Section 26.10 Resource Mining, Extraction or Fill

26.10.1 Intent

The location of mining and extractive operations are dependent in large part, upon the sites which contain natural deposits of material having economic value, particularly to the construction industry. Sites nearest to the built-up areas are generally more viable economically, but they would be more sensitive environmentally, because of their close proximity to homes and smaller building sites. The treatment of extractive operations as a special use (conditional) is necessary to build-in the flexibility needed to permit these activities where the resources are found, and at the same time, to afford protection to adjoining properties to the extent necessary with each particular site. Public agencies, government units, and private operations are included.

The following standards of Section 26.10 apply to all zoning districts:

26.10.2 Site Plan Requirements

Site plans for Special Use Permits shall be in accord with the site plan requirements of Article 20, as applicable to the particular site, and shall in addition show:

A. Proposed location, area, extent and depth of excavation or fill.

B. Pertinent time schedules for starting and concluding dates of the proposed operation per Permit.

C. Location of spoils dumps, sediment basins, earth stockpiled and any permanent or temporary machinery or buildings to be used.

D. Roads to be used by any hauling equipment and show all planned ingress/egress points to the excavated area, stockpiled resources, and on-site equipment.

E. A statement on general ground water conditions, including levels and any possible impact on wells in the area.

F. A statement outlining the type of material to be extracted or deposited, the type of mining operation and processing equipment to be used and measures to control noise, pollution, run-off and any steps to relieve any adverse effects to adjoining properties and the environment.

G. Plans and statements outlining all work to be done on site reclamation, assuring that sufficient steps are taken to blend into the surrounding landscape or neighborhood as applicable.

The map scale of the site plan shall be commensurate with the size of the excavation on site, but shall be sufficient to show the site operating details as required by each Permit.
26.10.3 Site Plan Review Levels Required

The site plan review procedures required for an extraction/fill site will vary with the scope, extent and complexity of the proposed operation. The following site plan review levels shall apply in all Zoning Districts:

A. Level I: No Site Plan Review or Permit shall be required if:

1. The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.

2. The operation involves minor or incidental earth work in connection with a building construction project, i.e. berms, regraded slopes, retention ponds, and/or similar work.

B. Level II: Site plan approval shall be sought from the Zoning Administrator if:

1. Intended or projected extraction/fill areas are three (3) acres in area or less, and the operation is not located in a Residential District.

2. At least 100 feet separates the edge of the earth disturbance area from the nearest property line.

3. There are no buildings or on-site structures related to the operation. Crushing equipment, batch plants and related processing equipment shall not operate or occupy the site for a period longer than 45 days.

4. The total extraction and site reclamation operation will be completed within a 12-month period, except stockpiled material which can stand for a longer period not to exceed 24 months.

5. The extraction is not visible from a public road and the side slopes are to be restored to a safe angle of repose, and there are no unsafe/unprotected standing water conditions.

C. Level III: Site Plan approval by the Planning Commission if:

1. Intended or projected extractive/fill sites are larger than three (3) acres and any sites other than those included in Level I and Level II reviews.

2. Operations expected to run longer than (12) twelve months, including long term access to stockpiled resources.

3. Includes on-site processing machinery, batch plants and other equipment that will be used for periods longer than 45 days.
4. Questionable, unusual or special site conditions where the Zoning Administrator determines that Planning Commission review would be appropriate.

26.10.4 Performance Standards

The following shall apply to all proposed extraction, mining, fill operations:

A. All excavations or extractive work shall maintain a minimum perimeter setback of 50 feet from road right-of-way and all property lines. Controlled work in the 50 feet setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed as the work progresses (in cases of a pit).

B. The working face of an excavation shall maintain slope angles sufficient to prevent sloughing, erosion or earth disturbances of any kind of adjoining properties.

C. Leave sufficient native topsoil on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless a guaranteed replacement plan is approved.

D. Fences, berms, walls, and visual screening devices may be required, if necessary, to protect adjoining properties and/or persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.

E. The operation of mechanical equipment of any kind may be limited by the day and/or the hour if the site is in a location that directly impacts homes, by creating an operating nuisance.

F. All structures, equipment, and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit. This item shall not apply to industrially zoned sites.

G. Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.

H. If necessary to protect the area, access routes serving the site may be limited as stated on the Permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.

I. The location of earth stockpiles, machinery, equipment and any buildings, shall be approved by Permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.

26.10.5 Site Reclamation
The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. Excavations shall be finished with evenly contoured grades to blend in with the adjoining terrain. In Residential Districts, the final grade of an excavation may be required to be brought back to a level determined reasonable to continue future residential development, i.e. as along a common street or road with adjoining residential land.

A. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. An alternate reclamation plan may be filed for cases where continuous reclamation is not practiced or feasible, and a surety bond is provided.

B. Excavations which encounter ground water or trap surface water, shall be treated in one or more of the following, as applicable to a particular situation:

C. Stagnant water conditions shall not be permitted to continue and back filling with approved materials may be required.

D. Where water is to remain, either by planned re-use or because no other option exists, the depth shall be sufficient to avoid stagnation, and the shoreline and bottom land grade shall be uniform at one ft. vertical to five ft. horizontal (1:5). The water depth shall be posted.

E. Depending on the nearness of residential neighborhoods, and access by children, the created water body may be required to be safety fenced, posted for no trespassing, or similar safety precautions considered appropriate for the site.

F. The final banks of all excavations shall be sloped at a grade which is not steeper than one (1) ft. vertical to three (3) ft. horizontal (1:3) from the top to the pit bottom, or otherwise be established to blend in with the adjacent terrain and/or stabilize at the soils natural angle of repose.

G. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired. Where used, top soil shall be applied to a depth sufficient to support vegetation.

H. Vegetation may be required to be restored by seeding of grasses or sodding and/or the planting of trees and shrubs.

I. Upon cessation of mining operations, and within a reasonable period of time not to exceed 24 months, all plant structures, buildings, and equipment shall be removed, except for that necessary to manage on-site stockpiled materials. This does not preclude a restart at another time upon permit renewal.

Specific site reclamation requirements may vary somewhat depending on the location of
the site in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment, and/or re-use potential (or plan). The Planning Commission shall rule on such variations with reasons stated.

26.10.5 Special Use Permit

A. Nonconforming mining operations, those which are active or have been active within the last 24 months, and established as a business operation, shall not require a permit, provided such operations do not increase their nonconformity relative to the performance standards of this Ordinance, and no hazardous site conditions are maintained. No such operation, however, shall extend into the required 50 feet setback area and precautions shall be taken to avoid leaving hazardous conditions.

B. To avoid duplication, the Zoning Administrator may accept the documents required for permits under Soil Erosion and Sedimentation Control, Part 91 of 1994 PA 451, as amended, provided, the terms, standards, and review requirements of the Zoning Ordinance are complied with. Any extraction or fill operation subject to regulations and licensing under state law, shall be exempt from zoning laws where such exemption is extended by state law.

C. Permits shall contain the full extent of the operation as specified in each Permit, and any deviation or enlargement of the scope of operation shall require a separate Permit.

26.10.6 Performance Guarantees

In those instances, where in the opinion of the Planning Commission or Zoning Administrator, a resource excavation/fill operation entails extensive reclamation work and/or safety precautions, financial guarantees or assurances as prescribed in Section 20.08 of the Zoning Ordinance may be required as a condition to issuing a Special Use Permit under the terms of this Ordinance.

In lieu of a bond requirement or financial guarantee, the Planning Commission may substitute a staged or phased excavation program wherein performance on reclamation shall be substantially completed before undertaking the next phase.
Section 26.31 Temporary Uses including Mining Operations, Hot Mix Plants, Solid Waste Processing Equipment, and Similar Uses

26.31.1 FF-1, FF-2, and FR Districts

A Zoning Permit may be issued if:

A. The use serves a specific project in the vicinity.

B. The use is active for a period of less than ninety (90) days on any one parcel.

C. The use is not nearer than 300 feet from any off premises dwelling.

D. The use complies with applicable State and Federal laws, rules, and regulations, including, but not limited to, those governing pollution control and environmental protection.

E. Within ninety (90) days after the use ceases to be active, the site is restored to a condition equal to or better than that which existed before the use.