms of the applicable SGM permit is a condition for the continued effectiveness of the permit or for any renewal thereof.

In the enforcement of the provisions of this section and those of any SGM permit, a Township may avail itself of all procedures and remedies described in the penalties Chapter of this Ordinance and all other remedies provided by law.

The Township Zoning Administrator or other designated Township representative shall act as the agent of the Township in the administration, supervision, and enforcement of SGM permits.

The Township Zoning Administrator shall be entitled to access to the applicant's SGM lands during reasonable business hours, for verifying compliance with the SGM District requirements.

The Zoning Administrator is authorized to demand compliance with the terms of this section and the SGM permit. In the absence of such compliance, the Zoning Administrator may issue an order directing the applicant and any operator to cease

Township Sand and Gravel Mining

immediately Mineral Removal work on or from the premises and all other operations relating thereto.

Upon the issuance of a stop work order, the applicant and any SGM operator shall have no further right or privilege to continue or to conduct any SGM operations, except permitted emergency operations required to protect the public safety and except any authorized limited operations that may be authorized by any such order.

Section 5. Severability: The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

Section 6. Effective Date: This Ordinance shall take effect seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

YEAs: D.Fountain,D.VanSickle,C.Tabiadon,D.Hoffman,&T.Hazel

NAYS: 0

ORDINANCE DECLARED ADOPTED.

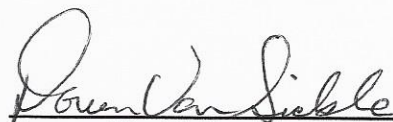
CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Marengo Township Board at a duly scheduled and noticed meeting of that Township Board held on March 26, 2024, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the Marshall Advisor newspaper, a newspaper that circulates within Marengo Township, on March 30, 2024.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

ATTESTED:

Adoption Date: March 26, 2024
Publication Date: March 30, 2024
Effective Date: April 7, 2024



Doreen VanSickle, Marengo Township Clerk