

## **SECTION 20 EXPLORATION AND EXCAVATION OF MINERAL MATERIAL**

These regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103 A-I and the Planning and Zoning enabling legislation in Minnesota Statutes Chapter 394.

### **SUBDIVISION 1. PURPOSE**

1. This Ordinance is adopted for the purposes of:
  - A. Providing for the economic availability and removal of sand, gravel, rock, soil, and other materials vital to the continued growth of Murray County.
  - B. Establishing regulations, safeguards, and controls in the unincorporated areas of the County regarding noise, dust, traffic, drainage, groundwater quality, and other factors which will minimize the environmental and aesthetic impacts on mined or adjacent property.
  - C. Reducing the potential for pollution caused by wind, soil erosion, and sedimentation.
  - D. Establishing locations, orderly approval process, and operating conditions under which mining operations will be allowed in the unincorporated areas of the County and to establish conditions which ensure the restoration of mined areas consistent with the existing and planned land use patterns.
  - E. Ensuring compliance with the regulations established in this Ordinance on those mining operations presently operating in Murray County.

### **SUBDIVISION 2. SCOPE AND APPLICABILITY**

This Ordinance applies to all lands within the unincorporated area of Murray County. It is not intended by this Ordinance to repeal, amend, or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by or in conflict with this Ordinance or with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants governing the land. Where this Ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this Ordinance shall control. In the event of conflicting provisions in the text of this Ordinance, or any other County Ordinance, the most restrictive shall apply.

### **SUBDIVISION 3. GENERAL PROVISIONS**

1. Mining operations operating with a valid Conditional Use Permit issued by Murray County prior to the adoption of this Ordinance which remain in compliance with the terms and conditions of the Conditional Use Permit shall be permitted to continue but shall not be permitted to expand, either in size or use, beyond the limits set forth in the approved and recorded Conditional Use Permit without first obtaining a new Conditional Use Permit.
2. No person, firm, or corporation shall hereafter engage in the mining and processing of sand, gravel, granite, or other minerals on any land within Murray County without first obtaining a Conditional Use Permit, as regulated in Section 22 of this Ordinance.
3. The Conditional Use Permit issued by Murray County shall be valid for a maximum of five years. If the operator seeks to continue beyond expiration, an application for an extension of the permit must be applied for at least 30 calendar days prior to the expiration of the current permit. The zoning administrator shall provide notice of expiration at least 120 calendar days prior to the expiration date of the Conditional Use Permit. A report must be submitted to the Murray County Zoning Administrator at the time of the extension request specifying that they will be operating under the existing Conditional Use Permit and will not be enlarging or expanding the operation.
4. The owner/operator of a mining operation shall be responsible for extraordinary maintenance and restoration of all county/township roads leading to the mining operation that may be damaged due to activities involving the mining operation unless the owner/operator can prove that the mining operation was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of the road authority and to the road authority's satisfaction.
5. In order for Murray County to grant a Conditional Use Permit for a new mining operation or the expansion or change in use of an existing operation, whether under permit or not, all of the following criteria must be met:
  - A. The mining operation must be located in the districts in which they are permitted.
  - B. All other standards for approval of a Conditional Use Permit as contained in the Murray County Land Use Ordinance are met.
  - C. The operation is consistent with the Murray County Comprehensive Plan and is in compliance with all provisions of this Ordinance.

#### **SUBDIVISION 4. APPLICATION**

1. The application for a Conditional Use Permit for a mining operation must be filed with the Murray County Zoning Administrator. Application for extension of a permit must be made 30 calendar days prior to the termination of the previous permit. The application must be made in the name(s) of the operator of the mine and owner of the land to be mined. The application shall contain the following:
  - A. The name and address of the operator and owner of the land.
  - B. An accurate legal description of the property where the mining shall occur.
  - C. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data, including contours at 10-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown.
  - D. A narrative outlining the type of material to be excavated, mode of operation, estimated amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
  - E. A fee as established by resolution of the County Board.
  - F. A general location map showing the proposed mining site in relation to any city within two miles.
  - G. A map showing access routes between the property and the nearest arterial road.
  - H. Location of roads or streets, show name, right-of-way width and traveled portion width, railroads, and trails.
  - I. Easements: show widths and identify utility or other purposes.
  - J. Natural land features: show locations of watercourses and drainage ways, flood of record, wetlands, sinks, basins, and wooded areas.
  - K. Man-made features: show buildings and other structures, dams, dikes, and impoundments of water.
  - L. Processing areas shall be identified and boundaries shown.
  - M. Access road to processing and mining areas shown.
  - N. Proposed location of principal service or processing buildings or enclosures shall be shown, as well as location of settling basins and process water ponds.
  - O. Reclamation plan in conformance with Subdivision 6 of this Section.
  - P. The operator must indicate if blasting is proposed as part of the mining operation and frequency of blasting.
  - Q. Any other information or reports the Zoning Administrator or Planning Commission deems necessary for purposes of evaluating environmental or aesthetic impacts.

2. Environmental Assessment Worksheets, Environmental Impact Statements, and Other Permits.
  - A. The County will require a copy of all other State or Federal Permits as they apply to the project.
  - B. Abandoned wells must be sealed in accordance with State and County requirements.

### **SUBDIVISION 5. OPERATING CONDITIONS**

1. Operating Conditions. The following operating conditions and standards must be met for all mining operations.
  - A. Setback. No mining, stockpiling or land disturbance shall take place within:
    - 1.) 30 feet of adjoining property lines, except in cases where adjacent property owners have a written, signed, notarized agreement to mine up to the property line with a copy submitted to the Environmental Services Office.
    - 2.) 300 feet to the boundary of an adjoining property residentially zoned or contiguous property subdivided into residential lots.
    - 3.) 30 feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits as long as a 4:1 slope is maintained.
    - 4.) 50 feet from the berm of any public or private ditch system.
    - 5.) If two or more mining operations are contiguous to one another, the common boundary may be mined if the County Board approves the respective restoration plans.
    - 6.) 50 feet from the high water mark of any public water provided erosion control measures are in place.
  - B. Noise. All equipment and other sources of noise must operate so as to be in accordance with federal and state noise standards.
  - C. Site Clearance. All stumps and other debris resulting from the excavation or related activities should be disposed of by approved methods.
  - D. Appearance/Condition. The owner/operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area.
  - E. Waste Disposal. Any waste generated from the mining operation, including sewage, hazardous waste, or waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, and county requirements.
  - F. Added Provisions. The operator must comply with such other requirements that Murray County, from time to time, may find necessary to adopt for protection of the health, safety, and welfare of its citizens.

- G. Processing. Any mining operation in which processing is proposed must meet the following performance standards:
- 1.) The application must include the nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
  - 2.) Operators who wish to have processing equipment shall meet the following criteria:
    - a. All federal and state air, water, and noise quality standards must be met.
    - b. Setback requirements as set forth in this Ordinance must be met.
  - 3.) A temporary processing plant in conjunction with a specific road project, located in close proximity to the subject road, will be allowed subject to the following conditions:
    - a. All federal and state air, water, and noise quality standards must be met.
    - b. A conditional use permit must be obtained.
    - c. The processing equipment must be located so as to minimize the effect on surrounding property owners.
    - d. Site selection shall not have a negative effect of the public health, safety, and welfare.
    - e. No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining.
- H. Recycling. The crushing/processing or storage of used aggregate, concrete and asphalt will be permitted subject to the following conditions:
- 1.) The processing equipment must be located so as to minimize the effect on surrounding property owners.
  - 2.) Site selection shall not have a negative effect on the public health, safety and welfare.
  - 3.) All federal and state air, water, and noise quality standards must be met.
- I. Temporary Asphalt and Concrete Plants. A Conditional Use Permit shall be required for all temporary asphalt and concrete plants. Temporary asphalt and concrete plants may be allowed if the following conditions are met:
- 1.) All setbacks as set forth in this Ordinance must be met.
  - 2.) All federal and state air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
  - 3.) The owner/operator must provide a plan to prevent surface and groundwater contamination.
  - 4.) Equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
  - 5.) Site selection shall not have a negative effect on the public health, safety, and welfare.
  - 6.) No materials may be excavated or removed from the site without a conditional use permit for mining.
- J. Fuel Storage. All on-site storage of fuel must meet federal and state standards.

## **SUBDIVISION 6. RECLAMATION**

1. Reclamation. A reclamation plan will be required showing final slope angles, terracing and other structural stabilization measures. Describe seeding plan, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
2. Final Restoration/Removal of Structures. Within a period of 12 months after the termination of a mining operation, or within 12 months after abandonment of such operation for a period of 12 months, or within 12 months after expiration of a conditional use permit, all buildings and other structures not otherwise allowed under the Zoning Ordinance must be removed from the property and the property restored in conformance with the reclamation plan.

## **SUBDIVISION 7. ENFORCEMENT, VIOLATIONS AND PENALTIES**

1. Any firm, person, or corporation who violates any of the provisions of these regulations shall be guilty of a full misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
2. In the event of a violation or threatened violation of any of the terms of this Ordinance, the County may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance or other appropriate action to court if necessary to prevent, restrain, correct, or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements, and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.
3. Whenever necessary to enforce any of the provisions of this Ordinance or whenever there is reasonable cause to believe that a violation of this Ordinance has occurred or is about to occur, an authorized agent of the County may enter any building or upon any premises at all reasonable times to inspect or to perform any duties imposed by this Ordinance. If the building or premises is occupied, the authorized inspector shall first present proper credentials prior to entry. If the building or premises is unoccupied, the authorized inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises prior to entry. If entry is refused, the County shall have recourse to every remedy provided by law to secure entry, including administrative and judicial warrants.

## **SUBDIVISION 8. TERMINATION OF PERMIT**

1. Any permit granted pursuant to this Ordinance may be revoked for a violation of any provisions of this Ordinance or any conditions of the permit.
2. Revocation shall not occur earlier than 10 county working days from the time written notice of revocation is served upon the permittee or, if a hearing is requested, until written notice of the County Board action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. The written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred, and a statement that if the permittee desires to appeal, a request for a hearing must be filed within 10 working days, exclusive of the day of service. The hearing request shall be in writing, stating the grounds for appeal, and served personally or by registered or certified mail on the Murray County Zoning Administrator by midnight of the tenth County working day following service. Following the receipt of a request for hearing, the County Board shall set a time and place for the hearing. Fees will be charged based on resolution of the County Board. Fees may cover all administrative costs associated with the appeal request for a public hearing.

## **SUBDIVISION 9. EFFECTUATION**

1. It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:
  - A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
  - B. If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.