

## ARTICLE IX

### SCIOTA TOWNSHIP MINING ORDINANCE

#### **Section 900: MINING ORDINANCE**

An ordinance establishing mining regulations to provide for orderly, economic and safe removal and processing of sand, gravel, rock, soil and other material and to promote the public health, safety, and general welfare in Sciota Township.

#### **Section 901 TITLE AND PURPOSE**

##### **Section 901.1: Short Title.**

This Ordinance shall be known, cited, and referred to as the Sciota Township Mining Ordinance.

##### **Section 901.2: Purpose**

This Ordinance is adopted for the purposes of providing for the economic availability and removal of sand, gravel, rock, soil, and other materials vital to the continued growth of Sciota Township.

1. Establishing regulations, safeguards, and controls in the unincorporated areas of the Township regarding noise, dust, traffic, drainage, groundwater quality, and other factors which will minimize the environmental and aesthetic impacts on mined or adjacent property.
2. Reducing the potential for pollution caused by wind, soil erosion, and sedimentation.
3. Establishing locations, orderly approval process, and operating conditions under which mining operations will be allowed in the Township and to establish conditions which ensure the restoration of mined areas consistent with the existing and planned land use patterns.
4. Ensuring compliance with the regulations established in this ordinance on those mining operations presently operating in Sciota Township.
5. To establish the process of designating lands suitable as Mining areas.
6. To establish a process to regulate operating processes during the mining act of extraction.

## **Section 902: SCOPE**

### **Section 902.1: Adoption of the Sciota Township Mining Ordinance**

There is hereby adopted, for purposes of regulating the removal and processing of sand, gravel, rock, soil or other deposits, the Sciota Township Mining Ordinance. This Ordinance applies to all lands within Sciota Township. Where this Ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control. In the event of conflicting provisions in the text of this Ordinance, or any other Township Ordinance, the most restrictive shall apply.

## **Section 903: GENERAL PROVISIONS**

### **Section 903.1: Permit Required**

It is the intent of Sciota Township to recognize the Mining Ordinance as containing separate permitting processes involved with permission to mine. The first step of the permit process involves the land owner designating areas permitted for mining and it will be called the MINING PERMIT. The second step designates permitted practices involved with the act of mining extraction at a particular mine and will be called the EXTRACTION PERMIT. The separate permits will hereafter be referred to as the MINING PERMIT, and the EXTRACTION PERMIT

A MATERIAL PROCESSING PERMIT is required for 1) any permitted Mining operation that does not have an active permitted Extraction operation but for which the operator desires to add on-site processing equipment, or 2) for any processing not explicitly noted in an existing extraction permit, or 3) in association with specific construction projects. Material processing is defined under Section 905.

The operation of a mine without a valid Mining Permit, or Extraction Permit, or Material Processing Permit or an operation in violation of Section 903 is declared to be a nuisance and it shall be unlawful for any person, partnership, company or corporation to engage in mining in violation of this section. It is not permissible for any owner to permit a person to extract or mine on his property in violation of this section.

It will be permissible for a single party to hold both permits for extraction on a mining site. In such instances, all mining ordinance policies and requirements will still apply.

### **Section 903.2.1: Mining Permit**

Any landowners possessing lands containing mining operations within Sciota Township require a Mining Permit. A separate application shall be made to the Township Clerk for each parcel of land on which mining operations will be conducted. The application shall include appropriate identifying information of the location where all activities incidental to the mining will be conducted. The application shall include the property owner's plan of operating conditions and standards impose on the extraction contractors, and complete plan for land reclamation. The

application shall include any other information that the Township may require in order to determine the effects of such development upon affected and adjacent land and water uses (Example: soil borings to determine water table, mineral content, water table barriers, etc...).

1. A Mining Permit shall only be issued to the registered landowner of the identified parcel, and it is non-transferable.
  - A. Land/property must not be enrolled in AG Preserve or subject to any covenants prohibiting mining.
  - B. Lands enrolled in AG Preserve must be removed according to the provisions set forth in the AG Preserve statute prior to the issuance of any mining related permit.
  - C. A new permit must be applied for within 60 days following the effective date of the ownership transfer.
  - D. Any permitted extraction operator who may be conducting extraction on the effective date of ownership transfer shall be restricted to the same type of operation and the same amount of material that may be removed, and must comply with the Extraction Permit in effect at the time of transfer.
2. The Mining Permit shall stipulate that the operational standards of the landowner may allow up to five thousand (5,000) cubic yards of material to be extracted in any single calendar year without the requirement of an Extraction Permit. The Mining Permit will not restrict the movement or placement of material on the permitted parcel as long as the movement or placement of materials is related to the reclamation plan as describe in the permit application.
3. A Mining Permit shall allow for the stock piling of processed aggregate material.
  - A. The stockpile must originate from an extraction process as specified in an Extraction Permit.
  - B. Stock piling of any materials that did not originate on the mining permitted parcel in excess of one thousand (1,000) cubic yards for a period in excess of 5 years shall be prohibited.
  - C. Stock piling material of a hazardous, a debris/waste, or unsanitary nature are strictly prohibited.
4. The Mining Permit shall be subject to renewal every 15 years, with review of the project and reclamation plan every 5 years.
5. Mining operations established after the effective date of this Ordinance must encompass at least 20 acres of land area under permit. The Township Board may issue a permit for mining on less than 20 acres by issuing a variance.

### **Section 903.2.2: Mining Permit Application**

The application for a Mining Permit for a mining operation must be filed with the Sciota Township Planning Commission. The Planning Commission shall follow procedures prescribed in the Sciota Township Zoning Ordinance. Application for renewal of a permit must be made 90 days prior to the termination of the previous permit. The application must be made in the

name(s) of the owner of the mine and owner of the land to be mined.

**Section 903.2.3: Mining Permit Application Process**

Mining Permit Applications shall be reviewed, considered and processed per the following process.

1. Applicants are encouraged to appear before the Planning Commission and Township Board for conceptual presentations of the proposed mine location and extraction activity.
2. A copy of the application and required supporting information shall be forwarded to the Township clerk. 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 incomplete, the Township will identify the information that must be submitted before formal review may commence.
3. Upon a determination of completeness, the application will be forwarded to the Planning Commission for Formal review.
4. The Planning Commission shall make findings on the consistency of the application with the terms and conditions for this Ordinance, and make recommendations to the Township Board on the issuance of a permit.
5. If the application can not be acted upon by the Township Board within sixty (60) days of receipt of the completed application, the Township clerk, or designee, shall notify the applicant in writing that the permit can not be processed within that time frame because of the frequency of Township meetings and that action on the permit will be completed within one hundred twenty (120) days of receipt of the completed application.
6. The Township Board shall act on the permit after receiving a recommendation from the Planning Commission and within the timeframe specified above; however the Township Board shall act on the permit regardless of a recommendation, if the Planning Commission has not made a recommendation within ninety (90) days of receipt of the completed application.
7. The permit review timeline may be extended by written authorization from the applicant.
8. The Township Board shall make findings on the permit application and shall either approve the permit application, approve the permit application with modification or deny the permit application.

**Section 903.2.4: Mining Permit Application Requirements**

The application shall contain the following:

1. The name and address of the owner of land.
2. An accurate legal description of the property where the mining shall occur.
3. Survey indicating property boundaries.
4. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data, including contours at 2-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, shall also be shown. U.S.G.S. datum shall be used for all topographic mapping. Interpolated data from U.S.G.S. Quadrangle maps is not permitted.

5. A map of the property where the mining is to occur that clearly indicates natural land features: show locations of watercourses and drainage way, flood of record, wetlands, sinks, basins, and wooded areas.
6. A map of the property where the mining is to occur that clearly indicates man-made features showing buildings, and other structures, dams, dikes, and impoundments of water, power transmission poles and lines, and other significant features.
7. A general location map showing the proposed mining site in relation to the community
8. General location maps showing adjacent land features: all of the standards above shall apply to delineation of the area within 300 feet of the perimeter of the mined area. In addition, show all homes within 1/2 mile of the property boundaries.
9. A map showing access routes between the property and the nearest arterial road.
10. Names of the adjacent landowners including all those within a one-half (1/2)-mile radius of the property perimeter.
11. A narrative outlining the type of material to be excavated, mode of operation, estimate of amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
12. Easements showing widths and identifying utility type or purpose.
13. Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner overburden storage areas shall be identified and noted.
14. Fences and gates shall be shown on the site map.
15. Site drainage features shall also be shown and flow directions indicated.
16. Reclamation plan in conformance of this Ordinance.
17. A description of the method for receiving and resolving any complaints about the operation of the facility or off-site transportation of extracted material, including but not limited to any possible road damages.
18. A fee as established by resolution of the Township Board.

### **Section 903.3: Extraction Permits**

The Extraction Permit issued by Sciota Township shall be valid for 1 year and shall never exceed a maximum of 5 years. If the operator seeks to continue beyond expiration, an application for a new permit must be applied for at least 90 days prior to the expiration of the current permit. An annual permit issued by the Township is required each year as specified below. An annual report must be submitted to the Sciota Township Clerk each year specifying the amount of material removed, area in which mining-took place, restoration performed, area proposed to be mined within the next year, and evidence the required financial assurance and insurance is valid.

#### **Section 903.3.1: Granting of Extraction Permits**

In order for Sciota Township to grant a Extraction Permit for a new mining operation or the expansion or change in use of an existing operation, whether under permit or not, a valid Mining Permit must already be issued before any extraction permit will be considered. All of the following criteria must be met:

1. The subject property is permitted with a Mining Permit as defined in section 903.1;

2. The property is at least 20 acres in size;
3. The land involved is not considered wetland as defined by the Natural Resources Conservation Service;
4. All other standards for approval of a Extraction Permit as contained in the Sciota Township Zoning Ordinance are met;
5. The operation is consistent with the Sciota Township Comprehensive Plan; and;
6. Compliance with all provisions of this ordinance.

**Section 903.3.2: Modifications**

Only the Sciota Township Board may issue the Mining permit, or Extraction Use Permit.

Prior to the issuance of the annual permit, a copy thereof shall be submitted to the Sciota Township Clerk. The Clerk will then forward the Application to the Township Planning Commission who will review it to see that it complies with the requirements of this Ordinance and the Township permit issued. If the permit conforms to the requirements of this Ordinance and any more restrictive conditions set forth by the Township, the Township Planning Commission shall then make appropriate recommendations to the Township Board.

**Section 903.3.3: Binding Financial Assurance**

The Extraction Permit applicant shall provide binding financial assurance, such as a surety performance bond or letter of credit, naming the Township as the Beneficiary. When the applicant's extraction activities are completed and the land has been reclaimed according to the Reclamation Plan and section 906, the financial assurance shall be void. If the extraction activities are completed and the land has NOT been reclaimed according to the Reclamation Plan and section 906, the Township shall have the right to use the financial security proceeds to the extent necessary to reclaim the parcel. The Township cannot use any financial assurance funds for any purpose other than for reclamation of permitted parcel to meet the reclamation intent of section 906. The applicant shall keep this binding financial assurance in effect until the parcel has been restored as required by this Ordinance and permit and the Township and its contractors are granted a license to go on the applicant's premises to fulfill the bond requirements.

When fixing the amount of the binding financial assurance, the Planning Commission and Township Board shall take into account the size and scope of the proposed operation, current prevailing cost of reclamation, and other factors that might be relevant in determining the sum reasonable. The amount will be determined by the Planning Commission or Township Board; however, in no case will the sum of the binding financial assurance be less than One Thousand (\$1,000.00) Dollars for each acre or fraction thereof of land.

The applicant shall notify the bonding company and provide proof that the Township will be

notified in the event of any lapse in the effectiveness of the financial assurance. For each acre restored and reclaimed in accordance with the permit and ordinance, the financial assurance may be reduced pro-rata as determined by the Township Board. Any Extraction Permittee who willfully neglects reclamation responsibility and intentionally leaves this to be accomplished via the financial assurance, shall be considered negligent, and this action shall be considered grounds for denial of any Extraction Permit applications in the future.

#### **Section 903.3.4: Extraction Permit Application**

The application for an Extraction Permit for a mining operation must be filed with the Sciota Township Planning Commission. The Planning Commission shall follow procedures prescribed in the Sciota Township Zoning Ordinance. Application for renewal of a permit must be made 90 days prior to the termination of the previous permit. The application must be made in the name(s) of the operator of the mine and owner of the land to be mined.

#### **Section 903.3.5: Extraction Application Process**

Mineral Extraction Permit Applications shall be reviewed, considered and processed per the following process.

1. Applicants are encouraged to appear before the Planning Commission and Township Board for conceptual presentations of the proposed mineral extraction activity.
2. A copy of the application and required supporting information shall be forwarded to the Township clerk. 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 incomplete, the Township will identify the information that must be submitted before formal review may commence.
3. Upon a determination of completeness, the application will be forwarded to the Planning Commission for Formal review. The Township clerk or Planning Commission shall set a public hearing for consideration of the Extraction Permit.
4. The Planning Commission shall hold the public hearing for the Extraction Permit Application. The Planning Commission shall make findings on the consistency of the application with the terms and conditions for this Ordinance, and make recommendations to the Township Board on the issuance of a permit.
5. If the application can not be acted upon by the Township Board within sixty (60) days of receipt of the completed application, the Township clerk, or designee, shall notify the applicant in writing that the permit can not be processed within that time frame because of the frequency of Township meetings and that action on the permit will be completed within one hundred twenty (120) days of receipt of the completed application.
6. The Township Board shall act on the permit after receiving a recommendation from the Planning Commission and within the timeframe specified above; however the Township Board shall act on the permit regardless of a recommendation, if the Planning Commission has not made a recommendation within ninety (90) days of receipt of the completed application.
7. The permit review timeline may be extended by written authorization from the applicant.

8. The Township Board shall make findings on the permit application and shall either approve the permit application, approve the permit application with modification or deny the permit application.

**Section 903.3.6: Extraction Permit Application Requirements**

The application shall contain the following:

1. The name and address of the operator.
2. The name and address of the owner of land.
3. An accurate legal description of the property where the mining shall occur.
4. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data, including contours at 2-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, shall also be shown. U.S.G.S. datum shall be used for all topographic mapping. Interpolated data from U.S.G.S. Quadrangle maps is not permitted.
5. A map of the property where the mining is to occur that clearly indicates man-made features showing buildings, and other structures, dams, dikes, and impoundments of water, power transmission poles and lines, and other significant features.
6. General location maps showing adjacent land features: all of the standards above shall apply to delineation of the area within 300 feet of the perimeter of the mined area. In addition, show all homes within one-half (1/2) mile of the property boundaries.
7. Names of the adjacent landowners including all those within a one-half (1/2) mile radius of the property perimeter.
8. A map showing access routes between the property and the nearest arterial road.
9. A narrative outlining the type of material to be excavated, mode of operation, estimate of amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
10. Easements showing widths and identifying utility type or purpose.
11. Groundwater: a plan for groundwater quality protection shall be submitted with the application. The plan shall include a minimum of 3 borings showing depth to groundwater. If groundwater is not encountered at a depth of 15 feet below the bottom of the proposed pit floor, the applicant need not extend borings any further.
12. Cross-sections: a minimum of 3 cross-sections showing the extent of overburden, extent of sand and gravel deposits, the water table, and any evidence of the water table in the past. The Planning Commission reserves the right to require additional borings if necessary.
13. Processing areas shall be identified and boundaries shown to scale.
14. Access road to processing and mining areas shown to scale.
15. Sequences of operation showing approximate areas involved shall be shown to scale and serially numbered with a description of each.
16. Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner overburden storage areas shall be identified and noted.
17. Fences and gates shall be shown on the site map.
18. Proposed location of principal service or processing buildings or enclosures shall be

- shown, as well as location of settling basins and process water ponds.
19. Site drainage features shall also be shown and flow directions indicated.
  20. Lighting. The planned lighting of the area and any other equipment or structures that will be installed or built.
  21. Reclamation plan in conformance of this Ordinance.
  22. The operator must indicate if blasting is proposed as part of the mining operation.
  23. Copies of any permit applications to the Minnesota Department of Natural Resources or Minnesota Pollution Control Agency regarding the proposed mineral extraction and any other information or reports the Planning Commission deems necessary for purposes of evaluating environmental or aesthetic impacts.
  24. A description of the method for receiving and resolving any complaints about the operation of the facility or off-site transportation of extracted material.
  25. A fee as established by resolution of the Township Board.

### **Section 904: OPERATING CONDITIONS**

The following operating conditions and standards must be met for all mining and extraction operations.

#### **Section 904.1: Setbacks**

No mining, stockpiling or land disturbance shall take place within:

1. 50 feet of adjoining property lines unless specified by 904.1.5,
2. 200 feet of any occupied structures existing prior to establishment of the mining operation, not owned by the operator or owner;
3. 100 feet of any contiguous property subdivided into residential lots prior to establishment of the mining operation
4. 100 feet of any road right-of-way of any existing or platted street, except the amount of material stockpiled on the effective date of this Ordinance may continue but not be expanded. Mining may be allowed up to 50 feet of the road right-of-way so long as the property is restored to 100 feet within one mining season period as set forth in the approved reclamation plans.
5. If 2 or more mining operations are contiguous to one another, the common boundary may be mined if the Planning Commission approves the respective restoration plans, and both mine operations are in agreement of activity and timing.

#### **Section 904.2: Hours of Operation**

Those portions of the mining operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through

Friday, unless other hours or days of operation are specifically authorized in the Extraction or Material Processing Permit. No such operations shall be allowed on Observed National Holidays unless approved by the Sciota Township Board.

**Section 904.3: Dust Control**

The operator must construct, and maintain any equipment in such a manner as to minimize on-site and off-site dust conditions. All operations shall meet the standards of the State Pollution Control Agency. The driveway access to the mining operation must be setback at least 25 feet from neighboring property lines. The operator shall provide such road surfacing or other treatment as may be deemed necessary by the Planning Commission, provided that the treatment produces no potential pollution hazards to the ground and surface waters of the area. All mining pit access roads shall be provided and maintained with a dustless non-oiled surface not less than twenty-two (22) feet wide from the connection to a public road to a point within one hundred (100) feet of the road connection. The Planning Commission may require this to be a blacktop road if deemed necessary. Access roads shall also be constructed and maintained in such a manner that the deposit of earth materials on public roads is minimized.

**Section 904.4: Noise**

The operator must maintain sound suppression systems so that operation noise does not exceed 70dbA at the mine perimeter. Noise levels shall not exceed 60dba at any property boundary of adjoining occupied residential land. The Township Board may consider exemption or conditions to these noise levels upon request by the extraction operator.

**Section 904.5: Depth of Excavation**

The maximum depth of excavation may be regulated based on groundwater protection and/or the ability to restore the property. Dewatering for mineral access will not be allowed. Extraction below the historical high groundwater elevation on the site may be considered. Conditions for Extraction below groundwater elevation will be regulated by conditions of the Extraction or Mineral Processing Permit.

**Section 904.6: Site Clearance**

All stumps and other debris resulting from the excavation or related activities should be disposed of by approved and acceptable methods.

**Section 904.7: Site Maintenance**

The operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area. Existing trees and topsoil along existing public rights-of way shall be preserved, maintained and supplemented for the depth of the setback or as stipulated in the Extraction or Material Processing Permit.

Mining or weather conditions which result in standing water lasting for more than three continuous weeks shall be managed to minimize the opportunity for mosquito hatching. Acceptable control measures include backfilling low spots to eliminate ponding/puddling and / or the use of pesticide tablets. The Township Board may also approve other methods.

**Section 904.8: Sewer**

Any structure or building, either temporary or permanent, that is equipped with plumbing or running water, will require a septic system designed, installed, and inspected in accordance with Minnesota Rule 7080 and Dakota County Ordinance No. 113. Leak proof holding tanks may be allowed by permit for non-permanent buildings if the Planning Commission and Township Board consider holding tanks appropriate for short-term operations.

**Section 904.9: Waste Disposal**

Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with Federal, State and County requirements.

Under no circumstances will waste generated off site be allowed to be stored or disposed of on the premises of the operation. This will include but not be limited to, mining equipment, automobiles, household waste, appliances, and furniture or construction materials.

**Section 904.10: Water Quality Monitoring**

Water quality monitoring when required shall conform to the following standards:

1. Water from monitoring wells and water collected or discharged from the mining area shall be analyzed until one year after reclamation is completed.
2. Monitoring wells shall be installed and sealed by state licensed well installers according to state and County regulations.
3. Quarterly samples from monitoring wells shall be taken and testing results submitted prior to the annual permit renewal.
4. The Planning Commission may require more frequent monitoring.
5. An independent testing laboratory or an agency chosen by the Planning Commission shall do sampling and testing.
6. The extraction operator may contest the Planning Commission's choice of laboratory on the grounds of expense or qualifications. The Township Board will then mediate any disagreement and make final judgment for choice of laboratory.
7. Monitoring wells shall be sealed one year after reclamation efforts are complete if the site is determined to be uncontaminated.
8. Water samples shall be analyzed to determine the level of nitrates, pesticides, and volatile organic compounds.
9. All water monitoring shall be conducted at the extraction operator's expense.

**Section 904.11: Trucking Operations**

All new mining operations must have access to the pit area from a 9 ton blacktop road unless the applicant can demonstrate to the Planning Commission that conditions are such in a particular area that access to a gravel road will not adversely affect the public health, safety, or welfare. The operator shall ensure all loads leaving any pit regulated by this Ordinance are loaded so as to comply with State Law. The conduct and driving safety of the trucking operator are revisable factors for the issuance and renewal of an Extraction or Material Processing Permit. Excessive wear or damage to Township roads shall be restored by extractor at extractor's expense.

#### **Section 904.12: Fuel Storage**

All on-site storage of fuel must meet Federal, State, and local standards. Fuel storage facilities or any equipment must be drained or removed during the off-season, or long periods (60 days) of inactivity.

#### **Section 904.13: Explosives & Blasting Operations**

The use of explosives is prohibited, unless specifically authorized in the Extraction Permit.

#### **Section 904.15: Added Provisions**

The operator must comply with such other requirements that Sciota Township, from time to time, may find necessary to adopt for protection of the health, safety, welfare, and prevention of nuisance in the area.

### **Section 905: MATERIAL PROCESSING**

#### **Section 905.1: Material Processing Activities**

Processing of extracted material commonly coincides with specific extraction activities; however, it may occur on mine locations without association with a specific extraction permit. It may also occur in association with specific construction projects. Processing or processing activities can include but are not limited to:

1. Crushing, screening, or washing.
2. Addition of bituminous, cement or other bonding materials.
3. Material recycling.
4. Cutting of blocks and or slabs.
5. Activities to enhance the excavated or extracted product beyond normal extraction and hauling.
6. Asphalt processing.

**Section 905.2: Material Processing Permits**

For any mining operation in which processing is proposed, the processing activity must operate under provision of a valid Mining Permit, Extraction Permit, or Material Processing Permit.

1. A Material Processing Permit is required for any processing activity not explicitly noted in an existing extraction permit.
2. A Material Processing Permit is required for any permitted Mining operation that does not have an active permitted Extraction operation but for which the operator desires to add on-site processing equipment.
3. The Material Processing Permit application must include the nature of the processing and. equipment, location of the plant, source of water, disposal of water, and reuse of water.
4. Mining Permits, Extraction Permits, and Material Processing Permits will recognize a difference between Temporary processing operations and Permanent processing operations.

**Section 905.3: Processing Provisions**

Any mining operation in which processing is proposed must meet the following performance standards:

1. Operators who wish to have processing equipment on a temporary basis (processing conducted no more than 25 working days a calendar year, excluding time for assembly and disassembly) shall meet the following criteria:
  - A. Only materials extracted on site may be processed. No materials may be hauled onto the property for processing, unless all material can be processed during the 25 day time period.
  - B. Setbacks as outlined in Section 904.1 must be met.
  - C. All Federal, State and local air, water, and noise standards must be met.
  - D. The operator must notify Sciota Township one (1) week in advance of equipment installation.
  - E. Processing shall not take place more than twenty-five (25) working days per year.
  - F. Crushing equipment must be placed in the bottom of the pit area if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
2. Operators desiring to have permanent processing equipment (more than 25 days per year) on site must meet the following standards:
  - A. All Federal, State, and local air, water, and noise quality standards must be met.
  - B. Machinery noise standards of the State and County must be met.

- C. Crushing equipment must be placed in the bottom of the pit if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
3. A temporary processing plant in conjunction with a specific road project, located in the right-of-way or very close proximity to the subject road, will be allowed subject to the following conditions:
- A. All Federal, State, and local air, water, and noise quality standards must be met.
  - B. The processing equipment must be located so as to minimize the effect of surrounding property owners.
  - C. Site selection shall not have a negative effect on the public health, safety, and welfare.
  - D. The Planning Commission and Township Board must approve the request.
  - E. The processing plant shall not be on the property for more than 120 calendar days.
  - F. No materials originating in Sciota Township, outside of the designated right-of-way, may be excavated or removed from the site without an Extraction Permit for mining.
  - G. Binding financial assurance, in an amount determined by the Township Board, must be posted to assure restoration of the site.
  - H. Liability Insurance: The extraction operator shall, at all times procure and maintain at the extraction operator's expense general public 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 Ordinance. Such insurance shall afford protection to a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to injuries or death to a single person, to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one accident or occurrence, and to a limit of not less than Two Hundred Thousand (\$200,000.00) in respect to property damage. The Township shall be named an additional insured on all such policies of insurance.
  - I. The extraction operator shall file with the Township a certificate evidencing insurance 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 905.4: Recycling**

The crushing/processing of used aggregate, concrete, asphalt, and other materials for road paving will be permitted subject to the following conditions:

- 1. Recycling not in a mine, but in conjunction with a specific road project and within the right-of-way or in very close proximity to the subject road shall be permitted for a maximum of 120 days subject to the following standards:
  - A. The processing equipment must be located so as to minimize the effect on surrounding property owners.
  - B. Site selection shall not have a negative effect on the public health, safety and welfare.
  - C. The request must be submitted to the Planning Commission and Township Board for approval.

- D. All Federal, State, and local air, water, and noise quality standards must be met.
  - E. The project operator must remove all materials at the end of the project.
2. Recycling in conjunction with an approved mining permit shall be allowed subject to the following conditions:
- A. An estimate of the amount of material to be processed must be submitted. The pile of material to be recycled shall be limited to the amount specified in 903.2.1, Section 3 (B).
  - B. Sciota Township Planning Commission and Township Board approve the recycling as part of the mining permit.

Recycling not in conjunction with a specific road project or with a permitted mining operation shall not be permitted.

### **Section 905.5: Asphalt Plants**

#### **Section 905.5.1: Temporary Asphalt Plants located in existing Mine**

A Material Processing Permit shall be required for any new or existing mining operation that wishes to have an asphalt plant. Temporary asphalt plants may be allowed if the following conditions are met:

1. ***Timeframe:*** asphalt plant must not be on the property for more than one hundred and twenty (120) days per year.
2. ***Days of operation:*** the asphalt plant must not be in operation more than 25 working days.
3. ***Approval:*** asphalt plant must have approval of Sciota Township Board. Equipment must be located in such a manner so as to have the least environmental and aesthetic impact as determined by the Planning Commission and Township Board.
4. ***Setbacks:*** all setbacks as set forth in this Ordinance must be met.
5. ***Air, water, and noise quality standards:*** all Federal, State, and local air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
6. ***Pollution Prevention:*** In the absence of a definitive plan to prevent surface and groundwater contamination, asphalt plants must be equipped with a bag house so there is no water discharge from the unit.

#### **Section 905.5.2: Permanent Asphalt Plants located in Existing Mine.**

Operators desiring to have a permanent asphalt plant (more than 120 days per year) must meet the following standards:

1. ***Approval:*** Permanent asphalt operation shall be subject to the same permitting requirements and conditions as set forth in Extraction Permit requirements.
2. ***Setbacks:*** all setbacks as set forth in this Ordinance must be met, unless the plant was in existence as a permanent asphalt plant on the effective date of this Ordinance.

3. ***Air, water, and noise quality standards:*** all Federal, State, and local air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.

**Section 905.5.3: Temporary Asphalt Plants Not located in existing Mine.**

A temporary asphalt plant in conjunction with a specific road project will be allowed subject to the following conditions:

1. ***Timeframe:*** asphalt plant must not be on the property for more than one hundred and twenty (120) days per year.
2. ***Approval:*** asphalt plant must have approval of Sciota Township Board. Equipment must be located in such a manner so as to have the least environmental and aesthetic impact as determined by the Planning Commission and Township Board.
3. ***Air, water, and noise quality standards:*** all Federal, State, and local air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
4. ***Pollution Prevention:*** In the absence of a definitive plan to prevent surface and groundwater contamination, asphalt plants must be equipped with a bag house so there is no water discharge from the unit.
5. ***Site Elevation:*** Site elevation shall not have a negative effect on the public health, safety and welfare.
6. ***Binding Financial Assurance:*** Binding financial assurance, in an amount determined by the Planning Commission and Township Board, may be required to be posted to assure restoration of the site.

An asphalt plant not in conjunction with a temporary road project or a permitted mining operation shall not be allowed.

**Section 906: RECLAMATION**

**Section 906.1: Reclamation Plan**

The reclamation process is primarily the responsibility of the landowner / holder of the Mining Permit. Sciota Township recognizes that in some situations the Mining Permit and Extraction Permit will be the same party, and in some situations they will be separate parties.

When the same party holds the permits, any extraction process must comply with the active Mining Permit plan, or the plan must be modified prior to consideration of extension of the Extraction Permit.

When separate parties hold the permits, all extraction processes must comply with the intent of the reclamation plan that exists in the Mining Permit. Any application for an Extraction Permit that deviates from the existing reclamation plan must be accompanied by an application by the holder of the Mining Permit acknowledging the changes to the reclamation plan.

The applicant for the Mining Permit AND the applicant for each Extraction Permit must submit a reclamation plan consisting of graphic representation and written text. The plan must contain the following elements:

1. Intent of reclamation.
2. Methods and processes of reclamation.
3. Initial condition of mining site.
4. Phasing and timing of operations and reclamation including areas to be stripped of overburden.
5. Final condition of site, including proposed contours and potential development plan.
6. Relation of final site condition to adjoining landforms and drainage features.
7. Relation of reclaimed site to planned or established uses of surrounding land.
8. A plan for maintenance of reclaimed area.
9. A detailed cost estimate of reclamation

Binding financial assurance, such as a performance bond or letter of credit, may be required. Such assurance may be required at the time of the issuance of the mining permit or at the time of the issuance of the extraction permit (if different), at the discretion of the Planning Commission and Township Board.

### **Section 906.2: Timing**

Restoration should proceed according to the timeline established by the reclamation plan, in a continuous manner, and must be subject to review and approval at each annual inspection and at the end of the permit period.

### **Section 906.3: Excavation Requirements**

Excavations resulting in the accumulation of substantial water areas after rehabilitation must meet the following requirements:

1. The water depth must not be less than three (3) feet measured from the historical low groundwater elevation, unless a plan for creation of a wetland or marsh has been approved.
2. All banks shall be sloped to the historical groundwater elevation at a slope that shall not

be steeper than four (4) feet horizontal to one (1) foot vertical.

3. All banks shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least six (6) inches; sod or seeding and mulching is also required. Mulch must be properly anchored.
4. Such topsoil as required by Section 906.5 (Cover and Planting) shall be planted with trees, shrubs, legumes, or grasses.
5. Slopes on reclaimed areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical, except in cases where non-erodible conditions are present and the Planning Commission approves the reclamation plan.
6. In man-made groundwater lakes, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body a maximum slope of 6 feet horizontal to 1 foot vertical for at least 100 feet from the proposed shoreline toward the center of the water body. Beyond 100 feet in horizontal distance, the slope of the bottom contours may be no steeper than 3:1.
7. Department of Natural Resources guidelines for surface water creation shall be closely followed.

Excavations not resulting in water areas after rehabilitation but which must be graded or back filled, shall meet the following requirements:

1. Fill shall be inspected and certified as being clean (free of volatile organic compounds and heavy metals) before being used for reclamation. Organic soil shall be used only for topsoil.
2. Such grading or back filling shall be made with non-noxious, non-combustible solids. Trees, stumps, brush, and demolition materials are examples of unacceptable fill material.
3. The graded or back filled area shall not collect or permit stagnant water to remain therein.
4. The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
5. Such graded or back filled area shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth at least six (6) inches.
6. Topsoil shall be used to plant trees, shrubs, legumes or grasses.
7. Slopes on reclaimed areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical, except in cases where non-erodible conditions are present and the Planning

Commission approves the reclamation plan.

8. All rehabilitation areas that are planned for building purposes shall have a final elevation at least 10 feet above the normal historical groundwater elevation. Plans for on-site septic systems must be considered.

#### **Section 906.4: Drainage**

Reclamation shall precede in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of natural and storm drainage shall not adversely affect public roads or neighboring uses, and must comply with the Sciota Storm Water Management ordinance.

Weather conditions or Mining practices that result in standing water lasting for more than three (3) weeks shall be managed to minimize the opportunity for mosquito hatching. Acceptable control measure include:

- Backfilling low spots to eliminate ponding or puddling.
- Use of pesticide or treatment tablets or pellets
- The Township Board may also approve other methods.

#### **Section 906.5: Cover and Planting**

The reclamation area shall be planted with grass, trees, shrubs, or other vegetation to prevent erosion and provide for screening and natural beauty. Technical assistance and soils data should be obtained from the Dakota County Soil and Water Conservation District, appropriate State and Federal officials, conservation districts, and the nearest soil conservation service office.

When topsoil is stripped or removed, it must be set-aside on the site for creating berms and for re-spreading over the excavated area. These overburden stockpiles must be used for reclamation. Excess removed topsoil may be removed from the property only after reclamation is completed according to the reclamation plan.

#### **Section 907: VIOLATIONS & PENALTIES**

In the event of a violation or threatened violation of any of the terms of this Ordinance, the Township may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance or other appropriate action to court if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursement and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.

The operator grants the Township's officers and representative access to the facility during

normal operation hours to inspect the mineral extraction facility and enforce the provisions of this Ordinance. If such access is refused, the Township shall have recourse to every remedy provided by law to secure entry, including judicial search warrants.

### **Section 908: TERMINATION OF PERMIT**

Any permit granted pursuant to this Ordinance may be revoked for a violation of any provisions of this Ordinance or any conditions of the permit.

Revocation shall not occur earlier than ten (10) Township working days from the time written notice of revocation is served upon the permittee or if a hearing is requested, until written notice of the Township Board action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain:

1. The effective date of the revocation,
2. The nature of the violation or violations constituting the basis of the revocation,
3. The facts which support the conclusions that a violation or violations have occurred
4. a statement that if the permittee desires to appeal, the permittee must, within ten (10) working days, exclusive of the day of service, file a request for a hearing to the Sciota Township Clerk.

The permittee hearing request shall:

1. Be in writing,
2. State the grounds for appeal
3. Served personally or by registered or certified mail to the Sciota Township clerk by midnight of the tenth Township working day following service.

Following the receipt of a request for hearing, the Sciota Township Board shall set a time and place for the hearing, which shall be conducted in accordance with the procedures set forth in applicable Sciota Township Ordinance.

Mining operations must cease while the appeal is being considered. The hearing shall be held in conjunction with the next regularly scheduled Board meeting, unless a special meeting is requested by the applicant, to be held at the applicant's expense.