

MINERAL EXTRACTION ORDINANCE NO 2006-ME

AN ORDINANCE ESTABLISHING REGULATIONS AND STANDARDS FOR MINERAL EXTRACTION

The Board of Supervisors of the Township of Castle Rock ordains as follows:

SECTION 1. TITLE

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

SECTION 2. PURPOSE

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

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

SECTION 3. DEFINITIONS

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

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

Board: The Board of Supervisors of Castle Rock Township.

Commission: The Planning Commission of Castle Rock Township.

Comprehensive Plan: The Castle Rock Township Comprehensive Plan.

Dust: Airborne mineral particulate matter.

Excavation: The movement or removal of soil and minerals

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

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

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

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

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

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

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

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

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

Seasonal Extraction Permit: The permit required for seasonal extraction facilities which may operate for one or two years, with permit renewal required each year.

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

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

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

Township: The Township of Castle Rock, Dakota County, Minnesota.

Zoning Ordinance: The Castle Rock Township Zoning Ordinance.

SECTION 4. PERMIT REQUIRED

- 4.01** It is unlawful for any person, firm, or corporation to extract or process minerals in the Township without obtaining a permit required in this ordinance.
- 4.02** Mineral extraction shall only be allowed in Sections One and Two, Township 113, Range 19 Dakota County MN.
- 4.03** Mineral extraction shall only be allowed in that part of the Township zoned Mineral Extraction District.
- 4.03 Exceptions:**

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

- A. Excavation for a foundation, cellar or basement of a building if a building permit has been issued.
- B. Excavation by state, county, city or township authorities in connection with construction or maintenance of roads, highways, or utilities, conducted solely within permanent easement areas or rights-of-way.
- C. Curb cuts, utility hook-ups or street openings for which another permit has been issued by the Township.
- D. Excavation less than one thousand (1000) square feet in area or one foot in depth.
- E. Excavation or grading for agricultural purposes.
- F. Other activities in which a permit has been issued site grading is allowed and mineral extraction is clearly an incidental activity.
- G. Sod Harvesting.

SECTION 5. MINERAL EXTRACTION PERMIT APPLICATION REQUIREMENTS

5.01 Application Form:

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

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

- D. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
- E. Type and quantity of material to be extracted.
- F. Hours of operation of the facility.
- G. Timeframe to operate the facility.
- H. A description of all vehicles and equipment to be used by the operator in the operation of the facility.
- I. A description of the maximum number and average peak daily number of vehicles accessing the facility, including a breakdown of operator owned and non-operator owned vehicles.
- J. A description of the haul routes within the Township to be used in the operation of the facility.

5.02 Supporting Documentation:

Every application for a mineral extraction permit shall include submission of supporting documentation provided by a registered engineer licensed within the State of Minnesota which shall include, but may not be limited to the following:

- A. A description of existing land uses on the subject property and all properties within one mile.
- B. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one mile.
- C. A description of the soil, vegetation, mineral content and current topography of the subject property. A minimum of three (3) soil boring logs representative of the site and an analysis of the subsurface materials on the subject property must be submitted by a registered engineer licensed in the State of Minnesota. Additional soil borings may be required by the Township Engineer for the subject site and any future expansion.
- D. A general description of surface waters, existing drainage patterns and groundwater conditions within one mile of the subject property.
- E. A general description of any wells or private sewer systems of record, pipelines, power lines and other utilities or appurtenances on the subject property and adjacent properties.
- F. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.

- G. Current topography of the subject property, illustrated by contours not exceeding two-foot intervals.
- H. Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
- I. A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access routes.
- J. Copies of MPCA application documents, EAW documents, EIS documents if required, and operating permits.
- K. A description of the site hydrology and drainage characteristics during extraction for each phase. Identify any locations where drainage of any disturbed areas will not be controlled on the subject property and plans to control erosion, sedimentation and water quality of the runoff. Applicant must supply the Township a letter from the County Soil and Water District Manager approving this description.
- L. A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.
- M. A description of the plan to mitigate potential impacts resulting from mineral extraction.
- N. A description of site screening, landscaping and security fencing.
- O. A description of site rehabilitation in each phase of operation and upon completion of mineral extraction on the subject property.
- P. A description of the method in which complaints about any aspect of the facility operation or off-site transportation are to be received and the method which complaints are to be resolved.

SECTION 6. PERMITTING PROCEDURE

6.01 Interim Use Permit

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

- A. Applicants are encouraged to attend a regular Planning Commission or Board of Supervisors meeting to obtain an interpretation of the compatibility of the proposed mineral extraction activity with the Comprehensive Plan and Zoning Ordinance.
- B. Applicants are encouraged to appear before the Planning Commission to make a preliminary presentation on the conceptual nature of the proposed extraction activity.

- C. A copy of the application and required supporting information shall be forwarded to the Township or its designee. Within ten (10) business days of receipt of the information a determination of the completeness of the application and supporting documentation will be made. If the application is complete, the environmental review process will begin. If the application is incomplete, the Township will identify the information which must be submitted before formal review may commence.
- D. Any application which is inconsistent with the Comprehensive Plan, will be denied. The applicant has the right to submit an application to the Township to amend the Comprehensive Plan, according to procedures established by the Township.
- E. Upon completion of the environmental review process, the Township will process the mineral extraction permit. The Township may require that the applicant submit additional information to address or clarify any issues raised in the environmental review. The formal review process will commence after completion of the environmental review or upon receipt of additional information required.
- F. Within thirty (30) days of receipt of all required information and upon completion of the environmental review process, the Planning Commission shall hold a public hearing for the mineral extraction permit. The hearing will satisfy the hearing requirements of the interim use permit.
- G. After the public hearing, the Planning Commission shall make findings on the permit application and submit recommendations to the Town Board.
- H. If the Planning Commission and Town Board cannot act upon the permit application within sixty (60) days of the receipt of all required information and completion of the environmental review process, the Township shall notify the applicant in writing of the delay and extension of review. The Planning Commission and Town Board must act upon the application within one hundred twenty (120) days of the date the final application was submitted, unless an extension of time is granted by the applicant.
- I. The Town Board shall approve the permit application, deny the permit application or approve the permit application with modification.
- J. A mineral extraction permit application denied by the Town Board may not be reapplied for, whether the same or modified application, for a period of twelve (12) months from the date of denial.

SECTION 7. MINERAL EXTRACTION PERFORMANCE STANDARDS

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

- A. **Hours of Operation.** Mineral extraction facilities shall operate only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday and 7:00 a.m. to 12:00 p.m. on Saturday.
 - 1.) Exceptions to the hours of operation, such as government agency contracts and other evening work, must be approved by the Town Board.
- B. **Fencing.** The Board shall require fencing, signs and barriers around artificial ponding areas, wetlands and steep-sloped excavation areas.

- C. **Access.** All mineral extraction facilities shall have direct access to a 9-ton or greater paved road, which meets current design standards and weight classification of the jurisdiction responsible for the road.
- D. **Haul Routes.** All trucks traveling to or from the mineral extraction facility shall utilize 9-ton or greater paved roads. Operators may be granted a special permit to utilize roadways temporarily posted under 9-tons, provided adequate surety is guaranteed to cover the costs of repairing any damage to roadways.
- E. **Roadway Dust Control.** Operators will be responsible for providing water trucks to control dust on all gravel roads utilized by trucks hauling to or from a mineral extraction facility. Unless waived by the Town Board in lieu of other remedies, watering roadways will be required when conditions warrant it and the number of one-way truck trips from a particular mineral extraction facility exceeds three (3) per hour.
- F. **Mineral Extraction Facility Dust Control.** The Township shall require watering in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance. Other remedies to dust control may include berming, landscaping and enclosures for processing equipment.
- G. **Noise.** Maximum noise levels at the facility will be consistent with the most current standards established by the Minnesota Pollution Control Agency.
- H. **Vibration.** Operators shall use all practical means to eliminate adverse impacts of vibration from equipment on adjacent properties.
- I. **Air Quality/Water Quality.** All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits. No mining shall occur within ten (10) feet of the normal groundwater elevation.
- J. **Accessory Uses.** Accessory uses, such as concrete or asphalt production or stockpiling and sale of materials not extracted on the subject property may be considered for approval by the Township.
- K. **Unauthorized Storage.** No vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition may be kept or stored at the facility.
- L. **Setbacks.** No extraction activity may occur within five hundred (500) feet of any residence and one hundred (100) feet of any adjacent property, road right-of-way or public utility. Screeners, crushers, other processing equipment and manufacturing equipment may not be located closer than five hundred (500) feet without berming. Grading plans affecting pipelines or powerline corridors will be evaluated on a case-by-case basis.
- M. **Phasing.** Phasing plans must be prepared for all mineral extraction facilities. No more than ten (10) acres of land may be exposed to extraction at any one time. A maximum of twenty-five (25) acres may be utilized at any one time for extraction, processing, staging and stockpiling. Areas where extraction has been completed shall be rehabilitated according to the provisions of the ordinance, except for that area included in the maximum thirty-five (35) acre operational area. The Town Board may allow exceptions to the phasing requirements for topsoil and clay extraction and phases of operation in existence at the time of this ordinance adoption.

- N. **Berming.** Earthen berms shall be constructed along all rights-of-way and along all property lines within one thousand (1000) feet of any residence. Berms shall be a minimum of eight feet in height.
- O. **Weed Control.** The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.
- P. **Explosives.** If the use of explosives is desired by the operator, an interim use permit shall be required for each incident to provide adequate public notice and input.
- Q. **General Compliance.** The operators must comply with all other federal, state, regional, county and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shoreland management regulations and zoning ordinance regulations.
- R. **Additional Regulations.** Topsoil may not be removed from the mining facility unless specifically authorized in the permit. The Township may impose additional regulations and requirements to the mineral extraction permit to protect the public health, safety, and welfare.
- S. **Inactivity.** In the event less than 5000 cubic yards of material has been removed from the facility in any calendar year, the Township may terminate the mineral extraction permit.
- T. **Rehabilitation Plan.** A rehabilitation plan must include the grading plans, topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The following minimum standards and conditions apply:
- 1.) Final grades may not exceed a 4:1 ratio (25% slope).
 - 2.) A minimum of three (3) inches of topsoil shall be placed and evenly spread on all graded surfaces.
 - 3.) Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
 - 4.) Soil restoration, seeding and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the processing, storage and staging areas within each phase.
 - 5.) Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protection Water Quality in Urban Areas" and Section 300, Water and Soil Resource Management provisions of the Castle Rock Township Zoning Ordinance.
 - 6.) Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the Rehabilitation Plan.
 - 7.) Within six (6) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials and debris shall be removed from the subject property.

- 8.) Within twelve (12) months after completion of mineral extraction or after termination of the permit site, rehabilitation must be completed.

SECTION 8. TERMINATION

8.01 The mineral extraction permit shall be terminated on the happening of any of the following events:

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

SECTION 9. SEASONAL EXTRACTION PERMIT

9.01 Purpose. The purpose of this section is to establish provisions for mineral extraction on a smaller scale and shorter term basis than allowed in a mineral extraction permit, as indicated in Section 9.02, Eligibility.

9.02 Eligibility. A seasonal extraction permit may be issued in areas of the Township zoned AG Agriculture District.

- A. Seasonal extraction permits are intended to allow the opportunity for mineral extraction on land which is in close proximity of projects of short duration and a specified period of time, such as road construction, in or near the Township.
- B. Seasonal extraction permits are also intended to allow the opportunity for site grading, which will enhance the use of property, including land where mineral extraction has occurred in the past and rehabilitation has not been completed.

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

9.04 Area Limitation. The maximum site area that may be included in a seasonal extraction permit is five (5) acres. The Board may expand this limitation if the subject property includes a larger area where mineral extraction has previously occurred.

- 9.05 Duration.** Seasonal extraction permits are valid for a period not exceeding one calendar year. Mineral extraction operations may only occur between May 1 and December 1 of the permit year. Site rehabilitation must be completed by June 1 of the following year. The Board may extend the permit with a limit of two (2) years for operation and one year for restoration of the site.
- 9.06 Application.** An application for a seasonal extraction permit shall be submitted to the Township on a form provided by the Township. Information requirements shall be the same as identified in Section 5.01 of this Ordinance.
- 9.07 Supporting Documentation.** An application for a seasonal extraction permit shall include supporting documentation identified in Section 5.02 of this Ordinance.
- 9.08 Performance Standards.** The performance standards identified in Section 7 shall apply to seasonal extraction permits, with the following exceptions:
- A. **Hours of Operation.** The same hours of operation apply to seasonal extraction facilities, except the days of operation are limited to Monday through Friday and no evening activities are permitted.
 - B. **Setbacks.** The Board may modify setback requirements where appropriate.
- 9.09 General.** All other terms and conditions of this Ordinance not in conflict with Section 9 shall apply.

SECTION 10. ENFORCEMENT

- 10.01** The operator grants the Township's officers and representatives access to the facility during normal operation hours to inspect the mineral extraction facility and/or seasonal mineral extraction facility and enforce the provisions of this Ordinance.
- 10.02** The operator shall be responsible for the repair and maintenance of public and private property in the Township which is acknowledged by the operator to be or proven to be damaged by it, its agents or employees in conduction business or any other activity associated with the mineral extraction facility.
- 10.03** A development agreement will be required for all mineral extraction permits, including seasonal extraction permits.
- 10.04** The operator shall hold the Township harmless against all claims by third parties for damage or costs incurred in the development of the subject property. The operator shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorney's fees.
- 10.05** Violations not remedied according to the terms of this agreement shall/may result in fines, suspension or revocation of the mining permit or the bringing of criminal charges as defined in Section 15 of this ordinance.

SECTION 11. FEES

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

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

11.03 Permit application fees, consultant review escrow fees, environmental review fees, and renewal fees for mineral extraction are as follows:

MINERAL EXTRACTION FACILITY

Mineral extraction facility application fee	\$2500
Application escrow fund (initial fund to cover out of pocket expenses)	\$5000
Environmental review escrow (requires development contract)	varies
Annual renewal fee (due January 1st of each permit year)	\$1000

SEASONAL MINERAL EXTRACTION FACILITY

Seasonal mineral extraction facility application fee	\$1000
Application escrow fund (initial fund to cover out of pocket expenses)	\$3000
Environmental review escrow (requires development contract)	varies
Annual renewal fee (due January 1st of subsequent permit year)	\$1000

SECTION 12. FINANCIAL GUARANTEE

12.01 The Township shall require a performance bond, cash escrow or a letter of credit, in a form acceptable to the Township, to guarantee compliance with this Ordinance and the terms and conditions of the development agreement. The Township shall have the right to use the financial guarantee to remove stockpiles and complete site rehabilitation and correct other deficiencies or problems caused by the operator, in the event the operator is in default of the permit obligations. The amount of financial guarantee shall be equal to Five Thousand Dollars (\$5000.00) for every acre authorized in the current phasing plan of the permit. The financial guarantee shall remain in full force and effect for a minimum period of one and one-half (1½) years beyond the expiration date or renewal date of the permit.

SECTION 13. LIABILITY INSURANCE

13.01 The operator shall, at all times, procure and maintain at the operator's expense general public liability insurance and automobile liability insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the operator's performance of its duties under this contract. Such insurance shall afford protection to a limit of not less than One Million Dollars (\$1,000,000) in respect to injuries or death to a single person, to a limit of not less than Two Million Dollars (\$2,000,000) in respect to any one accident or occurrence, and to a limit of not less than One Million Dollars (\$1,000,000) in respect to property damage. The Township shall be named an additional insured on all such policies of insurance. The operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit. The certificate shall provide that the Township must be given thirty (30) days written notice of the cancellation of insurance.

SECTION 14. VALIDITY

14.01 Should any provision of this ordinance be declared by the courts to be invalid, such decision shall not affect the validity of this ordinance as a whole or any other part thereof, unless so specified in

the judgment. If the courts declare the application of any of the provisions of this ordinance to any individual, use, property or structure to be invalid, such judgment shall not affect the validity of said application of any provision to any other individual, use, property or structure, unless so specified in the judgment.

SECTION 15. VIOLATIONS AND PENALTIES

15.01 Any person who violates or fails to comply with any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the maximum extent authorized in Minnesota Statutes Section 412.231, as amended from time to time. Each day the violation continues shall constitute a separate offense.

SECTION 16. REPEALER

16.01 This ordinance repeals Mineral Extraction Ordinance No. 99-1 and all amendments thereto.

SECTION 17. EFFECTIVE DATE

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

Adopted this 8th day of August, 2006.

ATTEST:

By: _____, Chair

By: _____, Clerk

Published in the *Farmington Independent* and the *Cannon Falls Beacon* this ____ day of _____, 2006.