

A
COUNTY DEVELOPMENT CODE
FOR
WASHINGTON COUNTY, MINNESOTA

CHAPTER 6. MINING ORDINANCE

WASHINGTON COUNTY DEVELOPMENT CODE

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WASHINGTON COUNTY, MINNESOTA

CHAPTER 6. MINING ORDINANCE

AN ORDINANCE ESTABLISHING MINING REGULATIONS TO PROVIDE FOR ORDERLY, ECONOMIC AND SAFE REMOVAL OF SAND, GRAVEL, ROCK, SOIL AND OTHER NATURAL DEPOSITS AND TO PROMOTE THE PUBLIC HEALTH, SAFETY, MORALS AND GENERAL WELFARE IN THE UNINCORPORATED AREAS OF WASHINGTON COUNTY, MINNESOTA.

THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

SECTION 1. TITLE

101. Short Title. This Ordinance shall be known, cited and referred to as the Washington County Mining Ordinance; except as referred to herein, where it shall be known as, "This Ordinance."

SECTION 2. INTENT AND PURPOSE

201. Purpose. This Ordinance is adopted for the purpose of:

- (1) Providing for the economical availability of sand, gravel, rock, soil, and other materials vital to the continued growth of the unincorporated areas in Washington County.
- (2) Establishing reasonable and uniform limitations, safeguards, and controls in the unincorporated areas in Washington County for the future production of sand, gravel, rock, soil, and other natural resources.
- (3) Controlling noise, dust, hazards, effect on adjacent property, and other factors related to the active mining and/or excavating operation.
- (4) Providing for control of the extent of excavation compatible with the surroundings; and for the restoration of the mining area after termination of the removal operation to make the site compatible with the surroundings.
- (5) Controlling pollution caused by erosion or sedimentation.

SECTION 3. GENERAL PROVISIONS

301. Adoption of Model Mining Regulation Code.

301.01. There is hereby adopted for the purpose of regulating the removal of sand, gravel, rock, soil and other natural deposits, the Model Mining Regulation Code for Communities in Washington County as adopted on April 25, 1972, by the Washington County Planning Advisory Commission, of which not less than three (3) copies are on file in the office of the Washington County Planning Coordinator. That said Model Mining Regulation Code is hereby adopted in its entirety except as herein modified.

302. Modifications.

302.01. The town board of the township within which the property being mined is located shall issue the annual permit as required in accordance with this Ordinance.

302.02. Prior to the issuance of the annual permit, a copy thereof shall be submitted to the Zoning Administrator who will review it to see that it complies with the requirements of this Ordinance. If the permit conforms to the requirements of this Ordinance, he shall so notify the town board within fifteen (15) days of receipt of said permit. If no report is received by the town board within fifteen (15) days, it will be assumed by the town board that there are no objections to the permit as submitted and they may proceed to take final action on the permit. If the permit does not conform to the standards of this Ordinance the Zoning Administrator may refer the permit to the Washington County Planning Advisory Commission for their review and recommendation. If the permit is referred to the Washington County Planning Advisory Commission, the Zoning Administrator shall notify the town board within the fifteen (15) day time limit and no action can be taken for sixty (60) days or until a recommendation is received from the Washington County Planning Advisory Commission, but in no case shall the town board be required to withhold action for more than sixty (60) days from the date they receive notice that the permit has been referred to the Washington County Planning Advisory Commission. The applicant and town board shall be notified at least ten (10) days prior to the meeting when the Washington County Planning Advisory Commission shall consider the permit. The recommendation of the Washington County Planning Advisory Commission or Zoning Administrator will then be forwarded to the local town board and they then may proceed to take final action and issue the permit in accordance with the recommendations. Either the applicant or the town board may appeal the recommendation of the Washington County Planning Advisory Commission or Zoning Administrator to the Washington County Board of Commissioners.

302.03. If the local town board does not want to be involved with the issuance of annual permits as required by this Ordinance, they shall so notify the County Zoning Administrator of this fact. If this is the case, the Washington County Planning Advisory Commission shall then be considered as the governing body with respect to this Ordinance and they shall administer all of the provisions of this Ordinance. If the Washington County Planning Advisory Commission is the administering agency then any action taken by them with respect to the issuance or denial of an annual permit may be appealed to the Washington County Board of Commissioners by the applicant or any affected property owner.

SECTION 4. ENFORCEMENT

401. Violations and Penalties.

401.01. It is declared unlawful for any person to violate any of the terms and provisions of this Ordinance. Violation thereof shall be a misdemeanor. Each day that the violation is permitted to exist shall constitute a separate offense.

401.02. In the event of a violation or a threatened violation of this Ordinance, the Board, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it is the duty of the County Attorney to institute such action.

401.03. Any taxpayer of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

SECTION 5. EFFECTUATION

501. Separability.

501.01. It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:

501.02. 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.

501.03. 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.

502. Effective Date.

502.01. Passed by the Washington County Board of Commissioners this 6th day of July 1972.

I. A. Pederson
Chairman of the Board

ATTEST:

T. R. Greeder
County Auditor

MODEL MINING REGULATION CODE
for
COMMUNITIES in WASHINGTON COUNTY

As Adopted
by the
Washington County Planning Advisory Commission
April 25, 1972

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INTRODUCTION

Gravel and other mineral deposits are a valuable resource, available in generous quantities in Washington County. This code was developed to establish conditions whereby these mineral deposits, primarily gravel, will be made available for general use. This code also provides guidelines for restoring the land to a usable, attractive condition after the mining operation is finished.

In order to conduct a mining operation, it is necessary for the owner to have a Special Use Permit for the land covering the expected life of the mine (up to a maximum of five years). It is also necessary for the owner and/or operator to have a mining permit, issued annually, as covered by this Ordinance. A single hearing is preferred for the initial mining permit and the Special Use Permit. Subsequent annual hearings for the mining permit give an opportunity for the community, the operator and the neighbors to talk over any problems that may exist.

It is hoped that most communities in Washington County will adopt this Model Code with a minimum of modifications to minimize differences in the way mining is regulated within Washington County.

SECTION 1. PURPOSE

101. For the health, welfare, safety, and optimum land development, it is necessary to regulate the removal of sand, gravel, rock, soil and other natural deposits in Washington County.

Other purposes include the following:

- (1) To provide for the economical availability of sand, gravel, rock, soil, and other materials vital to the continued growth of the community.
- (2) To establish reasonable and uniform limitations, safeguards, and controls in the community, for the future production of sand, gravel, rock, soil, and other natural resources.
- (3) To control noise, dust, hazards, effect on adjacent property, and other factors related to the active mining and/or excavating operation.
- (4) To provide for control of the extent of excavation compatible with the surroundings; and for the restoration of the mining area after termination of the removal operation to make the site compatible with the surroundings.
- (5) To control pollution by erosion or sedimentation.

SECTION 2. DEFINITIONS

201. Rules.

201.01. Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word (shall) is mandatory, and the word (may) is permissive.

201.02. In the event of conflicting provisions in the text of this Regulation, the most restrictive shall apply.

202. Definitions.

202.01. For the purpose of these regulations, certain terms and words are hereby defined as follows:

- (1) Community. City, Township or Village.

- (2) Engineer. The registered engineer employed by the community unless otherwise stated.
- (3) Governing Body. The Town Board, City or Village Council.
- (4) Mining shall include the excavation, removal or storage of sand, gravel, rock, soil, clay and other natural deposits within the community.
- (5) Mining shall not include the excavation, removal or storage of rock, sand, dirt, gravel, clay or other material for the purpose of the foundation, cellar or basement of some pending structure, for which a permit has been issued and which is to be erected immediately following the excavation, removal or storage.
- (6) Mining shall not include the removal or moving of materials for construction of roads, sewer lines, storm sewers, water mains, surface water drainage, agriculture or conservation purposes and sod removal. Nor shall mining include the moving of dirt for landscaping purposes on a lot used or to be used for residential purposes.

SECTION 3. ANNUAL PERMIT REQUIRED

301. It shall be unlawful for any person, partnership, company or corporation to engage in mining within the community or for an owner to permit a person to mine on his property, without first having obtained a permit from the Governing Body.

302. Persons, partnerships, or corporations now conducting operations governed by this Ordinance and for which this Ordinance requires a permit may continue such operations, but within 60 days of the effective date of this Ordinance shall make application for a permit, and failure to do so shall be a violation of this Ordinance; however, on request and for cause, the Governing Body may extend the time for the initial application to 90 days. If application is not made within the required time, all mining operations shall be terminated.

303. The annual permit shall be issued only after a public hearing following ten days posted and published notice and notification of adjoining landowners. Any issued permit shall be posted by the applicant at the excavation site.

304. A permit, when issued, shall be valid for one year unless terminated pursuant to Section 4.

SECTION 4. TERMINATION OF PERMIT

401. The governing body may terminate a mining permit for violation of this Ordinance or a condition of the permit, or for other cause.

402. To terminate a permit, the Governing Body shall give notice of the violation or other cause for the termination along with an order that the condition be remedied. If the condition has not been repaired within a reasonable time, and not less than two weeks, the Governing Body shall hold a hearing to determine whether the permit should be terminated.

403. No mining shall take place after the permit is terminated pursuant to this section.

SECTION 5. NUISANCE DEFINED

501. Where unsafe conditions or conditions in violation of this Ordinance or the permit exist, said conditions are hereby declared to be a nuisance, and the Governing Body may give notice to the operator or owner to abate the same.

502. If after a reasonable time for repair of the condition, it still exists, the Governing Body may abate the nuisance and the costs of such work may be taxed against the property and become alien thereon.

SECTION 6. APPLICATION

601. The application for the permit required in Section 3 hereof shall be filed with the community clerk for presentation to the Governing Body. A fee of \$25.00 shall accompany each application. Application for renewal permit must be made forty-five days prior to the termination of the previous permit. The application shall be made in the name(s) of the operator of the mine and the owner of the land to be mined.

602. The application shall contain:

- (1) The name and address of the operator and owner of the land.
- (2) The correct legal description of the property where the mining shall occur.
- (3) Names of adjacent landowners including all those within a one-half (1/2) mile radius.
- (4) 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 vertical intervals of not more than five (5) feet except where the horizontal contour interval is one hundred (100) feet or more, a two (2) foot vertical interval shall be shown on this map. Water courses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. U. S.G. S. datum shall be used for all topographic mapping where feasible.
- (5) The purpose of the removal, storage or excavation.
- (6) The estimated time required to complete the removal, storage, or excavation.
- (7) The plan of operation, including soil processing (any operation other than direct mining and removal), nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
- (8) The travel routes to and from the site.
- (9) The plans for drainage, water and wind erosion control, sedimentation and dust control; these plans shall be in conformity with the recommendations of the Washington County Soil and Water Conservation District Office.

(10) A map or plat of the proposed pit or excavation showing the confines or limits thereof together with the proposed finished elevations based on 1929 sea level datum readings. Where the finished elevations prohibit natural drainage, certified soil borings shall be included through the proposed excavation.

(11) A comprehensive plan showing that suitable provision will be made for the restoration of the excavated area so that it will not become a health or safety hazard or a nuisance, such plan to include anticipated final elevations, slope and a plan for the return of sub-soil and topsoil. Where the Governing Body deem it practical and necessary, such plan shall include adjoining related areas where excavations have previously been made and remain under the control of the owner of the land on which the excavating is to be done or under the control of the person other than the owner to whom the permit is to be issued.

603. The applicant shall abide by one of the two following operating and land rehabilitation practices:

603.01. Excavations resulting in the accumulation of substantial water areas after rehabilitation must meet the following requirements:

- (1) The water depth must not be less than three (3) feet measured from the low water mark;
- (2) All banks shall be sloped to the water line at a slope which shall not be steeper than four (4) feet horizontal to one (1) foot vertical;
- (3) All banks shall be sodded 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 inches;
- (4) Such topsoil as required by subsection 3 above shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where re-vegetation is possible;
- (5) Slopes on boundary areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical.

603.02. Excavations not resulting in water areas after rehabilitation but which must be graded or back-filled, shall meet the following requirements:

- (1) Such grading or back-filling shall be made with non-noxious, non-flammable, non-combustible solids;
- (2) The graded or back-filled area shall not collect or permit stagnant water to remain therein;
- (3) The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall;
- (4) Such graded or back-filled area shall be sodded 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;
- (5) Such topsoil as required by Section 5 above shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where re-vegetation is possible;
- (6) New slopes on boundary areas shall not be steeper than four (4) feet horizontal to one foot vertical;
- (7) The maximum depth of excavation may be regulated by the Governing Body.

SECTION 7. OPERATING CONDITIONS

701. As a condition of the permit issuing, the Governing Body shall require the applicant or the owner of the premises to comply with the following;

701.01. Fencing. Properly fence any pit or excavation.

- (1) Where collections of water are 1 1/2 feet or more in depth; all access to such collections of water may be ordered barred by appropriate means.
- (2) Where excavation slopes steeper than one (1) foot vertical to one and one-half (1 1/2) feet horizontal exists for a period of five working days, access to such slopes may be ordered barred by appropriate means.

701.02. Slope of Excavation. Slope the banks, and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous because of sliding or caving banks.

701.03. Set-Backs. Refrain from mining below grade closer than 30 feet to the boundary of any zone where such operations are not permitted, or closer than 50 feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such property is first secured in writing and filed with the community clerk. Refrain from excavating below road grade closer than 50 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 in order to reduce the elevation thereof in conformity to the existing or proposed street grades.

701.04. Inspection Fee. An annual inspection fee to cover the cost of periodic inspection shall be paid to the community. The method of determining the inspection fee shall follow one of the two schedules as outlined below. The schedule to be followed shall be designated by the Governing Body at the time the annual permit is approved. The minimum annual inspection fee shall be \$100.00.

SCHEDULE A:

The annual inspection fee shall be based on the actual and estimated costs which are incurred by the community in providing periodic inspections and administering the provision of the annual permit. These costs may include both actual cost incurred by the community such as charges made by an engineering firm or for legal services and indirect, internal, actual and computed costs incurred by the community such as mileage or computed charges for time spent by community officials or their staff. The Governing Body shall estimate these charges at the time the annual permit is issued and the applicant shall make a cash deposit with the community equal to their estimate when the annual permit is issued. If at the expiration date of the annual permit there are any funds still available they will be refunded to the applicant or if the cost exceeds the estimate the applicant shall pay the additional cost.

SCHEDULE B:

The annual inspection fee shall be based on the amount of material which is removed from the site. The charge shall be fixed at the rate of 1¢ per cubic yard of material removed with a maximum fee of \$3,000.00. The Governing Body based on the estimates of the applicant shall estimate the annual inspection fee which shall be paid by the applicant according to a payment schedule as determined by the Governing Body. The applicant shall keep records of all material removed from the site and these records shall be made available to the Governing Body for their review. On the expiration date of the annual permit the applicant shall submit to the Governing Body a complete record of all material removed for that year and pay any additional inspection fees as determined by the Governing Body based on the fixed rate as set forth in this schedule.

701.05. Survey. Furnish a survey by a registered surveyor showing the boundaries of the property.

701.06. Bond. Post a bond, cash deposits or other security, in such form and sum as the Governing Body may require, running to the community, conditioned to pay the community the cost and expense of repairing any highways, street, or other public ways and the restoration of other sites within the community made necessary by the special burden resulting from hauling and transporting thereon by the applicant in the removal of rock, sand, dirt, gravel, clay or other material, and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to save the community free and harmless from any and all suits or claims for damage resulting from the negligent excavation, removal or storage of rock, sand, dirt, gravel, clay or other material within the community boundary.

701.07. Insurance. Carry bodily injury and property damage, public liability insurance in the amount of \$100,000 for any one person and \$300,000 for any occurrence including blasting insurance naming the community as an additional insured.

701.08. Noise. Maintain and operate all equipment in such manner as to eliminate, as far as is practicable, noises and vibrations, in accordance with State and County standards.

701.09. Hours of Operation. Conduct operations only between the hours of 7:00 A. M. and 7:00 P. M., except no trucking shall be allowed on Saturdays, Sundays, or holidays. In the case of public emergencies such as floods or whenever any reasonable or necessary repairs to equipment are required the Governing Body may allow an exception to this requirement.

701.10. Dust and Dirt. Construct, maintain and operate all equipment in such a manner as to minimize dust conditions. All operations shall meet the standards of the State Pollution Control Agency.

701.11. Appearance. Maintain buildings and plants in a safe condition in accordance with acceptable industrial practice. Weeds shall be controlled.

701.12. Removal of Structures. Within a period of three months after the termination of a sand and gravel operation, or within three months after abandonment of such operation for a period of six months (or within three months after expiration of a sand and gravel permit), dismantle or remove buildings, structures and plants incidental to such operation; except that such buildings, structures and plants need not be dismantled and removed so long as they are legally being used for the production of processing of sand and gravel or for some other purpose permitted in the zone in which they are located.

701.13. Lighting. Set forth the planned lighting of the area and any other equipment or structures that will be installed or built.

701.14. Sewer. Provide for adequate drainage to sanitary sewer and storm sewer including lift stations, if necessary.

701.15. Added Provisions. Comply with such other requirements as the Governing Body from time to time may find necessary for the health, safety, welfare and prevention of nuisance in the area.

701.16. Variance. The standards which apply to these permits may be varied by the Governing Body according to the structure and size of the operation, and to factors presented by the applicant.

SECTION 8. VIOLATION AND PENALTIES

801. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to fine and/or imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9. VALIDITY

901. It is hereby declared to be the intention that the several provisions of this regulation are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this regulation to be invalid, such judgment shall not affect any other provision of this regulation not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property such judgment shall not affect other property.

SUGGESTED ORDINANCE FOR ADOPTING MODEL MINING REGULATION CODE

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING MINING REGULATIONS TO PROVIDE FOR ORDERLY, ECONOMIC AND SAFE REMOVAL OF SAND, GRAVEL, ROCK, SOIL AND OTHER NATURAL DEPOSITS AND TO PROMOTE THE PUBLIC HEALTH, SAFETY, MORALS AND GENERAL WELFARE IN THE _____ OF _____, WASHINGTON COUNTY, MINNESOTA.

The _____ of the _____ of _____, Washington County, Minnesota, Ordains:

SECTION 1. ADOPTION OF MODEL MINING REGULATION CODE.

It is hereby adopted for the purpose of regulating the removal of sand, gravel, rock, soil and natural deposits, the Model Mining Regulation Code for Communities in Washington County as adopted on April 25, 1972, by the Washington County Planning Advisory Commission, of which not less than three copies are on file in the office of the _____ Clerk. That said Model Mining Regulation Code is hereby adopted in its entirety except as herein modified.

SECTION 2. DEFINITIONS.

- A. 202.01. (1) Community. Whenever the word "community" is used it shall mean the _____ of _____, Washington County, Minn.,
- B. 202.01. (3) Governing Body. Whenever the words "governing body" are used they shall mean the _____ of the _____ of _____ Washington County, Minnesota.

SECTION 3. EXISTING CODES.

The provisions of the Model Mining Regulation Code are in addition to and not in replacement of the provisions of the Zoning Ordinance. Any provisions of the Zoning Ordinance relating to mining shall remain in full force and effect except as they may be contrary to the provisions of this Model Mining Regulation Code.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES.

Ordinance No. _____ and all other Ordinances, or parts thereof, in force at the time this Ordinance takes effect and inconsistent with the Model Mining Regulation Code, are hereby repealed.

SECTION _____. (Section for modifications, if any)

SECTION _____. EFFECTIVE DATE.

This Ordinance shall be and is hereby declared to be in full force and effect from and after its passage and publication according to law.

Passed by the _____ of the _____ of _____, Washington County, Minn.

This _____ day of _____ 197 _____.

ATTEST:
Chairman/Mayor _____

Clerk _____