

## SECTION 27 ~ MINERAL EXTRACTION

### 0110.2701 PURPOSE

The purpose of this Section is to minimize land use conflicts and potential nuisance caused by mining operations, and to provide for the reclamation of land disturbed by mining in order to encourage productive use thereof, including, but not limited to the following:

**Subdivision 1. Agricultural Purposes.** The seeding of grasses and legumes for grazing purposes, and the planting of crops for harvest.

**Subd. 2. Commercial and Industrial Purposes.** The establishment of commercial and industrial development sites in commercial and industrial zoning districts.

**Subd. 3. Natural Resources Purposes.** The planting of forests, the enhancement of wildlife and aquatic resources, and the conservation of natural resources.

**Subd. 4. Health, Safety and General Welfare.** The preservation of the natural beauty and aesthetic values of the County; the establishment of recreational sites, and to provide for the health, safety and general welfare of the Citizens of the County.

### 0110.2702 JURISDICTION

Any excavation, quarrying or removal of surface material for the purpose of extracting minerals, stone, gravel, sand, soil, clay or other material as the function of such excavation shall be conducted subject to the requirements of this Section.

**Subdivision 1. Exceptions.** Excavations for purposes of residential, commercial, or industrial development or land alterations for agricultural purposes shall be exempt from the provisions of this Section.

### 0110.2703 DEFINITIONS

For the purpose of this Section certain terms and words are defined as follows:

**Subdivision 1. Excavation and Mining.** ~~Any artificial alteration of the earth excavated or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter.~~ The terms "excavation and mining" include but are not limited to (i) any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or removing metals, minerals, or materials from the land surface or underground, (ii) the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined minerals and materials, and (iii) the removal and transportation of all excavated and mined minerals and materials. The terms "excavation and mining" apply to all activity occurring at excavation or mining sites, including sites identified as quarries and sand pits.

**Subd. 2. Operator.** Any owner or lessee of mineral rights engaged in or preparing to engage in mining operations.

**Subd. 3. Reclamation Plan.** A document that details the activity which is to be taken during and following a mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.

**Subd. 4. Quarry.** Any pit or excavation made for the purpose of searching for or removal of any soil, earth, clay, sand, gravel, limestone, or other non-metallic minerals.

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**Subd. 5. Construction Minerals.**

**The term “construction minerals” includes natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding sand for livestock operations, sewer and septic systems, landfills, and sand blasting. The term “construction minerals” does not include “industrial minerals and metals” as defined in Subd. 6.**

**Subd 6. Industrial Minerals.**

**The term “industrial minerals” includes naturally existing high quartz level stone, silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications, but excluding construction minerals as defined in Subd.5. Industrial minerals includes silica sand that is used as a proppant for the hydraulic fracturing of shale for oil and gas production**

**Sud.7. Processing of Industrial Minerals.**

**The term “processing of industrial minerals” includes the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined industrial minerals, whether at the mining site or any other place in Houston County.**

**Subd. 8. Transfer Facility.**

**The term “Transfer Facility” means a developed facility designed for transporting and loading extracted or mined minerals onto rail, barge or truck for destinations outside Houston County.**

**0110.27035 EXCAVATION AND MINING OF INDUSTRIAL MINERALS**

**Subdivision 1. The excavation and mining of industrial minerals in Houston County is prohibited. No person shall construct, develop or operate any facility in Houston County that engages in the excavation and mining of industrial minerals. No person shall engage in the excavation or mining of industrial minerals in Houston County. The Houston County Board shall not issue a permit to any person to engage in the excavation and mining of industrial minerals in Houston County.**

**Subd. 2. No person lawfully engaged in the excavation and mining of construction minerals in Houston County shall construct, develop or engage in the excavation and mining of industrial minerals in Houston County.**

**0110.27036 PROCESSING OF INDUSTRIAL MINERALS**

**Subdivision 1. No person shall construct, develop or operate any facility for the processing or washing of industrial minerals, or engage in the processing or washing of industrial minerals, at a mining site or any other site in Houston County. The Houston County Board shall not issue a permit to any person to engage in the processing of industrial minerals in Houston County.**

**Subd.2. No person shall use or apply any flocculants or other chemicals to industrial minerals, at a mining site or any other site in Houston County.**

**0110.27037 TRANSFER FACILITIES**

**No person shall construct or develop any transfer facility, or operate a transfer facility, in Houston County. The Houston County Board shall not issue a permit to any person to construct or operate a transfer facility in Houston County.**

**0110.27038 Types of Mining Activities.**

**All mining activity shall be in one of the following two categories.**

**Subdivision 1. Non-Commercial Mining Activity. Non-commercial mining activity is for the purpose of personal use only. It is restricted to sites of one acre or less for the exclusive use of the owner of the property. The sale or any other commercial use of the product of this mining is prohibited. If the mining site exceeds one acre or the production is for commercial use, or is done by someone other than the owner of the property, the mining activity shall be considered commercial, and the mine owner/operator shall be required to obtain a Conditional Use Permit.**

**Subd.2. Commercial Mining Activity. Commercial mining activity is any activity that involves more than one acre and/or is for commercial purposes. All commercial mining activity shall be regulated by all the requirements for a Condition Use Permit in Sec. 0110.2704. All non-con forming mines that are greater than one acre and/or engage in commercial activity shall be required to obtain a CUP unless the owner can prove that they have operated in strict compliance with the requirements for non-conforming uses in the current Ordinance and in State law.**

**0110.2704 EXCAVATION AND MINING OF CONTRUCTION MINERALS. CONDITIONAL USE PERMIT REQUIRED**

**No person, firm, or corporation shall engage in the mining and processing of construct minerals or develop, or operate any facility that engages in the excavation or mining of construction minerals,**

**0110.2704 CONDITIONAL USE PERMIT REQUIRED**

**Subdivision 1. Application for Permit.** Any person, firm, or corporation desiring to commence or expand the mining and processing of sand, gravel, limestone or other minerals shall make written application for a Conditional Use Permit to the Zoning Administrator. Application for such permit shall be made upon a form furnished by the Zoning Administrator. The form shall contain the following items:

1. Applicant's true name and address, and a statement that the applicant has the right to ownership or lease to mine and to reclaim that land described.
2. An exact legal description of the tract, or tracts of land, and the number of acres to be mined by the applicant.
3. An existing conditions map as described in Part 0110.2705 below.
4. An operation plan and map, as described in Parts 0110.2706-0110.2707 below.
5. A Reclamation plan and map as described in Part 0110.2708 below.
6. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
7. Any other information requested by the Planning Commission or governing body.

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#### **0110.2705 EXISTING CONDITIONS MAP**

**Subdivision 1. Information Required on the Existing Conditions Map.** The existing conditions map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show an outline of the tract to be mined and the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Existing topographical features at ten (10) foot contour intervals.
2. Location of wetlands, water courses, drainage systems and impounded waters.
3. Location of existing wooded areas and cultivated fields.
4. Location of existing structures and water wells.
5. Location and names of existing roads, trails, railroads, utility rights-of-way, and any other cultural features.

#### **0110.2706 OPERATIONAL PERFORMANCE STANDARDS**

Each person, firm, or corporation to whom a mining operation permit is issued may engage in mining upon lands described in the license, subject to the following operational performance standards:

##### **Subdivision 1. General Requirements.**

**1. Compliance.** The mining operations shall be conducted in compliance with the laws of the State of Minnesota and the Federal Government, especially as related to safety standards, and ordinances and resolutions of Houston County, as amended from time to time, and in compliance with and furtherance of the approved reclamation plan for the affected land.

**2. Operation of Equipment.** All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

**3. Explosives.** When explosives are used, the operator shall take all necessary precautions not to endanger life and damage or destroy property. The method of storing and handling explosives shall conform with all laws and regulations relating thereto.

##### **Subd. 2. Vegetation.**

**1. Removal of Trees and Shrubs.** Clearing of the mining site shall conform to the development and reclamation plan whenever possible. Existing trees and shrubs shall remain in their natural state and not prematurely stripped.

**2. Weeds and Noxious Vegetation.** Weeds and other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

**3. Preservation of Existing Trees and Ground Cover.** Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented for the depth of the roadside setback except where traffic safety requires cutting and trimming.

##### **Subd. 3. Access.**

**1. Jurisdiction.** All access points must be approved by the local government agency having road jurisdiction, and shall preferably be located along a secondary road.

**2. Avoid Residential Streets.** All access points shall be located so as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development.

**3. Access Signage.** Ingress and egress access points from or onto any road or highway shall be clearly signed, and only those signed access points shall be utilized.

**4. Spillage on Roadways.** Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed at regular intervals.

**5. Dust.** All access roads from mining operations to public highways, road, or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

**Subd. 4. Water Resources.**

**1. Drainage Interference Prohibited.** The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

**2. Surface and Subsurface Water Quality.** The mining operation shall not adversely affect the quality of surface or subsurface water resources.

**3. Non-degradation of Surface Water.** Surface water originating outside and passing through the mining district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

**Subd. 5. Safety Fencing.** Any mining operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall comply with the following standards:

**1. Ponded Water.** Where collections of water occur that are one and one-half (1 ½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.

**2. Steep Slopes.** In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.

**Subd. 6. Screening.** To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be planted with species of fast-growing trees or shrubs. The screening shall be maintained between the following:

**1. Residential and Commercial Properties.** The mining site and adjacent residential and commercial properties.

**2. Public Roads.** A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet of mining or processing operations.

**Subd. 7. Setback Requirements.** When more than one (1) setback standard applies, the most restrictive standard shall apply. Mining operations shall not be conducted closer than:

**1. Prohibited in District.** One hundred (100) feet to the boundary of any district where mining operations are not permitted.

**2. Residentially Zoned.** Not closer than one thousand ~~five hundred feet~~ five hundred feet (1500~~000~~) feet the boundary of an adjoining property residentially zoned.

**3. Adjoining Property Line.** Not closer than fifty (50) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured.

**4. Excavating or Stockpiling.** Excavating or stockpiling shall not be conducted closer than one hundred (100) feet to the right-of-way line of any existing or platted street, road, or highway, where such excavation may create traffic or line of site problem.

**5. Public Waters.** Not closer than one-hundred (100) feet from the ordinary high water level of any public water.

**6. Dust and Noise.** Dust and noise producing processing or loading shall not be conducted closer than one thousand (1000) feet to the boundary of any residential structures existing prior to the implementation of the reclamation plan.

**Subd. 8. Appearance.** All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

**Subd 9. Days of Operation.-** Mining operations may be conducted Monday through Friday, 7:00 AM to 6:00 PM; Saturday, 8:00 AM-12:00 PM except for legal holidays ~~Mining operations may be conducted Monday through Saturday, except for legal holidays.~~ The Zoning Administrator may temporarily approve operations beyond these days to respond to public or private emergencies or whenever any reasonable or necessary repairs to equipment need to be made.

**Subd. 10. Dust and Dirt.** All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within thirteen hundred and twenty (1320) feet of the mining operation.

**1. Exception.** These limitations above shall not apply to any mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yard to a zone other than an industrial zone.

#### **0110.2707 OPERATION PLAN**

**Subdivision 1. Operation Plan Requirements.** The Operation Plan shall include a narrative discussing the following topics, and providing such other information as may be required by the Zoning Administrator, the Planning Commission, or the County Board of Commissioners.

1. A statement containing an estimate of the life expectancy of the proposed operation. The estimate shall include a starting date and if within five (5) years, the completion date.

2. Material to be mined.

3. On site processing including crushing and washing operations.

4. Days and hours of operations.

5. Haul routes.

6. Soil erosion and sediment control plan.

7. A dust and noise control plan.

**Subd. 2. Operations Map.** The operations map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the tract to be mined and the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Outline of the maximum area to be excavated.

2. Vertical profile of area to be excavated indicating over-burden and other geological layers to the extent known.
3. Location of any structures to be erected.
4. Location of tailings deposits showing maximum height of deposits.
5. Location of machinery to be used in the mining operation.
6. Location of storage of mined materials, showing height of storage deposits.
7. Location of vehicle parking.
8. Location of explosive storage.
9. Erosion and sediment control structures.
10. Egress and ingress points and proposed turning lanes.
11. Machinery, excavation and stock pile setbacks.

#### **0110.2708 RECLAMATION PLAN**

**Subdivision 1. Reclamation Plan Required.** Any mining operation legally commenced prior to the enactment of this Ordinance- [shall comply with provisions of Sec 0110.27038. All Reclamation Plans shall be updated to meet all State Standards for mining activity at the time of the five year renewal](#) that does not have an approved reclamation plan, shall submit a reclamation plan to the Planning Agency for review and approval within five (5) years of the date of the enactment of this Ordinance.

**Subd. 2. Reclamation Plan Commencement Requirement.** All mining sites shall be reclaimed after mining operations cease. Reclamation shall be complete within one calendar year after operation ceases. Reclamation must commence when any of the following conditions occur:

1. Within a period of three (3) months after the termination of a mining operation.
2. Within three (3) months after abandonment of such operation for a period of six (6) months.
3. Within three (3) months after expiration of a mining permit.

**Subd. 3. Reclamation Plan Standards.** The following standards apply:

**1. Removal of Buildings and Structures.** All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of the mining operator last operating such buildings, structures and plants.

**a.** A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures machinery and plants shall be removed.

**2. Grading and Filling.** The peaks and depressions of the area shall be graded and back filled to a surface which will result in a gently rolling topography in substantial conformity to the surrounding landscape, and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.

**3. Soil Quality.** Reclaimed areas shall be laid with sod or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three (3) inches.

**4. Ground Cover.** The required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. The planting shall adequately retard soil erosion.

**5. Ponds.** Excavations completed to a water-producing depth need not be back filled if the water depth is at least ten (10) feet and if banks shall be sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

**6. Finished Grades.** The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

**Subd. 4. Reclamation Plan.** The Reclamation Plan shall include a narrative discussing how the above standards will be met and shall also include any additional information required by the Zoning

Administrator, the Planning Commission, or the County Board of Commissioners.

**Subd. 5. Reclamation Plan Map.** The reclamation plan map shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the adjacent area within five hundred, (500), feet to the proposed excavation. The map shall include the following:

1. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.

2. Location and species of vegetation to be replanted.

3. Location and nature of any structures to be erected as part of the Reclamation Plan.

**Subd. 6. Changes in the Reclamation Plan.** In the event the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the County Planning Agency. Such change shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables.

#### **0110.2709 PERFORMANCE BOND REQUIRED**

A performance for mining operations is required and shall be deposited in a Security Bond Trust and shall be filed with the Zoning Administrator in such a form as the County Board shall prescribe, and payable to the County. The amount of the bond amount shall be set by the County Board by resolution. The amount of the bond shall be a minimum of \$1000 per acre for each acre in the permitted mining site, plus an amount determined by the Board to cover the costs of implementing all the requirements of the Reclamation Plan. The bond shall guarantee that either upon termination of the permit or of the operations, the ground surface of the land used shall be restored in conformity with the reclamation plan filed with the mining permit application. When and if the portions of the bonded property are completely rehabilitated in accord with the reclamation plan, and such

restoration is certified by the Zoning Administrator, the performance bond protecting the restored acreage shall be returned.

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#### **0110.2710 TERM OF PERMIT**



Each Conditional Use Permit approved for mineral extraction shall be valid for a period of five (5) years from and after the date of approval, provided the requirements of operation and reclamation, comply with the conditions of the permit.

1. An examination of the premises can be made by the Zoning Administrator at any time during the term of the operation.

#### **0110.2711 RENEWAL AND REVIEW**

Each Conditional Permit shall be renewable for a period of five (5) years upon written application to the Zoning Administrator and with the concurrence of the Planning Agency and shall require a public hearing. Upon receipt of a written complaint of a violation of a CUP during the five year permit period, the Zoning Administrator shall investigate the complaint and file a report in ten business days with the County Board and the complainant. The County Board shall act on the complaint in thirty days. The complainant shall remain confidential. However, upon determination by the Zoning Administrator, or the County Board, that the operation is in violation of the provisions of the Conditional Use Permit or other County Ordinances, a hearing may be held to review the existence of any alleged violations.

Upon failure by the holder of a mining permit to fully comply with the provisions contained herein, the Zoning Administrator shall certify the non-compliance to the County Board of Commissioners.

**Subdivision 1. Notice of Violation.** The Board of Commissioners shall give notice to said permit holder and owner of the land setting forth the provisions of this Section being violated.

**Subd. 2. Hearing.** The Board shall set a time and place of a hearing to be held by the Board to consider such violation of provisions of this Section.

**Subd. 3. Suspension or Termination of Permit.** If said Board of Commissioners shall find that provisions of this Section have not be complied with by the permit holder then the mining operations permit may be suspended or terminated by said Board of Commissioners.