

TOWNSHIP OF WEST DONEGAL

Lancaster County, Pennsylvania

ORDINANCE NO. 247/2021

AN ORDINANCE TO AMEND THE CODE OF ORDINANCE OF THE TOWNSHIP OF WEST DONEGAL, CHAPTER 240, ZONING, BY CHANGING THE ZONING CLASSIFICATION OF A TRACT OF LAND CONTAINING 30 ACRES, MORE OR LESS, BEING PART OF TAX ACCOUNT NO. 160-91941-0-0000 WITH FRONTAGE ON LANDIS ROAD, FROM ITS PRESENT CLASSIFICATION AS AGRICULTURAL (A) DISTRICT TO A NEW CLASSIFICATION OF MINING AND NATURAL EXTRACTION (MNE) DISTRICT.

WHEREAS, a Petition has been filed with the Board of Supervisors of West Donegal Township, Lancaster County, Pennsylvania, by Pearson Rheems LLC, requesting a change in the zoning classification of a tract of land containing 30 acres, more or less, adjoining the property of the Petitioner to the east identified as Tax Account No. 160-14620-0-0000, said tract being rezoned being a portion of a larger tract of land fronting on Landis Road identified as Tax Account No. 160-91941-0-0000, from its present classification as Agricultural (A) District to Mining and Natural Extraction (MNE) District; and

WHEREAS, it is deemed to be in the best interest of the public health, safety and general welfare to amend the zoning classification of said premises.

NOW, THEREFORE, be and it is hereby ordained and enacted by the Board of Supervisors of West Donegal Township, Lancaster County, Pennsylvania, as follows:

Section 1. The Zoning Ordinance of West Donegal Township is hereby amended by changing the zoning classification of a 30 acre portion of a tract containing 59.7 acres, more or less, fronting on Landis Road, in the Township of West Donegal, Lancaster County, Pennsylvania, as more fully described in Exhibit "A" attached hereto and hereby incorporated by reference into this Ordinance, from its present classification as Agricultural (A) District to a new classification of Mining and Natural Extraction (MNE) District.

Section 2. The Secretary of the Township is directed to change, and duly certify, the West Donegal Township Zoning Map so as to effectuate the reclassification of the tract of land described in Exhibit "A" from its present classification as Agricultural (A) District to Mining and Natural Extraction (MNE) District.

Section 3. All other parts, sections, subsections and provisions of the Code of Ordinances of the Township of West Donegal, as amended and supplemented, shall remain in effect as heretofore enacted.


Section 4. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 5. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of West Donegal as provided by law.

DULY ORDAINED AND ENACTED this 11TH day of OCTOBER, 2021, by the Board of Supervisors of the Township of West Donegal, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF WEST DONEGAL
Lancaster County, Pennsylvania

Attest: 
(Assistant) Secretary

By: 
(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]



EXHIBIT A

Description of Property to be Rezoned

ALL THAT CERTAIN tract or parcel of land situate in West Donegal Township, Lancaster County, Pennsylvania, described as follows:

BEGINNING at an existing pipe located in the southwestern most corner of lands now or formerly of Pierson Rheems LLC, thence progressing South 71 degrees 44 minutes 18 seconds West, 854.46 feet to a point, thence progressing North 20 degrees 33 minutes 38 seconds West, 1,570.37 feet to a point on the southerly property line of lands now or formerly of David B. and Pamela R. Graybill, thence along that property line and the southerly property line of lands now or formerly of Wenger's Feed Mill, Inc., North 75 degrees 58 minutes 44 seconds East, 850.30 feet to a point on the westerly property line of the Pierson Rheems LLC property, thence along that property line South 20 degrees 54 minutes 10 seconds East, 1507.83 feet to the point of BEGINNING.

Containing 30.00 acres.

ARTICLE VIII
Mining and Natural Extraction (MNE) District¹

§ 240-24. Purpose and intent. [Amended 12-21-2015 by Ord. No. 221-2015]

The purpose of the Mining and Natural Resource Extraction (MNE) District is to designate appropriate areas of the Township for land uses dependent upon the availability of geologic resources, including open pit mining and related aggregate processing facilities and operations when satisfying specific standards, criteria and procedures administered by the commonwealth and the Township. The district also accommodates suitable uses that can precede actual mining activities as well as suitable uses for reclaimed mines and quarries as permitted herein.

§ 240-25. Permitted uses.

Permitted uses shall be as follows:

- A. Any use permitted in the Agricultural District, subject to all of the requirements of Article VII of this chapter except as specifically modified by this article.
- B. Government regulated recreation areas and public parklands.
- C. Municipal uses.
- D. Accessory buildings and uses customarily incidental to the above uses.
- E. Expansion of an existing open pit mining facility.
- F. Upgrading or replacement of an existing aggregate processing facility at an existing open pit mining facility. The change from one type of related processing operation to a different type of related processing operation (i.e., changing an existing facility from concrete production to asphalt or asphaltic concrete production) or the addition of a new product (i.e., production of asphalt or asphaltic concrete in addition to concrete at an existing concrete production facility) shall be considered a new related processing operation and shall be subject to all requirements of §§ 240-26 and 240-30.

§ 240-26. Special exceptions.

The following uses are permitted when special exceptions are granted by written approval of the Zoning Hearing Board. In granting any special exceptions, the Board may attach certain conditions to its approval which it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

- A. New open pit mines and related aggregate processing facilities.

1. Editor's Note: The title of this district was changed from "Quarry (Q) District" to "Mining and Natural Extraction (MNE) District" 12-21-2015 by Ord. No. 221-2015.

- B. New related aggregate processing facilities to be located within an existing open pit mine which does not upgrade or replace an existing aggregate processing facilities.

§ 240-27. Height and area requirements of principal buildings and uses.

All agricultural buildings and uses shall be subject to the height and area requirements established in Article VII. Open pit mining and related aggregate processing facilities shall be subject to § 240-29. All other uses authorized in this district shall be subject to the following requirements:

- A. Height. No building shall be erected to a height in excess of 35 feet.
- B. Minimum lot area. The minimum lot area for all principal buildings or uses shall be one acre.
- C. Minimum lot depth. The minimum lot width shall be 100 feet at the building setback line.
- D. Minimum lot depth. The minimum lot depth shall be 150 feet.
- E. Front yard minimum depth. The minimum building setback line from all streets shall be the greater of that required in Article XVIII, § 240-87, or 60 feet from the center line of the street.
- F. Side yard. There shall be two side yards, neither of which shall be less than 15 feet.
- G. Rear yard. The minimum rear yard shall be 50 feet in depth.
- H. Maximum lot and impervious coverage.
 - (1) Maximum lot coverage. The total building coverage shall not exceed 25%.
 - (2) Maximum impervious coverage. The total impervious surface coverage shall not exceed 35%.

§ 240-28. Height and yard requirements of accessory buildings and uses.

All agricultural buildings and uses shall be subject to the height and yard requirements established in Article VII. Open pit mining and related aggregate processing facilities shall be subject to § 240-29. All other uses authorized in this district shall be subject to the following requirements:

- A. Maximum height: 20 feet.
- B. Front yard minimum depth. The minimum building setback line from all streets shall be the same as for the principal building plus 15 feet.
- C. Side yard. The minimum distance to any side lot line shall be 10 feet.
- D. Rear yard. The minimum distance to any rear lot line shall be 10 feet.

§ 240-29. Requirements for all open pit mining and related aggregate processing facilities.

- A. All open pit mining and related aggregate processing facilities shall:
- (1) Not substantially injure or detract from the lawful existing or permitted use of neighboring properties.
 - (2) Not adversely affect any public or private water supply source.
 - (3) Not adversely affect the logical efficient and economical extensions of public services, facilities and utilities throughout the Township.
 - (4) Not create any significant damage to the health, safety, or welfare of the Township and its residents and property owners.
 - (5) Not result in the land area subject to mining being placed in a condition which will prevent the use of that land for economically and ecologically productive uses upon completion of the mining operation.
 - (6) Demonstrate compliance with all applicable state and federal regulations at all times.
 - (7) Be designed so that all accessory and support facilities, such as employee parking lots, topsoil stockpiles, spoil piles, truck and equipment maintenance facilities, processing operation, and offices be so located to avoid prime agricultural soils whenever possible.
 - (8) A truck wash rack and water supply shall be placed at a location appropriate to be used to remove any mud that may have attached to a vehicle's wheels prior to accessing Township and state roads. A sedimentation pond shall be used to collect the wash water and mud. The truck wash rack and sedimentation pond shall be maintained throughout the life of the open pit mining operation and for any reclamation work after open pit mining is completed.
- B. Plan requirements. In addition to application materials required under this section and under any other section of this chapter, the applicant for a new open pit mining facility, with or without related aggregate processing facilities, or the expansion of an existing open pit mining facility or an existing related aggregate processing facility shall submit the following specific documents and other illustrative or descriptive material that establish by credible evidence compliance with those general objectives of § 240-29A.
- (1) Plan of general area (within a one-mile radius of site) at a scale of 500 feet or less to the inch with a twenty-foot or less contour interval to show existing land uses and data, including but not limited to:
 - (a) Site location with respect to general area.

- (b) Land use inventory of the general area, including:
 - [1] Building locations and any historical sites, structures or buildings;
 - [2] Known subdivisions; and
 - [3] Parks, schools, churches, cemeteries, and other nonresidential structures or uses.
 - (c) State and Township roads showing pavement and right-of-way width, weight loads, types of surfaces, existing traffic data or counts for those road intersections nearest the proposed mining operation, and proposed routing of quarry trucks.
 - (d) Other uses potentially affecting or affected by the proposed open pit mining, processing or aggregate recycling facilities and operations.
 - (e) Applicable requirements and data of this chapter.
- (2) Plan of proposed site and adjacent area at a scale of 500 feet or less to the inch with a twenty-foot or less contour interval to show:
- (a) Existing natural resource data:
 - [1] Geology, including confirmed areas with aggregate.
 - [2] Soils (prime farmland soils to be highlighted).
 - [3] Surface water and groundwater features (streams, floodplains, wetlands, drainage basins, aquifer, water quality report, etc.).
 - [4] Site topography.
 - [5] Current vegetation, with dominant species.
 - [6] Wind data: directions and percentage of time.
 - (b) Proposed use:
 - [1] Plan of operation, showing mining or borrow pit, or area to be stripped, related aggregate processing facility location(s), proposed buildings or structures, overburden areas, spoil piles, soil stockpiles, truck and equipment storage areas, employee parking areas and number of spaces, etc. Including phase plan, if applicable.
 - [2] Final grading by contours.
 - [3] Interior road pattern, its relation to operation yard and proposed points of ingress and egress to state and Township roads, including sight distance estimates and any proposed entrance improvements.
- (3) Plan of chapter compliance showing:

- (a) Proposed perimeter fencing location, height and material.
 - (b) Soil embankments (berms) and landscaping for noise, dust, and visual barriers, including heights and side slopes of soil mounds, and landscaping materials and specifications.
 - (c) Method of disposition of excess water during operation.
 - (d) Truck wash rack and sedimentation pond.
 - (e) Mining operation setbacks.
 - (f) Location and typical schedule of blasting.
 - (g) Machinery: location, type and noise levels.
- (4) Illumination plan designating the location and type of lighting.
 - (5) Landscaping plan showing existing and proposed berms, trees and plantings.
 - (6) Reclamation plan consistent with the submittal requirements of Title 25, Chapter 77, Noncoal Surface Mining, of the Pennsylvania Code. At a minimum, the reclamation plan shall provide a detailed description of the proposed use of the site once the mining operation has ceased, including a description of any zoning and/or subdivision approvals or remedies that would be necessary to accommodate the proposed use. If the reclaimed use proposed is other than agricultural, state if the applicant intends to dedicate the site to the Township upon completion of the reclamation works, propose reclamation to occur in phases whenever possible. The applicant shall provide written notification to the Township within 30 days whenever a change in the reclamation plan is proposed to the DEP.
- C. Document and information requirements. In addition to application materials required under any other section of this chapter and the plans required in § 240-29B(1), the applicant for a new open pit mine, with or without related aggregate processing facilities, and the applicant for the expansion of an existing open pit mining facility or an existing related aggregate processing facilities, shall submit the following specific documents and information that establish by credible evidence compliance with those general objectives of § 240-29A:
- (1) Estimated amount and description of annual and ultimate aggregate and overburden to be removed.
 - (2) Ultimate use and ownership of site after completion of operation.
 - (3) Source and amount of water, volume required for processing; wastewater from processing: treatment and means/point of discharge/groundwater recharge.
 - (4) Safety measures: monitoring and response to complaints.

- (5) Copies of all documents and materials filed with DEP as part of the applicant's concurrent noncoal mining permit application. Where providing the same information as requested in this section, DEP application materials may be submitted to meet requirements of such sections. Documents and materials submitted to DEP as part of an earlier noncoal mining permit application for the property may also be utilized for satisfying the requirements of this section if the applicant demonstrates that such information is correct and current documents.
- D. Maximum height limitations.
- (1) The height of any spoils pile or topsoil stockpile shall not exceed 35 feet measured from the existing grade.
 - (2) Unless located in the mining pit itself, the height of any buildings, structures associated with the mining activity or related aggregate processing equipment shall not exceed 35 feet, except as provided for in Subsection D(3) below.
 - (3) The Zoning Hearing Board, as a special exception, may permit modifications to the thirty-five-foot height limitation for the purpose of establishing accessory structures (such as concrete silos) for mining or aggregate processing operations. The applicant shall demonstrate that the requested height modification is the minimum necessary to accommodate the proposed plan and that the proposed location of the structure and other facilities will not have an adverse impact upon adjoining properties.
- E. Minimum lot area: 40 acres.
- F. Fencing. Open pit mining facilities shall be required to enclose the entire active area of mining, including any accessory uses and structures, with a minimum ten-foot high chain link fence and like latching gates. The location and materials of the chain link fence and like latching gates shall be as defined in § 240-30D, Screening new open pit mining and related aggregate processing operations, and in § 240-31C, Screening for expansion of existing quarries and mines.
- (1) All gates shall be latched and locked at times when the site is unattended.
 - (2) Applicant shall post and maintain "No Trespassing" and/or "Danger" signs at intervals of no less than one sign per each 100 linear feet of fence/gate, except as may otherwise be required by the DEP. Such signs shall be no larger than two square feet per sign and shall not be posted higher than five feet above grade.
 - (3) All fences/gates/signs shall be maintained in good condition and shall not be allowed to become deteriorated or unsightly.
- G. Operations progress report. Within 90 days after commencement of mining operations, and during the first 30 days of each calendar year thereafter, the operator

shall file an operations progress report with the Zoning Officer setting forth the following:

- (1) The name and, if applicable, number of the operation.
 - (2) The location of the operation with reference to the nearest public road.
 - (3) A description of the subject property or properties, including a site plan showing the location of all improvements, stockpile, quarry pits, etc.
 - (4) The name and address of the landowner or his duly authorized representative.
 - (5) An annual report of the type and quantity of mineral produced.
 - (6) The current status of the reclamation work performed in pursuance of the approved reclamation plan.
 - (7) A maintenance report for the site that verifies that all required fencing, screening, landscaping, signage, and truck wash rack has been specifically inspected for needed repairs and/or maintenance and that such needed repairs and/or maintenance has been performed.
 - (8) Verification that the proposed use continues to comply with all applicable state (and Township) regulations. The operation shall furnish copies of any approved permits and/or any notices of violation issued by DEP.
- H. Water restoration. Any open pit mining or related aggregate processing operation that affects a public or private water supply due to contamination, interruption, or diminution shall restore or replace the affected water supply with an alternate source of water adequate in quantity and quality for the purposes served by the affected supply.

§ 240-30. Requirements for new open pit mining and/or related aggregate processing operations.

- A. For the purposes of this section, a new open pit mining and/or related aggregate processing operation shall be any facility which has not been permitted by DEP before the effective date of this section or any facility which was once permitted by DEP but which ceased operations for a period in excess of two years or any facility, even if in current operation, which proposes an expansion which will require any additional points of access to a Township or state road. The change from one type of related processing operation to a different type of related processing operation (i.e., changing an existing facility from concrete production to asphalt production) or the addition of a new product (i.e., production of asphalt in addition to production of concrete at a concrete production facility) shall also be considered a new related processing operation.

- B. Setbacks for new open pit mining and related aggregate processing operations. The following table identifies minimum setbacks imposed on specific features of the mining and/or aggregate processing uses from adjoining and/or nearby uses.²
- C. Access for new open pit mining operations. Vehicular access to any new open pit mining or related aggregate processing operation shall be provided in accordance with the design standards of Chapter 200, Subdivision and Land Development, of the Code of the Township of West Donegal. Notwithstanding those standards, all driveways serving the site shall have a paved minimum thirty-five-foot wide cartway for a distance of at least 100 feet from the intersecting street right-of-way line. A truck wash-rack and water supply shall be placed just beyond the preceding one-hundred-foot paved section to be used to remove any mud that may have attached to a vehicle's wheels prior to accessing Township and state roads. A sedimentation pond shall be used to collect the wash water and mud. Such rack and pond shall be maintained by the operator throughout the life of the open pit mining operation and for any reclamation work after the operation is completed.
- D. Screening for new open pit mining and related aggregate processing operations.
- (1) Where the open pit mining property adjoins a public street, a seventy-foot wide landscaped buffer shall be established prior to the start of mining or processing activity consisting entirely of a berm, the side slopes of which shall not exceed a two-to-one ratio. The street-facing toe of such berm shall be set back 10 feet from the outside edge of the public right-of-way.
 - (2) Where the open pit mining property adjoins another parcel, a twenty-five-foot wide landscaped buffer shall be established prior to the start of mining or processing activity consisting entirely of a berm, the side slopes of which shall not exceed a two-to-one ratio.
 - (3) Perimeter fencing required under § 240-29F shall be located on the back slope (mine side) of the berm or behind it, to be shown on the applicant's landscape plan, or, such fencing may be located in front of the berm provided it shall be plastic coated, dark green or brown in color, placed at the toe of the slope of the berm, and subject to the landscaping provisions of Subsection D(4) below. The use of razor wire or barbed wire shall be prohibited, unless the fence and such wire are hidden from public view behind the berm.
 - (4) Landscaping of the side slopes and tops of the berms shall consist of a mix of deciduous and evergreen trees and shrubs, and tall (three feet to five feet) meadow grass and wildflower species. Except as provided below, a mixture of tree and shrub species shall be planted at an average of one tree and one shrub every 30 linear feet of berm. For all berms, meadow grasses shall be applied at a rate of 10 pounds of seed per acre. Groupings of tree and shrub plantings

2. Editor's Note: The Table of Setbacks for New Open Pit Mining and Related Aggregate Processing Operations is included at the end of this chapter.

are encouraged in lieu of linear arrangements, as necessary to mitigate any adverse impact, including visual impacts which proposed actions will have on property, adjoining properties, and the Township in general.

- (5) Where perimeter fencing is located in front of the berm, landscaping consisting of a mix of deciduous and evergreen trees and shrubs shall be provided to effectively screen the full length of such fencing from public view. The deciduous and evergreen trees shall be planted at an average of one tree per 10 linear feet of fencing, and may be staggered on either side of the fence.
- (6) The berm design may allow for a level top for maintenance or access purposes.
- (7) Deciduous trees required for buffer plantings shall be a minimum of 1 1/2 inches in diameter at breast height (dbh) at the time of planting. Evergreen trees shall be a minimum of five feet to six feet in height at the time of planting. Shrubs shall be a minimum of 24 inches in height at the time of planting. Trees and shrub species shall consist of a mixture of the following drought-tolerant species:

Scientific Name	Common Name
Amelanchier arborea	Shadbush
Aronia arbutifolia	Red chokecherry
Clethra alnifolia	Summersweet clethra
	Sweet pepperbush
Comus amomum	Silky dogwood
Comus sericea	Redosier dogwood
Corlyus americana	American filbert
	American hazelnut
Ilex verticillata	Common winterberry
	Black alder
Ilex opaca	American holly
Lindera benzoin	Common spicebush
Pinus nigra	Australian pine
Pinus strobus	Eastern white pine
Prunus virginiana	Chokecherry
Pseudotsuga menziesii	Douglas fir
Quercus acutissima	Sawtooth oak
Sambucus canadensis	Elderberry
	American elder

Scientific Name	Common Name
Vaccinium corymbosum	Highbush blueberry
Viburnum acerifolium	Mapleleaf viburnum
Viburnum dentatum	Arrow viburnum
	Arrowwood
	Southern arrowwood
Viburnum prunifolium	Blackhaw viburnum
Viburnum trilobum	Highbush cranberry
	American cranberrybush
	Viburnum

- (8) The meadow grasses required for buffer plantings shall consist of a mixture of the following species:

Scientific Name	Common Name
Grasses	
Andropogon virginica	Broomsedge
Carex vulpinoidea	Fox sedge
Panicum virgatum	Switchgrass
Sorghastrum nutans	Indiangrass

Upland Meadow Plants

(NOTE: The following wildflowers are recommended in moderate to dry upland areas.)

Monarda fistulosa	Wild bergamot
Monarda	Bee balm
Rudbeckia hirta	Black eyed susan
Rudbeckia triloba	Thin-leaved coneflower
Aster novae-angliae	New England aster
Solidago speciosa	Showy goldenrod
Echinecea purpurea	Purple coneflower
Asclepias syriaca	Common milkweed
Asclepias tuberosa	Butterfly weed
Solidago Canadensis	Canada goldenrod
Solidago rigida	Stiff goldenrod

Scientific Name	Common Name
Coreopsis tripteris	Tall tickseed coreopsis

- (9) Use of landscape plantings determined to be potentially hazardous to the growing of crops and raising of livestock by the Natural Resource and Conservation Service shall be prohibited when the adjacent area to the mining operation is in agricultural use.
- (10) The quarry or mining operator shall be responsible for maintaining the approved and planted landscaping for the life of the mining operation, including replacing any dead or dying trees, and removing any invasive vegetation.

§ 240-31. Expansion of existing open pit mining, strip and borrow mining and related aggregate processing facilities.

- A. Setbacks for the expansion of existing open pit mining operations. The following table identifies minimum setbacks imposed on specific features of existing mining and/or aggregate processing uses from adjoining and/or nearby uses.³
- B. Access for expansion of existing open pit mines. Only access roads existing as of the effective date of this section may be used.
- C. Screening for the expansion of existing mines.
 - (1) Where the open pit mine property proposed for expansion of operations adjoins a public roadway, a twenty-five-foot wide landscaped buffer shall be established prior to the start of mining or processing activity consisting entirely of a berm, the side slopes of which shall not exceed a two-to-one ratio on the roadway side of the berm. The street-facing toe of such berm shall be set back 10 feet from the outside edge of the public right-of-way. No landscape buffer or screen shall be required where mining operations currently exist adjacent to an existing private or public road.
 - (2) Where the quarry, borrow or strip mine application property adjoins another parcel, a twenty-five-foot wide landscaped buffer shall be established prior to the start of mining or processing activity consisting entirely of a berm, the side slopes of which shall not exceed a two-to-one ratio.
 - (3) Perimeter fencing required under § 240-29F shall be located on the back slope (mine side) of the berm or behind it, to be shown on the applicant's landscape plan, or, such fencing may be located in front of the berm provided it shall be plastic coated, dark green or brown in color, placed at the toe of the slope of

3. Editor's Note: The Table of Setbacks for the Expansion of Existing Open Pit Mining Operations is included as an attachment to this chapter.

the berm. The use of razor wire or barbed wire shall be prohibited, unless the fence and such wire are hidden from public view behind the berm.