

ORDINANCE NO. 2005- 2

AN ORDINANCE OF THE TOWNSHIP OF HILLTOWN, COUNTY OF BUCKS AND COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 160 OF THE CODE OF HILLTOWN TOWNSHIP BY CREATING A NEW RESOURCE EXTRACTION AREA AND QUARRY AND RELATED OPERATIONS PERFORMANCE STANDARDS AND CERTAIN REGULATIONS WITH REGARD THERETO.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Hilltown Township, Bucks County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

SECTION 1. Section 160-3 of Chapter 160 of the Code of Hilltown Township is amended by adding subsection N, as follows:

Providing for the reasonable development of minerals in the Township.

SECTION 2. Section 160-11 of Chapter 160 is further amended by adding the following definitions of words, terms and phrases, as follows:

Mineral Activities, Resource Extraction Activities. Resource extraction activities, including, but not limited to, the extraction of minerals from the earth, from waste, stockpiles or from pits or from banks by removing the strata or material that overlies or is above or between them or otherwise exposing and retrieving them from the surface. The term includes, but is not limited to, strip mining, auger mining, dredging, quarrying and leaching and the surface activity connected with surface mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft and borehole drilling and construction and activities related thereto. The term does not include mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine operations, nor does the term include the removal of overburden, the construction of berms, fencing and roadways.

Quarry. The use of open spaces, non-coal surface mining, ready mix concrete plant, manufacture of stone related products, retail and wholesale sales of stone and stone related products, the manufacture of concrete items, bituminous asphalt plants, the storage, maintenance and repair of construction and quarry vehicles, equipment, raw materials and furnished products, and operations necessary therefore, including but not limited to blasting, crushing and sorting and accessory uses including offices for any permitted principal or accessory uses, including, but not limited to, quarry, construction, concrete and bituminous asphalt business and sales offices related to the aforesaid uses or any one or more of the aforesaid uses.

Quarry Operator or Operator. The owner or other user who is conducting the use and operations of the quarry site in accordance with this ordinance.

SECTION 3. Section 160-16.C.(1), “**Resource Extraction Areas, Quarry**” of the Chapter 160 is further amended as follows:

Intent. The Zone is intended to provide for the extraction of sand, clay, shale, topsoil, gravel, stone, and/or similar materials and is intended to include the construction and operation of concrete plants and asphalt plants or other related processing, manufacturing or industrial operations or activities including but not limited to blasting, crushing and sorting as set forth below and as set forth in Section 160-44 of Chapter 160 of the Code; provided, however, that in the event there is conflict between the provisions of this Section and any provision of Section 160-44 or any other provision of Chapter 160 the provisions of this ordinance shall prevail and control.

(a) Permitted Uses. Permitted uses in the zone created by this ordinance shall include, on any parcel of real property within the zone any one or more of the following:

- [1] Quarry and Mineral Extraction, Mineral Activities, Resource Extraction Activities as defined in Sections 160-3 and 160-11 of this ordinance and as provided in the Intent of Section 160-16.C.(1).
- [2] Non-coal surface mining activities as defined herein.
- [3] Retail and wholesale sales of stone and stone related products.
- [4] Manufacture of stone related products.
- [5] Concrete plants.
- [6] Manufacture of concrete items.
- [7] The storage, maintenance and repair of construction and quarry vehicles, equipment, raw materials and finished products.
- [8] Open space.
- [9] Bituminous Asphalt Plants.
- [10] Construction Businesses.
- [11] Accessory uses including offices for any permitted principal or accessory uses, including, but not limited to, quarry, construction, concrete, bituminous asphalt business and sales offices related to the aforesaid permitted uses.

[12] Any use regulated by the Pennsylvania Public Utility Commission.

(b) Uses by Special Exception. Use by Special Exception shall include: Agricultural, and recreational subject to other provisions of this Ordinance.

(c) Setback. Except for pre-existing uses and quarry and accessory uses, all uses shall be set back a minimum of fifty feet (50') from any property line.

(d) Minimum Lot Size. Minimum lot size for any one or more of the uses permitted by this Ordinance shall be ten (10) acres.

(e) Maximum Height. Maximum height of any structure permitted by this Ordinance (excluding storage piles, chimneys, cupolas, tanks, vents and like projections) shall be sixty-five feet (65') measured from original grade.

SECTION 4. Section 160-44, "Quarry Performance Standards" of Chapter 160 of the Code shall not apply to uses in this district and the following performance standards and regulations shall apply:

SECTION 160-44. Quarry Performance Standards.

A. Purpose

Quarry, mineral activities and resource extraction activities as defined above in Sections 160-3 and 160-11 and as permitted in and in accordance with the Intent of Section 160-16.C.(1) are permitted in accordance with the regulations set forth below in those areas of the Township identified within the Official Zoning Map (as amended on August 31, 2005). Resource extractive operations include non-coal surface mining, concrete plants, bituminous asphalt plants and other uses normally associated therewith.

B. Use Regulations

Non-coal surface mining activities, defined as the extracting of minerals from the earth, from waste or stockpiles or from pits or from banks by removing the strata or material that overlies or is above or between them (which removal shall not constitute mining activity) or otherwise exposing and retrieving them from the surface, including, but not limited to, strip mining, auger mining, dredging, quarrying and leaching and all surface activity connected with surface mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft, and borehole drilling and construction and activities related thereto excluding, however, the extraction, handling, processing or storing of materials from any building construction excavation on the site of the construction where the minerals removed are incidental to the building construction excavation, regardless of the commercial value of the minerals, shall be permitted in this Resource Extraction Arcas Quarry zone within the Township of Hilltown but shall not be conducted except in strict compliance with a zoning permit issued upon compliance with the following requirements:

(1) *Compliance with all applicable state and federal laws.*

(2) *Plan and supporting document requirements:*

(a) Existing Features and Mining Map

- [1] Scale not less than one inch equals two hundred feet.
- [2] Boundary of the entire tract by courses and distances, surveyed in accordance with current ALTA/ACSM Land Title Survey and Mapping Standards. Property and planimetric features survey to meet Class A requirements. Elevation survey to be the third-order accuracy and ninety percent (90%) of all spot elevations determined from the map must be within \pm one-half the contours interval of correct elevations. Contour interval to be not less than five feet (5').
- [3] Monumentation and benchmarks for proposed limits of mining.
- [4] Vehicular access, existing and proposed.
- [5] Zoning district boundaries and adjacent districts.
- [6] Setback limits.
- [7] All existing occupied and/or unoccupied structures located within 1,000 feet of the limits of mine operations.
- [8] The location and names of all streams, roads, and railroads, on or immediately adjacent to the area.
- [9] Acreage to be mined.
- [10] Location and details of groundwater monitoring wells.
- [11] Location and details of sediment control facilities including, but not limited to, ponds, berms and ditches.
- [12] Location of existing and/or proposed on-site water supply and sewage collection systems.

- [13] Location and details of existing and proposed security fencing.
- [14] Pennsylvania Department of Environmental Protection permit numbers and/or reference number of mining, mine drainage, and national pollution discharge elimination systems.
- [15] Owner's name, address and telephone number.
- [16] Applicant's name, address and telephone number.
- [17] Cross-section reference.

(b) Cross-section Drawings

- [1] Cross-sections at a horizontal scale of not less than one inch equals one hundred feet, and a vertical scale of not less than one inch equals fifty feet (50').
- [2] A minimum of four (4) cross-sections, one cross-section to be taken longitudinally in approximately the center of the area and the other three sections perpendicular to the longitudinal section spaced in approximately equal increments. All sections to extend one hundred feet (100') beyond mining limits.
- [3] Cross-section plots to use same elevation reference datum as used for contour map.
- [4] Cross-sections to show existing ground profile, approximate extent of overburden, groundwater level, final mining elevations, and final ground elevation profile after restoration.

(c) Reclamation Plan

- [1] Scale not less than one inch equals two hundred feet (200').
- [2] Boundary as shown upon existing features map.
- [3] Final proposed elevation contour lines at five feet (5') intervals.
- [4] Final groundcover and seedbed preparation.

- [5] Planting schedules.
- [6] All structures and manmade features to be removed within reclaimed area.
- [7] Soil erosion and sedimentation control measures.
- [8] A copy of the reclamation plan for the affected area approved by the Pennsylvania Department of Environmental Protection shall satisfy the requirement of this subsection.

(d) Groundwater Data

- [1] Flow rate and direction.
- [2] Static water level.
- [3] Water quality data, if and when requested by the Township to investigate specific complaint.

(3) *Operating Performance Standards, General:*

- (a) Quarry operator/owner shall supply to the Township copies of all submissions to the Pennsylvania Department of Environmental Protection (“DEP”) and Bureau of Surface Mines (“BSM”).
- (b) Peak particle velocity as measured with seismographs meeting DEP standards shall not exceed six-tenths (0.6) of one inch per second and sound level shall not exceed 130 decibels.
- (c) Maximum height of any structure shall be sixty-five feet (65') above the original grade exclusive of vents, storage piles, chimneys, cupolas, tanks and similar protrusions.
- (d) Blasting records shall be kept on file by quarry operator, and copies shall be forwarded promptly to Township upon request.
- (e) Monumenting. The operator shall install monuments along the proposed limits of mining in such a manner as to be clearly visible upon inspection. Said monuments shall be permanently installed and surveyed. Legal description and plot plan to be submitted to the Township.

(4) *Operating Performance Standards, Pre-Blast Activities*

- (a) Prior to commencement of any blasting in connection with any activities associated with use in this Resource Extraction Areas Quarry Zone, the Operator shall conduct a “pre-blast inspection” as defined by DEP Regulations or rules (except for those regulations pertaining to the areas to be inspected) of all homes within a radius of one thousand (1,000) feet of the location of any blasting activities anticipated to occur within the next following year.
- (b) Pre-Blast Inspections shall be conducted at the sole cost of Operator within thirty (30) days of receipt of the homeowner’s written request for pre-blast inspection. Additionally, from time-to-time, upon the issuance of a building permit or occupancy permit by the Township to or for any property located within the applicable radius of a blast site, a pre-blast inspection shall be conducted. The Township shall provide Operator, in a timely manner, with copies of all building permits and/or occupancy permits issued for any structure falling within the applicable radius of the blast site.
- (c) As the blast site moves from one area to another, Operator shall give written notice, by Certified Mail to all residences within the applicable radius of the new blast site not previously notified and shall, upon written request, conduct a pre-blast inspection of such additional residences in accordance with the requirements of this Paragraph. The additional pre-blast inspections required under this paragraph shall be conducted within thirty (30) days of receipt of the homeowner’s written request for a pre-blast inspection.
- (d) Notwithstanding any provision contained in this Agreement or any other Agreement to the contrary, Operator shall be under no obligation to conduct pre-blast inspection for those homes where the homeowner has refused to grant Operator permission in writing to conduct the pre-blast inspection. No homeowner shall be required to grant Operator permission to conduct pre-blast inspections and in the event that a homeowner refuses to grant Operator permission to conduct a pre-blast inspection, Operator shall notify the Township in writing of the homeowner’s refusal.
- (e) The pre-blast inspection shall determine the condition of the dwelling or structure and document any pre-blasting damage and any other physical factors that could reasonably be affected by the blasting.

Assessments of structures, pipes, cables, transmission lines, sewage systems, wells and other water systems shall be limited to surface conditions and readily available data.

- (f) The homeowner may arrange to have a pre-blast inspector of his choosing present during any pre-blast inspection performed pursuant to this paragraph.
- (g) A written report of the pre-blast survey shall be prepared and signed by the person who conducted the pre-blast inspection. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the pre-blast inspection report shall be promptly provided to Operator, to the homeowner, and to the Township together with the homeowner's pre-blast inspector's report, if any.

(5) *Operating Performance Standards, Blasting.*

- (a) All blasting shall be done in strict conformity with the requirements of DEP as they may from time-to-time be altered and shall only occur between 9:00 a.m. and 4:00 p.m. (but not between 11:30 a.m. and 12:30 p.m.), prevailing local time, Monday through Friday, except in the event of an emergency or an extraordinary circumstance such as an intervening electrical storm resulting in a delay to any blasts originally scheduled between the aforesaid hours. In the event of an emergency or an extraordinary circumstance, the Township and the Our Lady of the Sacred Heart School and Church (collectively "Church") shall be promptly notified prior to blasting at the H & K Materials Quarry.
- (b) All homeowners residing within 1,500' of a blast site who have prior thereto requested such notice in writing shall be notified by telephone of the scheduled blast within two hours prior to such blast, but no later than 30 minutes prior to the blast.
- (c) Despite the allowance by DEP blasting regulations of peak velocity of 2.0 inches per second, in no instance shall Operator permit a blasting peak particle velocity to exceed .6 inches per second.

- (d) The requirement that Operator provide the Township and/or the Church with notice of its intent to blast and/or use explosives shall not in any way limit Operator's use of blasting and/or explosives in its operations at the Property.

(6) *Operating Performance Standards, Noise.*

- (a) All activities at the Quarry site shall be conducted in strict compliance with the standards for noise level established by DEP and shall not (except during blasting, drilling, overburden removal and/or berm construction and as otherwise provided in this Ordinance) exceed sixty (60) decibels (A Scale) at the property lines averaged over a five (5) minute period. If the noise level is expected to consistently exceed sixty (60) decibels for any sustained period of time during drilling, blasting, overburden removal, berm construction, and/or as otherwise provided in this Agreement, Operator shall provide the Township and the contiguous homeowners with advance written notice. Such notice shall set forth the nature of the impending disturbance and the approximate time frame of the disturbance.
- (b) During overburden removal, berm construction, drilling and blasting, the noise level at the property lines shall be in conformance with the standards for noise level established by DEP.
- (c) Operator shall post signs requesting that vehicles avoid backing-up, where possible to safely do so. A sign shall also be posted stating that, once a vehicle pulls out of the quarry, it may not back-up into the quarry.

(7) *Operating Performance Standards, Equipment.*

- (a) All loaders, yard trucks and yard vehicles used in any operations permitted by this Ordinance shall be equipped with strobe lights for night back-up warnings which shall be used in lieu of back-up beepers after sundown and until sunrise so long as such use of strobe lights in lieu of back-up beepers is permitted by local, state and federal laws, statutes, and regulations. Specifically excluded from the requirements of this Paragraph are any over-the-road vehicles. Operator shall instruct their truck drivers and independent truckers, whether those truckers are hauling for Operator or other employers, that between sundown and sunrise, backing up is to be minimized to the maximum extent possible and employed only in exceptional circumstances.

- (b) As part of its reasonable efforts to minimize dust created by its operations, and to the extent reasonably needed, practical, and economical, as determined by Operator, in its sole discretion, Operator shall employ the use of a water truck to reduce dust created from internal haul roads and the use of a water spray system on equipment.
- (c) As part of its reasonable efforts to minimize dust and dirt on the roads immediately adjacent to its tracts, and to the extent reasonably needed, practical, and economical, as determined by Operator, in its sole discretion, Operator shall have a Street Sweeping/Vacuum Truck sweep the streets and roads immediately adjacent to the tracts.
- (d) Within 12 months from the adoption of this Amending Ordinance, with no appeals outstanding, Operator shall install on its crushers a new dust control system known as a NESCO System or other similar system that utilizes a high pressure fog spray to suppress dust.

(8) *Operating Performance Standards, Hours of Operation.*

- (a) No quarrying operation or activity, which involves the use of blasting, crushing, material handling, equipment, and vehicles other than those customarily employed in office type functions, shall be carried on before the hours of 6:30 a.m. or after the hour of 6:30 p.m., prevailing local time, Monday through Friday, and no later than 12:00 Noon, prevailing local time on Saturday, except that Operator may load out trucks and operate its asphalt and concrete plants on Saturdays from 6:30 a.m. until 6:30 p.m., prevailing local time. There shall be no quarrying operations of any type on Sundays. The preceding hours of operation shall also apply to the loading of trucks and charging of concrete and asphalt plants except that Operator may perform maintenance activities and may receive deliveries of cement and liquid asphalt after 6:30 p.m. and before 6:30 a.m. No other limitations on Operator's operations and activities on any of its lands in this zone or otherwise shall exist or be imposed.
- (b) Operator may request temporary expanded hours of operation because of unusual bid/contract requirements, such request to be made to the Board of Supervisors of Hilltown Township, which Supervisors shall not unreasonably withhold such permission. Such permission shall be unreasonably withheld if the refusal of permission is without a sound basis, based upon legally competent evidence, that

such operation will result in significant harm to the health, safety and welfare of the citizens of the Township. The Supervisors shall promptly upon the receipt of any request for temporary expanded hours of operation (but in no event later than fourteen (14) days after such receipt) consider and respond to such request in writing. If the Supervisors should fail to act within the fourteen (14) day period, their approval of the request shall be deemed to have been approved and given.

- (c) No primary crusher shall operate on any Sunday, on New Year's Day, on Memorial Day, on the Fourth of July, on Labor Day, on Thanksgiving Day, or on Christmas Day.

(9) *Operating Performance Standards, Groundwater*

- (a) Operator shall at its own cost and expense engage Registered Hydro-Geologists to conduct studies and create models of the potential impact of Operator's non-coal surface mining activities on the existing water supply in the area of the quarry. These studies shall establish the existing water supply wells boundary area (the "No Fault Areas") generally referred to by DEP as "Zones of Influence" as depicted on a plot plan submitted to the Township, within which Operator shall be responsible for restoring or replacing existing water supplies. The models shall be periodically adjusted to reflect information obtained during actual mining from, inter alia, various monitoring wells, with such periodic adjustment to occur as required by DEP.
- (b) In the event that Operator's non-coal surface mining activities materially affects the quality and/or quantity of any existing public or private water supply well within the No Fault Areas established pursuant to Section 160-44.B.(9)(a). by contamination, interruption, or otherwise, Operator shall restore or replace the affected water supply with an alternative source of water, adequate in quality and quantity for the purposes served by the supply. The term "water supply" shall mean any existing source of water or facility or system for supply of water for human consumption. As to any residential well located within the No Fault Areas shown on the plot plan submitted to the Township, Operator will, upon notice by an owner thereof who experiences loss of an adequate supply of water resulting from a decrease in the water level of his or her well after mining on the site begins, restore an adequate residential water supply at Operator's sole cost, including the cost of lowering the pump into a well, drilling a new well, extending the depth of an existing well, or

such other method as shall be chosen by Operator, including any additional cost associated therewith, including, but not limited to the cost of installing a new supply line and/or pump, subject, however, to the following conditions:

- [1] Any property owner claiming a loss shall have had an adequate supply of water for existing uses as of August 31, 2005 or at the time the well was established, which ever occurs later. An “adequate water supply” shall mean that the property owner was able to rely upon the existing well to supply normal residential uses (excluding the filling of swimming pools) being conducted on the property and that prior to August 31, 2005 (if the well was in existence on that date), the property owner had not experienced any period when his or her water supply was interrupted due to the level of water in the well not being sufficient to meet those needs. In the case of wells drilled after August 31, 2005, “adequate water supply” shall mean that the well meets or exceeds the following flow requirements as determined by a pumping test of a minimum duration of four (4) hours.

Sustained Gallons per Minutes (Pumping Rate)	Maximum Drawdown of Water Level
8 (or greater)	60'
6	80'
5	90'
4	125'
3	140'
2	175'

The four (4) hour pumping test shall be conducted at a constant pumping rate that shall not deviate greater than +/-5% during the test.

Maximum drawdown of water level is the difference in elevation between the static water level (depth of water surface when the well is not being used) and the water level at the conclusion of the four (4) hour pumping test. Additionally, the water level at the end of the four (4) hour pumping test shall, at a minimum, be ten (10) feet higher in elevation

than the proposed pump depth. **There shall be no obligation on the part of the property owner to prove that the decrease in the water level of the well was caused by the operations of the quarry unless: 1. the property owner had previously experienced a period(s) when his or her level of water in the well was not sufficient to meet those needs; and 2. Operator reserves the right to test any well where there is a claim of loss of water supply to determine whether there is, in fact, a loss of water supply, and if there is a loss of water supply, how to restore the water supply.**

Written notice by certified mail, of the provisions of Section 160-44.B. shall be provided by Operator to each property owner in the No Fault Areas of their rights under this Ordinance within 30 days after August 31, 2005, with no appeals outstanding.

- (c) This provision shall apply only to loss of water resulting from the lowering of the water level in the well and not to loss of quality of water unless the property owner establishes that the loss of water quality has been caused by the operations of the quarry. There shall be no obligation on the part of Operator to supply a greater quantity of water than the well produced prior to the interruption of water supply, and the restored water supply shall be satisfactory if it meets the standard for an "adequate water supply" as set forth in this ordinance, Section 160-44.B.(b)(9)[1], above.
- (d) The Township shall refer any complaint as to loss of water supply within the No Fault Areas to Operator. Operator shall provide a temporary solution to the loss of water supply within twenty four (24) hours of receipt of the Complaint (including the supplying of bottled water within four (4) hours of the complaint or, where notice occurred after 5:00 p.m., by 10:00 a.m. the following day), and within fifteen (15) days of receipt of the Complaint, will advise the Township of the permanent action to be taken to restore the loss of water supply. The temporary solution to the loss of water supply for an existing residential well may include the provision for temporary housing of the impacted party at a motel or inn of Operator's choosing within a twenty (20) mile radius of the site and reimbursement for living expenses incurred for meals and laundry during the term when an

adequate supply of water (either temporary or permanent) is unavailable at the affected residence. Operator at its sole cost, reserves the right to connect a temporary supply of water to the affected residence during the period of water loss through the installation of an interim water supply system rather than providing temporary housing, should conditions permit. A typical interim system would employ the use of a 500 gallon poly tank for water storage. The tank, in turn, would provide gravity feed to a booster pump which would furnish the necessary pressure to charge the existing residential plumbing. Connection to the residence would typically be made through any existing outside faucet. Electric service for the booster pump shall be secured from the existing house's service. Water delivery shall be coordinated with a licensed bulk water supplier. The cost of electric to operate the booster pump shall be borne by Operator.

- (e) Should the investigation of a water problem, the provision of a temporary water supply or the restoration of an adequate water supply require any drilling or excavation, the Operator will restore the surface of the affected property by filling, landscaping and/or reseeded as soon as seasonally possible.
- (f) Operator and the Township intend that all wells located within the No Fault Areas shall benefit from the performance of this section and shall be considered third party beneficiaries of this Ordinance and any collateral agreements entered by the Operator and the Township. Wells located outside of the No Fault Areas, even though a portion of the property owned by the well owner extends into the No Fault Area, shall not be covered by this paragraph.
- (g) Operator shall have no obligation to restore, replace, or repair any water problems due to or resulting from the failure of any individual's own equipment including, but not limited to, pumps, electrical and/or piping problems.

(10) *Operating Performance Standards, Quarry Water*

- (a) To the extent that Operator, as part of its non-coal surface mining operations, generates, as part of its de-watering and pumping operations and activities, water in excess of that needed for Operator's operations and business activities, the Township shall have the right to sixty percent (60%) percent of such water generated or produced at the tract in this zone.

- (b) The Township shall be responsible for any and all costs and expenses necessary for the Township to obtain the water from a discharge point to be reasonably determined by Operator and to transport it from that point onward. Township shall be solely responsible for acquiring any and all permits necessary to permit the transfer of water to the Township, whether Federal, State, County, regional, local or otherwise, all at Township's sole cost and expense.
- (c) After non-coal surface mining activities have permanently ceased, including completion of reclamation and closing of the quarries, the Township shall have the right, to the extent that water is available on the tract in this zone, in the form of a pooling of the water in the former quarry hole, to draw a quantity of water approximately equal to that provided for in Section 160-44.B.(10)(a) above, provided that such withdrawal shall not exceed sixty percent (60%) of that which would be discharged naturally from the impoundment so created.
- (d) For any and all water obtained by the Township from Operator under this Ordinance, Operator shall be required to make no representations or warranties as to the quality and/or quantity of the water. Further, the Township shall indemnify and hold Operator harmless from any and all claims, demands, liabilities, suits, actions, damages, losses and out-of-pocket expenses including, but not limited to, counsel fees, witness fees, expert fees and engineering fees related to or arising in any way from any water supplied and the supplying of the water, including, but not limited to, any Township activities associated therewith.
- (e) Nothing contained in this Ordinance, including, but not limited to, Section 160-44.B.(10), shall require Operator to generate or produce, or continue to generate or produce water for the Township.

(11) *Operating Performance Standards, Overburden.*

- (a) In order for quarrying activities to commence, non-stone materials which overlay and in some cases interlay the active stone deposits, must first be removed. These non-stone materials are known as "overburden". The removal of overburden shall not constitute quarrying activities for purposes of this Ordinance.
- (b) Upon movement of overburden, said overburden shall be immediately either removed entirely from the property, placed in berms as regulated herein, or placed for storage. All such storage areas shall be

immediately seeded in such a manner as to prevent erosion and in total compliance with the requirements of DEP as they may from time to time exist.

(12) *Operating Performance Standards, Berms.*

- (a) Operator shall construct a berm upon the tract along the perimeter of the tract, unless the perimeter joins upon another tract on which the use is quarry, whether in this zone or otherwise, in which event no berm or fence shall be required. If a berm or fence exists where one is not required, it may be removed by Operator, at its sole cost, option and discretion. Operator shall be permitted to “day light” between the tract in this zone and any existing quarry use properties.

(13) *Operating Performance Standards, Berming Standards.*

- (a) Operator shall create a berm, where one is required under Section 160-44.B.(12), Operating Standards, Berm, of at least fifteen feet (15') in height with a minimum bottom width of ninety feet (90') and with a minimum top surface of fifteen feet (15') within the buffer zone.
- (b) The outer slope of the berms shall be constructed with a 3:1 slope; the inner slope of the berms with a 2:1 slope.
- (c) Operator shall place a chain link fence six feet (6') in height along the boundary line of the quarry. A drawing of existing and to be placed fences shall be submitted to the Township. No barb wire or razor wire shall be placed at the top of the chain link fence.
- (d) Any fence required under this Ordinance shall be installed and erected at the sole cost of Operator.
- (e) There shall be planted on the outer slope of the berm two rows of evergreens spaced at fifteen (15) foot intervals and staggered. Should any of these evergreen plantings die, they shall be promptly replaced during the next growing season. Between the outer toe of the berm and the evergreens, grassy plantings shall be created, mowed and maintained as necessary.
- (f) Berms, fencing, roadways, and the construction thereof shall not be considered to be quarrying activities and may be located within any setback/buffer zone established by this Ordinance.

- (g) No quarrying activities shall occur on any tract in this zone until the berms are constructed.

(14) *Operating Performance Standards, Buffer Zones and Setbacks.*

- (a) Buffer zones and setbacks for non-coal surface mining shall be as shown on a drawing submitted to the Township
- (b) Within any buffer zone and/or setback, Operator shall be permitted to place utilities (including, but not limited to, electric, water, sewer, and any other use now or hereafter recognized as a utility use), wetland areas, detention basins, berms, stabilizing and screening vegetation, fencing and water discharge.
- (c) With the exception of the removal of overburden, the construction of berms, the placement of entrances and exits and uses contemplated within Section 160-44.B.(14), no non-coal surface mining, nor any uses directly associated with non-coal surface mining, including the sale of stone products or the manufacture of concrete or asphalt, shall occur within the setbacks or buffer areas established in this Ordinance.

(15) *Operating Performance Standards, Runoff.* No waters shall be discharged from the tract in this zone which does not conform with all requirements of DEP and BSM as to quality, quantity or temperature. Where required, an NPDES permit shall be obtained and maintained in a current status by Operator

(16) *Operating Performance Standards, Entry Gate.* Operator shall locate and install an entry (and exit) gate to its tract to accommodate the queue of trucks which may be waiting to enter the quarry by providing an off-road site for such queuing.

(17) *Operating Performance Standards, Revegetation.*

- (a) Revegetation shall provide for a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable.

- (b) Vegetative cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the approved post-mining land use, when compared with the utility of naturally occurring vegetation during each season of the year. Revegetation shall provide a quick germination, fast growing vegetative cover capable of stabilizing the soil surface from erosion and shall include, but need not be limited to, crown vetch.
- (c) All revegetation shall be carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved post-mining land use.
- (d) Disturbed areas shall be seeded and planted during the first normal period for favorable planting after reclamation has commenced. When necessary to effectively control erosion, the disturbed area shall be seeded and planted as contemporaneously as practicable with a temporary cover of small grain, grasses or legumes or otherwise protected from erosion until a permanent cover is established.
- (e) The use of introduced species shall be allowed provided that the species meet the requirements of applicable State and Federal seed or introduced species statutes and are not poisonous or noxious. A single tree or shrub species shall not comprise more than fifty percent (50%) of the total number of seedlings planted.

(18) *Operating Performance Standards, DEP Regulations and Submissions.*

- (a) In addition to other terms and conditions of this Ordinance, all activities contemplated by this Ordinance shall be subject to those regulations established from time to time by the Environmental Protection Agency (“EPA”), DEP and BSM which are applicable to quarry tracts. Should the provisions of this Ordinance contain requirements more stringent than those required by either the EPA, DEP or BSM, the provisions of this Ordinance shall control. The Township recognizes that regulation of non-coal surface mining activities is currently preempted by the Commonwealth of Pennsylvania. To the extent that the activities of Operator are not regulated by EPA, DEP, BSM, the Township regulations shall control.
- (b) Operator shall promptly supply the Township with copies of all applications and related documents supplied to, and licenses and permits received from, DEP and/or BSM relating to the quarry tract.

(19) *Reclamation Performance Standards*

- (a) Reclamation shall to the extent reasonably feasible be performed as the surface mining progresses.
- (b) When the surface mining operation has concluded, the area shall be reclaimed by terrace or to a finished slope of 35°, as DEP may direct. Terracing shall occur through the utilization of an overall two to one reclamation slope, with the intervening slopes between terraces being no greater than forty-five degrees or the natural angle of slippage, whichever is greater, and with the height of the intervening slopes between terraces being no greater than twenty-five feet (25') and with the surface width of each terrace being no less than twenty-five feet (25'). Upon said terraces shall be placed a twelve inch (12") layer of available soil and planted, concurrent with the reclamation, coniferous or other vegetation so as to create a continuous planting upon each terrace.
- (c) Where a water impoundment is part of the reclamation, the slope shall extend to twenty-five feet (25') below the post-reclamation water level at a minimum slope of 3:1 to serve as a safety bench for safe exit from the impoundment. Benches developed below the lower level of the reclamation safety bench need not be restored; removal of any benches below the safety bench shall be accomplished only with approval of DEP.
- (d) Reclamation of a working face shall begin within one hundred eighty (180) days after such face has reached its maximum horizontal extent.
- (e) Hauling Roads. Haul roads, and access roads shall be designed, constructed and maintained to prevent to the maximum extent possible erosion and to prevent contributions of sediment to streams or runoff outside the affected area, air and water pollution and offsite damages. Upon completion of the associated quarrying activities, the area disturbed by the road shall be restored unless retention of the road and its maintenance constitutes a part of the post-quarrying land use. Roads shall be constructed on stable areas that avoid wet or unsuitable soils. Prior to the construction of a road, all topsoil shall be removed, stored on a stable site and protected against erosion until restoration of the road. Any disturbed area adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion. Immediately after the road is no longer needed for the uses associated with surface

mining activities or post-quarrying land uses the road shall be physically closed to vehicular traffic, the road and adjacent slopes shall be degraded to blend with the natural contours and drainage patterns, all bridges and culverts shall be removed, cross drains, dikes, and water bars shall be constructed to minimize erosion, and all disturbed areas shall be revegetated in accordance with this ordinance.

- (f) Casing and Sealing of Wells and Bore Holes. Each bore hole, well, or other exposed underground opening (except for holes solely drilled for use in blasting) or other opening exposed during surface mining activities shall be cased, sealed, or otherwise managed as approved by DEP at the conclusion of surface mining activity to:

Prevent acid or other toxic drainage from entering ground or surface water.

Prevent to the maximum extent possible, disturbance to the prevailing hydrologic balance.

Ensure the safety of people, property, livestock, fish and wildlife and machinery in the mining area.

- (g) DEP may, by regulation, alter the reclamation standards set forth in this Ordinance.
- (h) Nothing in this section shall prevent the utilization of wells in post-mining activities.

(20) Fees and Charges.

- (a) Except as specifically set forth in this Ordinance, the Township shall not impose any fees, charges or taxes upon Operator other than those taxes and fees now in place in the Township, nor shall the basis of those taxes and fees presently in place in the Township be changed as to Operator except as such change may also be imposed upon every other similarly situated business and/or property located within the Township and except as such change is not otherwise preempted by Federal or state law. This paragraph is intended to include both the real property, personal property and all business activities of Operator but to exclude building permit fees, water and sewer service fees, zoning permit fees, occupancy fees, and similar fees. This paragraph, however, in no way restricts the ability of the Township to impose

upon Operator pursuant to its Ordinances such fines, costs and related fees (not directly addressed by the provisions contained in this Ordinance) as may be imposed upon every other similarly situated business, individual, and/or property.

- (b) Commencing upon the issuance of a zoning permit pursuant to the provisions of this Ordinance, Operator shall pay to the Township a quarrying fee of Ten Cents (\$0.10) per ton of stone mined and sold from the quarry tract by Operator and its agents, servants or employees, including, but not limited to, stone produced upon the quarry tract but included in asphalt and/or concrete shipped from plants located on contiguous tracts and used in conjunction with the quarry tract (the "Quarrying Fee"). Operator and the Township shall meet annually on March 15 or on such day as may be mutually agreed by the parties to reconcile the Quarrying Fee due the Township for the preceding year. Once the Quarrying Fee due the Township has been determined with all appropriate credits due Operator deducted, Operator shall within 45 days make payment to the Township of any monies due unless the Township has otherwise elected to have the surplus carried forward to future years. In the event that a deficit exists in the Quarrying Fee once all credits due Operator have been deducted, such deficit shall be carried forward to the next year and credited against any Quarrying Fee that may be due the Township.

(21) ***Inspection.*** The Township shall have the right to inspect Operator's operations at any time during normal business hours upon reasonable notice as circumstances may require.

(22) ***Permit Applications and Permits.***

- (a) The Township shall issue all Township permits and approvals necessary to permit all of the activities contemplated by this Ordinance immediately upon the filing of completed permit applications, which permits shall remain valid throughout the term of Operator's activities.

SECTION 5. Section 160-14 of Chapter 160 of the Code is further amended to designate the Resource Extraction Areas, Quarry created by this ordinance as shown on the Official Zoning Map, the boundaries of which are more particularly described, as follows:

ALL THAT CERTAIN tract of land comprising both the "H&K Existing Quarry Tract" and "Murphey Tract" as owned by Haines & Kibblehouse, Inc. situate in the Township of Hilltown, Bucks County, more specifically bounded and described as follows, to wit:

BEGINNING at a point, said point being a common corner between the two tracts on the southern boundary marked by an iron pipe in Skunk Hollow Road (T-411); thence by the following sixteen (16) courses and distances: (1) along Skunk Hollow Road, South 44 degrees 03 minutes 02 seconds West, a distance of six hundred fifty-eight and thirty-one hundredths (658.31) feet to a corner; (2) South 38 degrees 54 minutes 14 seconds West, a distance of five hundred sixty-five and seven hundredths (565.07) feet to a corner marked by an iron pipe; (3) leaving Skunk Hollow Road, North 40 degrees 45 minutes 09 seconds West, a distance of three thousand one hundred seventy-six and fifteen hundredths (3176.15) feet to a corner; (4) North 49 degrees 45 minutes 14 seconds East, a distance of three hundred (300.00) feet to a corner; (5) North 41 degrees 16 minutes 34 seconds West, a distance of three hundred (300.00) feet to a corner in Broad Street (T-413); (6) along Broad Street, North 49 degrees 45 minutes 48 seconds East, a distance of nine hundred twenty-nine and twenty-three hundredths (929.23) feet to a corner; (7) leaving Broad Street, South 40 degrees 29 minutes 32 seconds East, a distance of three hundred sixty-three and one hundredth (363.01) feet to a corner marked by an iron pipe; (8) North 48 degrees 12 minutes 07 seconds East, a distance of nine hundred sixty-three and sixty-two hundredths (963.62) feet to a corner marked by an iron pipe; (9) South 40 degrees 06 minutes 56 seconds East, a distance of three hundred eighty-one and fifty-four hundredths (381.54) feet to a corner marked by an iron pipe; (10) North 52 degrees 53 minutes 16 seconds East, a distance of three hundred forty (340.00) feet to a corner marked by an iron pipe in Broad Street (T-413); (11) along Broad Street, South 40 degrees 06 minutes 44 seconds East, a distance of three hundred eighty-eight and ninety-three hundredths (388.93) feet to a corner; (12) leaving Broad Street, South 38 degrees 25 minutes 16 seconds East, a distance of one thousand three hundred ninety-five and eleven hundredths (1395.11) feet to a corner marked by an iron pipe in Skunk Hollow Road (T-411); (13) along Skunk Hollow Road, South 44 degrees 40 minutes 21 seconds West, a distance of one hundred two and forty-nine hundredths (102.49) feet to a corner; (14) South, 08 degrees 22

minutes 21 seconds West, a distance of two hundred thirty-eight and seventy-three hundredths (238.73) feet to a corner; (15) South 07 degrees 24 minutes 21 seconds West, a distance of seven hundred seventy-four and sixty-seven hundredths (774.67) feet to a corner; and, (16) South 37 degrees 48 minutes 51 seconds West, a distance of three hundred ninety-eight and eighty-four hundredths (398.84) feet to the PLACE OF BEGINNING.

CONTAINING one hundred sixty-five and three hundred forty-six thousandths (165.346) acres, more or less.

BEING THE SAME PREMISES WHICH Vernon Horn and Edith Horn, his wife, granted and conveyed unto Haines & Kibblehouse, Inc. by deed dated November 19, 1985 and recorded in Deed Book Volume 2645, page 54, Bucks County Records.

AND BEING THE SAME PREMISES WHICH Michael B. Murphey, Greg Wuerstle and Jane P. Wuerstle, his wife, granted and conveyed unto Haines & Kibblehouse, Inc. by deed dated July 31, 1996 and recorded in Deed Book Volume 1279, page 1352, Bucks County Records.

ALL THAT CERTAIN tract of land comprising both the "Blooming Glen Existing Quarry Tract" and "Rice Tract" owned by Haines & Kibblehouse, Inc. situate in the Township of Hilltown, Bucks County, more specifically bounded and described as follows, to wit:

BEGINNING at a point, said point being the westernmost corner of Tract 2 of the subject property, situate at the intersection of Quarry Road and Blooming Glen Road (S.R. 4089); thence by the following eleven (11) courses and distances: (1) along Quarry Road, North 40 degrees 48 minutes 04 seconds East, a distance of eight hundred eighty-nine and twenty-two hundredths (889.22) feet to a corner, a common corner with Tract 1 of the subject property; (2) continuing along Quarry Road, North 40 degrees 48 minutes 07 seconds East, a distance of two thousand four hundred forty-eight and fifteen hundredths (2448.15) feet to a corner at the intersection of Quarry Road with Forest Road (T-360); (3) along Quarry Road, South 34 degrees 59 minutes 09 seconds East, a distance of five hundred sixty-six and twenty-three hundredths (566.23) feet to a corner; (4) South 35 degrees 15 minutes 00 seconds East, a distance of eight hundred fifty and twenty-nine hundredths (850.29) feet to a corner; (5) leaving Forest Road, South 57 degrees 44 minutes 53 seconds West, a distance of six hundred sixty-five and ninety hundredths (665.90) feet to a corner; (6) South 57 degrees 50 minutes 59 seconds West, a

distance of one thousand nine hundred seventy-one and fifty-three hundredths (1971.53) feet to a corner in Minsi Trail Road; (7) along Minsi Trail Road, South 17 degrees 02 minutes 33 seconds East, a distance of two hundred fifty-two and nineteen hundredths (252.19) feet to a corner; (8) leaving Minsi Trail Road, South 56 degrees 46 minutes 58 seconds West, a distance of one hundred eighty-nine and forty hundredths (189.40) feet to a corner; (9) North 28 degrees 25 minutes 57 seconds West, a distance of one hundred ninety-five and seventy-six hundredths (195.76) feet to a corner; (10) South 44 degrees 29 minutes 03 seconds West, a distance of two hundred forty-seven and twenty-nine hundredths (247.29) feet to a corner in Blooming Glen Road; and, (11) along Blooming Glen Road, North 46 degrees 56 minutes 57 seconds West, a distance of five hundred sixty-four and eighty-nine hundredths (564.89) feet to the PLACE OF BEGINNING.

CONTAINING seventy and sixty-four thousandths (70.064) acres, more or less.

BEING THE SAME PREMISES WHICH Vernon Horn and Edith Horn, his wife, granted and conveyed unto Haines & Kibblehouse, Inc. by deed dated November 19, 1985 and recorded in Deed Book Volume 2645, page 56, Bucks County Records.

AND BEING THE SAME PREMISES WHICH James R. Bertsch granted and conveyed unto Haines & Kibblehouse, Inc. by deed dated June 9, 1997 and recorded in Deed Book Volume 1460, page 1542, Bucks County Records.

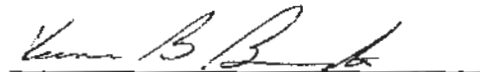
SECTION 6. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

SECTION 7. The provisions of this Ordinance are severable, and if any provision or part thereof shall be held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not effect or impair the remaining provisions or parts thereof, of this Ordinance.

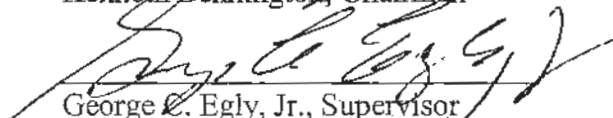
SECTION 8. This Ordinance shall take effect immediately subsequent to its passage.

ORDAINED AND ENACTED by the Board of Supervisors of Hilltown Township, Bucks County, Pennsylvania, in lawful session duly assembled, this 31st day of August, 2005.

**BOARD OF SUPERVISORS OF
HILLTOWN TOWNSHIP**



Kenneth Bennington, Chairman



George E. Egly, Jr., Supervisor