

SECTION 20. MINERAL EXTRACTION

SUBDIVISION 1. PURPOSE

It is declared to be the policy of Le Sueur County to provide for the reclamation of land disturbed by mining in order to encourage productive use to include, but not limited to, the planting of forests; the seeding of grasses and legumes for grazing purposes; the planting of crops for harvest; the enhancement of wildlife and aquatic resources; the establishment of recreational residential and industrial sites; and for the conservation, development, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to aid in maintaining or improving the tax base; and protecting the public health, safety and general welfare of the people, as well as the natural beauty and aesthetic values, in the affected areas of the County.

SUBDIVISION 2. CONDITIONAL USE PERMIT REQUIRED

A. No person, firm, or corporation shall hereafter engage in the mining and/or processing of sand, gravel, limestone or other minerals on any land within Le Sueur County, located outside the boundaries of any city, village or incorporated town without first obtaining from the County a Conditional Use Permit. The Conditional Use permit shall be filed with the Le Sueur County Recorder.

B. JURISDICTION

1. 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. Any processing of extracted material shall be subject to the requirements of this Section.
2. Excavations for purposes of residential, commercial, or industrial development or land alterations for agricultural purposes shall be exempt from the provisions of this Section.

C. APPLICATION FOR PERMIT

1. Any person, firm, or corporation desiring to commence or expand the mining and/or processing of sand, gravel, limestone or other minerals shall make written application for a Conditional Use Permit to the Department.
2. Application for such permit shall be made upon a form furnished by the Department Applicant shall provide the following items:
 - a. Applicant and/or landowner name and address.
 - b. A statement that the applicant has the right to ownership or lease to mine and to reclaim that land described.

- c. Legal description of the parcel of land.
 - d. Number of acres to be mined.
 - e. A statement containing an estimate of the life expectancy of the proposed operation. Estimate shall include a starting date and the anticipated completion date.
3. An Existing Conditions Map shall be submitted at the time of application to include, but not limited to, the following:
- a. Existing topographical features at ten (10) foot contour intervals.
 - b. Location and elevations of water courses, drainage systems, water tables and impounded waters.
 - c. Outline of the maximum area to be excavated and total surficial acres to be excavated.
 - d. Vertical profile of area to be excavated indicating overburden, water tables, and other geological layers to the extent known.
 - e. Location and names of existing roads, trails, railroads, structures, utility rights-of-way, vegetation, wells and other cultural features within and immediately adjacent five hundred (500 feet) to the proposed excavation area.
 - f. Access routes within one (1) mile of the site.
4. Proposed Mining Operations Plan shall be submitted at the time of application to include, but not limited to, the following:
- a. The location of any structures, signage, equipment storage areas, stockpiles, screening, berms, fences, operation areas, site access, mitigation measures, and any other uses incorporated in the excavation process.
 - b. The aerial extent, geologic composition and depth of mineral deposit, the distribution, thickness and the type of topsoil.
 - c. Approximate proposed volume of excavation and anticipated timeline of excavation, volume removed over time.
 - d. Method of stripping and location for stripped material not leaving the site.
 - e. Description of all processing that would occur on site.
 - f. Information available on ecological and biological resources, plant communities, and wildlife use at and adjacent to the proposed site.

- g. Soil erosion and sediment control plans meeting the Agency standards under Construction Activity and the Industrial Stormwater Program.
 - h. Dust and noise control plan meeting the Agency standards.
 - i. Recycling plan for concrete or other forms of aggregate.
 - j. Storage and location of any on-site fuel storage and a copy of the Spill Prevention Control and Countermeasures (SPCC) Plan, if required per the Environmental Protection Agency (EPA) guidelines.
5. Reclamation Plan shall be submitted at the time of application as described in this Section.
6. Hydrogeology Plan, if excavation proposed will occur below the groundwater table, shall be submitted at the time of application to include, but not limited to, the following:
- a. Identify the lowest excavation point and the elevation of the groundwater table in any area excavated below the groundwater table.
 - b. Identify any streams, springs, and groundwater within one-half (1/2) mile and provide the location, elevation, natural flow direction and volume.
 - c. Identify any surface water or headwater within one-half (1/2) mile and provide the location and elevation.
 - d. Identify all groundwater users within one (1) mile.
7. Dewatering plan, shall be submitted at the time of application, if needed, for any stormwater or groundwater encountered on the site in accordance with the DNR and the Agency to include the following specifications:
- a. Identify the proposed outlet location and receiving ditches and bodies of water within one-half (1/2) mile.
 - b. Identify the maximum discharge velocities and flows from the specified location.
 - c. Include a groundwater model, forecasting the anticipated cone of depression from dewatering activities.
 - d. Establish a groundwater monitoring program, as needed, in accordance with the Minnesota Department of Health, DNR, and the Agency.
8. A bond meeting the requirements set forth in this section.

9. Any other information requested by the Department, Planning Commission, or Board of County Commissioners.

D. TERM OF PERMIT

1. The Conditional Use Permit approved shall be filed with the Le Sueur County Recorder and effective from and after the date of approval, provided the requirements and conditions of the Conditional Use Permit are met.
2. However, upon determination by the Department, or the Board of County Commissioners, 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.
3. Failure to restore the site immediately as provided for in the reclamation plan or failure to restore depleted and idle portions of the site on a phased basis in accordance with this Section shall result in the County exercising the bond to restore and properly close the site.
4. An examination of the premises may be made by the Department at any time.
5. An annual report shall be prepared and submitted to the Department no later than June 1st. This report shall include, but is not limited to, the following information:
 - a. The excavation volume (in cubic yards and tons) sold and/or transported from the excavation site, as indicated by Minnesota Statute 298.75 for the Aggregate Material Removal Production Tax.
 - b. An updated timeline.
 - c. Total acres of active, unvegetated, and/or unreclaimed area.
 - d. Total acres being mined.
 - e. Total acres reclaimed and an updated percent completion.
 - f. Any hazards or unexpected items encountered in that year.
 - g. Any fees due for unreclaimed lands.
 - h. Any responses to citizen complaints.
6. When an Environmental Review is affiliated with the mining operation, the annual report shall be reviewed by the Board of County Commissioners.
7. When an Environmental Review is not affiliated with the mining operation, the annual report shall be reviewed by the Department.

SUBDIVISION 3. MINING OPERATION STANDARDS

A. GENERAL REQUIREMENTS

1. Each person, firm, or corporation engaged in mining upon lands described in the conditional use permit is subject to the following regulations.

2. **Overview**

Mining operations shall be conducted in compliance with the laws of the county, state and federal government, especially as related to safety standards, and Ordinances and resolutions of Le Sueur County, as amended from time to time, and in compliance with and upon approval of the reclamation plan for the affected land.

3. **Timing**

No excavation shall begin until all required county, state, and federal permits have been obtained by the applicant/landowner, unless otherwise specified in the plan.

4. **Clearing**

- a. Clearing of the mining site shall conform to the development and reclamation plan, whenever possible, unless otherwise specified in the plan.
- b. Existing trees and shrubs shall remain in their natural state whenever possible and not prematurely stripped.
- c. Existing vegetation shall be preserved, maintained, and supplemented for the depth of the required setbacks.
- d. The amount of overburden to be removed shall not be in excess of that required to undertake operations in an economically feasible manner. Less than ten (10) acres shall be considered economically feasible. Development toward the final plan shall be carried on as excavation progresses. Where ground cover or other planting is indicated on the approved plan, such planting shall be made in areas where excavation is completed and land is not being used for material storage.

5. **Vegetative and Other Screening**

- a. Adequate screening, including either natural and/or supplied screening in the form of plantings, fencing and/or berming shall be provided along all public roads adjacent to the property involved and adjacent properties where improvements are located, unless otherwise specified in the plan. This includes the following:

1. Adequate screening is defined as screening the mining operation from public view as seen by either standing from the center of the road or at the adjacent property boundary.
2. Natural screening consists of existing features which are located within fifty (50) feet of the boundary of the site and which screen the view of mining activities.
3. Supplied screening includes planting, fencing, or berming. Density of plantings used for supplied screening shall not be required to exceed a density of alternating rows of conifer trees six (6) feet on center and a height of six (6) feet at the commencement of mining.
4. Screening with berms shall be stabilized with native vegetative cover.

6. Access

- a. Ingress and egress access points from or onto any road or highway shall be clearly indicated, and only those indicated access points shall be utilized.
- b. All access points must be approved by the appropriate Road Authority having jurisdiction, and shall preferably be located along a secondary road.
- c. 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.
- d. Precautions must be taken to minimize the deposit of dirt and mined material from trucks onto the public roads or highways.
- e. All access roads intersecting a paved city, township, county, or state road/highway shall be paved a minimum of fifty (50) feet from the paved road.
- f. A lockable gate across the access road to the pit is required.

7. Hauling

- a. Trucks used in hauling materials from the site or excavation shall be loaded in such a manner as to minimize spillage onto public highways.
- b. Any spillage resulting from overloading or from adhering to truck tires shall be removed daily.

8. Signage

- a. Adequate signage for the following shall be provided:

1. Site signage indicating site name, applicant and/or landowner, and contact phone number.
2. Signage for public safety, such as “Trucks Hauling” signs.

9. Dust and Noise

Operating procedures shall be utilized to control dust and noise so as not to be in conflict with adjoining property, and shall meet the Agency standards.

10. Blasting

- a. If explosives are allowed by the conditional use permit, the applicant and/or landowner shall take all necessary precautions to safeguard life and to protect property.
- b. The method of storing and handling explosives shall conform with all laws and regulations relating thereto.

11. Accessory Uses

- a. Temporary/Portable washing, crushing, hot mix asphalt, and ready mix plants if allowed by the conditional use permit, excluding permanent sites, may be brought to the site in the future on an as needed basis for specific jobs.
- b. The applicant shall notify the Department prior to the placement of this equipment.

12. Hours

- a. The general hours of operation for all mining and processing operations shall be between of 6:00 AM and 7:00 PM, Monday through Saturday, unless otherwise specified in the plan.
- b. The excavation, drilling, hauling, sawing, crushing, and other physical activities of mining cannot proceed until one hour after the initial start time.

13. Water Resources

- a. The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.
- b. The mining operation shall not adversely affect the quantity or quality of surface or groundwater resources.

- c. Surface water originally outside and passing through the mining site 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.
- d. The applicant and/or landowner shall perform any water treatment necessary to comply with this provision.

14. Reclamation

- a. Proposed graded or backfilled areas or banks as conforming to the approved reclamation plan shall be covered with stockpiled topsoil, to provide for re-vegetation.
 - b. No topsoil is to be removed from the site.
 - c. When back sloping is proposed on the reclamation plan, the rate of slope shall not be less than four (4) feet horizontal to one (1) foot vertical or a slope to provide a stable and safe condition.
 - d. Proposed banks shall be covered with topsoil and seeded, except where such banks provide a beach area to a proposed recreational lake as indicated on the approved reclamation plan.
 - e. Operator shall keep pit or excavation in a condition that insures banks do not cave or slide to insure stability.
 - f. When the reclamation plan includes a water impoundment, the approved final grade at the edge of a body of water shall extend vertically six (6) feet below the lowest seasonal water level.
 - g. Upon replacement of the topsoil, trees, shrubs, legumes, grasses, or other ground cover shall be planted upon the area in order to avoid erosion, in accordance with the approved reclamation plan.
 - h. Quantifiable standards for adequate revegetation to show that a sustainable stand of vegetation has been established which will support the approved reclamation of the site will be provided and utilized for assessing completion of successful reclamation.
 - i. Standards for revegetation may be based on the percent cover, productivity, plant density, diversity, or other applicable measures.
15. Upon completion of excavation, all structures, processing plants, and equipment shall be removed within six (6) months, unless such structures, processing plants, and equipment will be used in the reclamation process.

16. Applicant and/or landowner shall be assessed costs as determined by the Road Authority any damage, repair to County or Township roads attributable to mineral extraction from the site.
17. The County Engineer and DNR shall review the reclamation proposal.
18. Additional conditions or modifications of mining operation standards deemed necessary by the Board of County Commissioners shall apply.

B. SETBACK REQUIREMENTS

1. Mining operations shall not be conducted closer than:
 - a. One hundred (100) feet to the boundary of any district where such operations are not permitted.
 - b. Two hundred (200) feet to the following, unless the written consent of the owner of such adjoining property is first secured.:
 1. A residential dwelling,
 2. The property boundary of any adjoining parcel less than five (5) acres with a residential dwelling.
 3. The property boundary of any adjoining parcel in a Residential Zoning District.
 - c. 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.
 - d. Excavation or stockpiling shall not be conducted closer than one hundred (100) feet to the right-of-way of any existing or platted street, road, or highway.
 - e. One hundred (100) feet from the ordinary high water level (OHWL) of any public water.
 - f. Dust and noise producing processing or loading shall not be conducted closer than three hundred (300) feet to the boundary of any residential or commercial structures existing prior to the commencement of mining and processing operations without written consent of all owners and residents of said structures.
2. Temporary/Portable ready-mix cement plants, asphalt batch plants, and associated processing facilities and structures, if allowed by the conditional use permit, shall be set back the following distances:
 - a. Fifty (50) feet to the boundary of any district where such operations are not permitted.

- b. Five hundred (500) feet to the property boundary of any adjoining parcel with a residential structure and/or residential zoning district.
 - c. Five hundred (500) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured.
 - d. Fifty (50) feet to the right-of-way of any existing or platted street, road, or highway.
 - e. Five hundred (500) feet from the OHWL of any public water.
3. New improvements including structures, wells, and subsurface sewage treatment systems (SSTS) shall be set back at least one hundred fifty (150) feet from the property boundary adjacent to any existing mining parcel. New improvements on parcels adjacent to existing mining parcels shall prevent all surface water runoff from entering the mining parcel.

SUBDIVISION 4. RECLAMATION PLAN STANDARDS

- A. A reclamation plan shall be prepared for the planned after-use of affected areas and the nature and extent of reclamation.
- B. Reclamation shall be conducted to minimize the area disturbed by mineral mining and to restore, to the extent practical, the land to a condition at least as suitable as that which existed before the lands were affected by mineral extraction operations.
- C. A detailed reclamation map shall be provided, designating which parts of the land shall be reclaimed for forest, pasture, crop, dwelling site, recreational, industrial, or other uses including food, shelter, and ground cover for wildlife.
- D. The reclamation plan and map shall include but not limited to, the following:
 - 1. Proposed Topographical features and elevations at ten (10) foot contour intervals and any water impoundments.
 - 2. Vertical profile of the reclaimed area indicating the following:
 - a. Depth of restored topsoil.
 - b. Type, volume and source of fill, if fill is proposed.
 - c. Water-table.
 - d. Any other applicable features.

E. TYPE OF PLANTING AND RESTORATION

1. Type of planting, or if natural re-vegetation is proposed, it shall so be stated.
2. End use of the impacted land shall be in accordance with the desires of the applicant and/or landowner.
3. Use of land after completion of mining will determine method of reclamation.
4. Seed and mulch plan per the Agency, DNR and MNDOT specifications.

F. ESTIMATED PROGRESS AND COMPLETION DATES

Reclamation activities shall progress on a phased basis; for every ten (10) acres of additional mining operations, the previously exhausted ten (10) acres must be reclaimed, unless otherwise specified in the plan.

G. RECLAMATION PLAN REVISIONS

1. In the event the applicant and/landowner find the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by amending the approved Conditional Use Permit.
2. A written statement containing an explanation for the revision to the approved reclamation plan to include, but not limited to, the following:
 - a. The character of the site to be mined as well as the surrounding territory.
 - b. An explanation of the schedule of development which shall include phase development.
 - c. If a development schedule cannot feasibly be prepared, it shall be so stated with written reasons submitted.
3. The Department shall determine whether the requirements of filing a reclamation plan have been met. Applications which propose no reclamation and reuse of an area shall be submitted to the Planning Commission accompanied by a report by the Department concerning the desirability of such reuse.
4. The Board of County Commissioners shall have final authority to require a revised reclamation plan.

H. FINAL RECLAMATION ASSESSMENT

1. A final assessment of successful reclamation upon completion of the site shall be conducted in order to release the site from fees, overlay, and financial assurance according to the details specified in the reclamation plan approved pursuant to this Section.
2. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by a combination of inspections and reports as follows:
 - a. On-site inspection by the County or its agent;
 - b. Reports presenting results obtained during reclamation evaluations shall include, but not limited to, summarized data on revegetation, photo documentation and other evidence that the criteria approved in the reclamation plan to ascertain success have been met.
3. In those cases where the post mining land use specified in the reclamation plan requires a return to natural condition, the applicant and/or landowner shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
4. Revegetation success may be determined by:
 - a. Comparison to an appropriate reference area.
 - b. Comparison to baseline data acquired at the site prior to its being affected by the mine.
 - c. Comparison to an approved alternate technical standard.
5. Revegetation using a variety of plants indigenous to the area is preferred.

SUBDIVISION 5. BOND REQUIRED

- A. The bond herein required shall be filed with the County Treasurer and a copy to the Department.
 1. Such bond shall be payable to the County and the amount shall be set by the Board of County Commissioners and reported and reviewed with the annual report.
 2. 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 Conditional Use Permit.

3. The applicant and/or landowner shall furnish proof to the County yearly that the bond has been renewed.
4. Failure to renew the bond shall result in immediate cancellation of the Conditional Use Permit.
5. The performance bond protecting the restored acreage shall be returned to the applicant at such time the portions of the bonded property are completely rehabilitated in accordance with the reclamation plan and the reclamation criteria in this Section.

SUBDIVISION 6. EXISTING OPERATIONS

A. Any active mining operations:

1. May continue in terms of the nature of the operation, however said mining operations may not expand beyond the legally described parcel, recorded in the office of the County Recorder prior to June 18, 1996, in which the mining operation is located.
2. Any change in terms of the nature of the operation, shall require the operation to come into full compliance with the rules and regulations of this Ordinance.

B. Within five (5) years of the effective date of this Ordinance, all existing non-permitted mining, extraction, and/or excavation operations that have not been permitted under this Ordinance and for which this Ordinance would apply, shall be required to register with the Department. Information required for registration shall include, but not be limited to:

1. Name, address, and signature of applicant and/or landowner.
2. Accurate legal description and map of the existing operations including boundary lines and mining extraction boundaries and excavation depths.
3. Any processing, recycling, temporary asphalt or concrete plants onsite with location identified.
4. Blasting conducted or proposed, if applicable.
5. Existing wells.
6. Existing State and Federal permits, if applicable.
7. Existing structures.
8. Reclamation plan and narrative.
9. Reclamation bond required.