
WASHINGTON COUNTY

DEVELOPMENT CODE

Pursuant to MSA Ch 394, Washington County has adopted official controls for the purposes of regulating the physical development of land in the unincorporated areas of the County. These official controls are compiled into and hereafter known as the Washington County Development Code and consists of the following chapters each adopted by Ordinance.

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| (1) | Chapter One | Administration |
| (2) | Chapter Two | Zoning Regulations |
| (3) | Chapter Three | Subdivision Regulations |
| (4) | Chapter Four | Individual Sewage Treatment System Regulations |
| (5) | Chapter Five | Lower St. Croix River Bluffland and Shoreland Management Regulations |
| (6) | Chapter Six | Shoreland Management Regulations |
| (7) | Chapter Seven | Mining Regulations |
| (8) | Chapter Eight | 201 Sewer Use Regulations |
| (9) | Chapter Nine | Flood Plain Regulations |
| (10) | Chapter Ten | Official Map Regulation and Designation |

WASHINGTON COUNTY DEVELOPMENT CODE

**CHAPTER SEVEN
MINING REGULATIONS**

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WASHINGTON COUNTY DEVELOPMENT CODE

CHAPTER SEVEN

MINING REGULATIONS

This Chapter of the Washington County Development Code shall be known as the Washington County Mining Regulations and may be referred to in this Chapter as "this Chapter" or the "Mining Regulations". This mining regulation is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 394.

SECTION 1. INTENT AND PURPOSE

- 1.2** 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."
- 1.3** Purpose. This Ordinance is adopted for the purposes of:
- (1) Providing for the economic availability and removal of sand, gravel, rock, soil and other materials vital to the continued growth of Washington County.
 - (2) 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.
 - (3) Reducing the potential for pollution caused by wind, soil erosion and sedimentation.
 - (4) 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.
 - (5) Ensuring compliance with the regulations established in this ordinance on those mining operations presently operating in Washington County.
 - (6) Distinguishing between operations operating with a permit prior to the effective date of this ordinance and operators who do not have a permit prior to the effective date of this ordinance. Those operators with a permit shall be allowed to continue according to the terms and conditions of their pre-existing permit. Those operators without permits shall be allowed to continue, subject to obtaining a preliminary permit and shall be allowed to expand or continue their operation only if they comply with the terms and conditions of this ordinance. The purpose of the preliminary permit is to bring operators without a permit into compliance with the performance standards of this ordinance and establish a time frame within which they must apply for a conditional use permit.

SECTION 2. SCOPE AND APPLICABILITY

2.1 Adoption of the Washington County Mining Ordinance

- (1) There is hereby adopted, for purposes of regulating the removal and processing of sand, gravel, rock, soil or other deposits, the Washington County Mining Ordinance. This Ordinance applies to all lands within the unincorporated areas of Washington 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. If any township within the County has more restrictive provisions than this Ordinance, the more restrictive provision would apply.

SECTION 3. GENERAL PROVISIONS

3.1 Pre-permitted Uses. Mining operations operating with a valid Conditional Use Permit issued by Washington County and in compliance with the terms and conditions of said Conditional Use Permit shall be permitted to continue subject to the following:

- (1) Such uses shall not be permitted to expand, either in size or use, beyond the limits set forth in the Conditional Use Permit without first obtaining a new Conditional Use Permit.

3.2 A mining permit is required for all mining operations and are subject to the following:

- (1) The operation of a mining operation without a valid Conditional Use Permit or an operation in violation of Section 3.2 (2) is declared to be a nuisance, and it shall be unlawful for any person, partnership, company or corporation to engage in mining in violation of this section, or for any property owner to permit a person to mine their property in violation of this section.
- (2) Preliminary Permit. All mining operations operating within Washington County without a valid Conditional Use Permit issued by Washington County as of the effective date of this ordinance shall apply for a preliminary permit within 90 days following the effective date of the ordinance. The application shall be in writing on forms provided. Upon receipt of an application and proof that the operation is in compliance with the reporting and payment of aggregate removal tax requirements of Washington County Ordinance No. 33, Washington County will issue a preliminary permit for the existing operation.
- (3) The permit shall stipulate that the operational standards contained in Sections 5.5, Protection of Water Tables; 5.12, Abandoned Wells; 6.1 (1), Setbacks; 6.1 (2), Fencing; 6.1 (3), Hours of

Operation; 6.1 (7), Dust Control; 6.1 (8), Noise; 6.1 (9), Depth of Excavation; 6.1 (10), Site Clearance; 6.1 (11), Appearance/Condition; 6.1 (16), Processing; 6.1 (17), Recycling; 6.1 (19), Asphalt Plant; 6.1 (20), Fuel Storage; 7.2, Timing of Restoration; and 7.6, Topsoil; must be complied with. Issuance of the preliminary permit shall not be binding on the County with regard to approval of a conditional use permit. Preliminary permits shall restrict the operator to the same type of operation as existed on the effective date of this Ordinance and the amount of material that may be removed annually prior to the issuance of a Conditional Use Permit shall not exceed the highest quantity of material removed in any one of the last 5 years, as evidenced by the reports filed with Washington County pursuant to Section 3 of Washington County Ordinance No. 33, the Aggregate Removal Tax Ordinance.

- (4) The information contained in the preliminary permit shall be used by the Zoning Administrator to prioritize existing mining operations as to their potential aesthetic and environmental impacts. The impacts shall be the basis on which the Zoning Administrator provides notification to existing operations of the need for a Conditional Use Permit. Existing operations must apply for a Conditional Use Permit within 90 days of being notified by the Washington County Zoning Administrator of the need for a permit. If no permit is applied for and/or subsequently issued, all mining operations shall cease and the property restored in accordance with the provisions of this ordinance.
- (5) The Conditional Use Permit issued by Washington County shall be valid for a maximum of 5 years. If the operator seeks to continue beyond expiration, an application for a new permit must be applied for at least 90 days prior to the expiration of the current permit. An annual permit issued by the local Township is required each year as specified below. An annual report must be submitted to the Washington County Zoning Administrator each year specifying the amount of material removed, area in which mining took place, restoration performed, area proposed to be mined within the next year, and evidence the required bond and insurance is valid.
- (6) In order for Washington 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 subject property is in an AP, A-1, A-2, A-4, RR, CI-R, CI-U ZONING DISTRICT;
 - (B) the property is at least **40** acres in size;
 - (C) all other standards for approval of a conditional use permit as contained in Chapter One, Section 9, of the Washington County Development Code are met;
 - (D) the operation is consistent with the Washington County Comprehensive Plan; and"
 - (E) compliance with all provisions of this Ordinance.

Provided, however, that for operations existing on the effective date of this Ordinance, who are not pre-permitted uses and who do not seek to expand their operation beyond the standards set forth in their preliminary permit, need only comply with performance standards contained in this ordinance.

3.3 The town board of the township within which the property being mined is located shall issue the annual permit as required by this Ordinance subject to the following:

- (1) Prior to the issuance of the annual permit, a copy thereof shall be submitted to the Washington County Zoning Administrator who will review it to see that it complies with the requirements of this Ordinance and the County permit issued. If the permit conforms to the requirements of this Ordinance and any more restrictive conditions set forth by the Township, the annual permit may be issued. If it does not conform with the County Permit, the Washington County Zoning Administrator shall refer it to the Washington County Planning Advisory Commission for review.
- (2) 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 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. DEFINITIONS

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

- (1) Bond. Any form of security including a cash deposit, surety bond, collateral, or instrument of credit in an amount and form satisfactory to Washington County. All bonds shall be approved by Washington County wherever a bond is required by these regulations.
- (2) Conditional Use. A land use or development as defined by Ordinance that may not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, (2) the use or development conforms to the comprehensive land use plan of the County and (3) is compatible with the existing neighborhood.
- (3) Confined Aquifer. An aquifer overlain by a confining layer of impermeable material.
- (4) Contour Map. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.
- (5) County. Washington County, Minnesota

- (6) Fence. A partition, struture, wall, or gate erected as a dividing marker, visual or physical barrier or enclosure.
- (7) Grading. The removal, depositing, or moving of more than 50 cubic yards of sand, gravel, rock, soil, clay or other deposits in less than a 1 year period on any parcel.
- (8) Holiday. New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- (9) Local Governing Body. Town Board of respective community.
- (10) Mining. The excavation, removal, storage or processing of sand, gravel, rock, soil, clay, or other deposits. Mining shall not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:
 - (A) Excavation for 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.
 - (B) On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities.
 - (C) Landscaping purposes on a lot used or to be used as a building site.
 - (D) Grading/excavation of less than 1 acre of land in conjunction with improvement of a site for lot development, providing activities will be completed in one year.
- (11) Operator. The person, partnership, company, corporation or other business entity engaged in or proposing to engage in a mining operation. In the event the operator is not the fee owner of the land to be mined, then the fee owner's consent shall be required.
- (12) Overburden. Those materials which lie between the surface of the earth and the mineral deposit to be mined.
- (13) Owner. An individual, firm, association, syndicate, copartnership, corporation, trust, estate, lessee, or any other legal entity having sufficient proprietary interest in the land sought to be mined to commence and maintain proceedings to mine the same under these regulations.
- (14) Person. Any individual, firm, association, syndicate or partnership, corporation, trust, estate, or any other legal entity.
- (15) Planning Commission. The Washington County Planning Advisory Commission.
- (16) Performance Standards. Those standards, operating conditions, reclamation standards, and other requirements contained in Section 6, Section 7, and Section 8 of this Ordinance.

- (17) Processing. Any activity which may include the crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravels, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, concrete, asphalt, and other similar products.
- (18) Reclamation, Restoration, Rehabilitation. To renew land to a self-sustaining, long term use which is compatible with contiguous land uses and which process shall include the reestablishment of vegetation, soil stability and establishment of safe conditions appropriate to the intended use of the land in accordance with the County's Comprehensive Plan and the Conditional Use Permit conditions allowing for excavation and/or processing on the site.
- (19) Stockpiling. Storage of processed or raw materials on the site of the sand, gravel or rock operation.
- (20) Survey, Land. The process of determining boundaries and areas of tracts of land.
- (21) Topsoil. That portion of the overburden which lies within the "A" and "B" horizon of soil closest to the surface and which supports the growth of vegetation.
- (22) Unconfined Aquifer. An aquifer not naturally protected by a confining bed, also known as the water table aquifer.

SECTION 5. APPLICATION

5.1 The application for a Conditional Use Permit for a mining operation must be filed with the Washington County Zoning Administrator. The Zoning Administrator shall follow procedures prescribed in Chapter One, Section 9, Conditional Uses, of the Washington County Development Code. Application for renewal for a permit must be made 90 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.

5.2 The application shall contain the following:

- (1) The name and address of the operator and owner of land.
- (2) An accurate legal description of the property where the mining shall occur.
- (3) Names of the adjacent landowners including all those within a one-half (1/2) mile radius of the property.
- (4) Survey indicating property boundaries.
- (5) 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 2 foot vertical intervals. 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. Existing Operations who previously had topographic data completed at 4' intervals is acceptable provided they were done utilizing aerial photography or actual field investigation. Interpolated data from U.S.G.S. Quadrangel maps is not permitted.

- (6) A narrative outlining the type of material to be excavated, mode of operation, estimate of amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
- (7) A fee as established by resolution of the County Board of Commissioners.
- (8) A general location map showing the proposed mining site in relation to the community.
- (9) A map showing access routes between the property and the nearest arterial road.
- (10) Roads or streets: show name, right-of-way width and travelled portion width.
- (11) Easements: show widths and identify utility or other purposes.
- (12) Natural land features: show locations of watercourses and drainageways, flood of record, wetlands, sinks, basins, and wooded areas.
- (13) Man-made features: show buildings and other structures, dams, dikes, and impoundments of water.
- (14) Adjacent land features: all of the standards above shall apply to delineation of the area within 300 feet of the perimeter of the mined area. In addition, show all platted subdivision lots, metes and bounds parcels, and all homes within 1/4 mile of the property boundaries.
- (15) Groundwater: a plan for groundwater quality protection shall be submitted with the application. The plan shall include a minimum of 3 borings showing depth to groundwater. If groundwater is not encountered at a depth of 15 feet below the bottom of the proposed pit floor, the applicant need not extend borings any further.
- (16) Cross-sections: a minimum of 3 cross-sections showing the extent of overburden, extent of sand and gravel deposits, the water table, and any evidence of the water table in the past. The Planning Commission reserves the right to require additional borings if necessary.
- (17) Processing areas shall be identified and boundaries shown to scale.
- (18) Access road to processing and mining areas shown to scale.
- (19) Sequences of operation showing approximate areas involved shall be shown to scale and serially numbered with a description of each.

- (20) Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner overburden storage areas shall be identified and noted.
- (21) Fences and gates shall be shown on the site map, and their type or construction shall be described.
- (22) Proposed location of principal service or processing buildings or enclosures shall be shown, as well as location of settling basins and process water ponds.
- (23) Site drainage features shall also be shown and flow directions indicated.
- (24) Lighting. Set forth the planned lighting of the area and any other equipment or structures that will be installed or built.
- (25) Reclamation plan in conformance with Section 7.
- (26) The operator must indicate if blasting is proposed as part of the mining operation and frequency of blasting.
- (27) Any other information or reports the Planning Commission deems necessary for purposes of evaluating environmental or aesthetic impacts.
- (28) Township Review. Upon submittal of an application to the County, the County shall send the application to the Township in which the property to be mined is located for review. For purposes of establishing the County public hearing date on the application, the application shall be deemed complete upon the earlier of the expiration of thirty (30) days from the date the application is sent to the Township or receipt of comments from the Township.

5.3 A mandatory Environmental Assessment Worksheet shall be required for development of a facility for the extraction or mining of sand, gravel, stone or other nonmetallic minerals which will excavate 40 or more acres of land to a mean depth of 10 feet or more during its existence. Washington County will be the responsible governmental unit for the preparation of the Environmental Assessment Worksheet. Costs associated with the preparation of an Environmental Assessment Worksheet shall be borne by the applicant.

5.4 A mandatory Environmental Impact Statement shall be required for the development of a facility for the extraction or mining of sand, gravel, stone or other nonmetallic minerals, which will excavate 160 acres of land or more to a mean depth of 10 feet or more during its existence. Washington County will be the responsible governmental unit for the preparation of the Environmental Impact Statement. Costs associated with the preparation of an Environmental Impact Statement shall be borne by the applicant.

5.5 Protection of Water Tables. The maximum depth of excavation shall be established so that groundwater quality is protected. This depth of excavation shall be established by the Planning Commission and will

be based, in part, upon soil characteristics, depth to water table, nature of mining proposed, and local use of the aquifer. Mining shall not occur in confined aquifers. Excavation into unconfined aquifers must be closely monitored and conducted according to the conditions of the permit.

No extraction operations shall be conducted in such a manner as to permanently lower the water table of surrounding inhabited properties or any other water body. An Environmental Assessment Worksheet shall be required for any operation in which mining is proposed below the groundwater level.

- 5.6** All provisions of the Minnesota Environmental Quality Board Environmental Review Program must be complied with.
- 5.7** Permits from the Minnesota Pollution Control Agency may be required for a mining operation in relation to air and water quality. An air quality permit may be necessary for smoke stack discharges from processing plants or fugitive dust from operating areas. If the mining operation discharges water (from pit de-watering and/or gravel washing), a State Disposal System permit or a National Pollution Discharge Elimination permit may be necessary from the Minnesota Pollution Control Agency. As a condition of any permit issued pursuant to this Ordinance, no mining will be allowed until evidence is shown the operator has obtained these permits or none are necessary.
- 5.8** Permits from the Minnesota Department of Natural Resources may be required in the event any type of work is proposed in public waters or if there is a need for de-watering the pit to gain access to sand, gravel and rock. A permit may also be needed for a well in connection with a washing facility. As a condition of any permit issued pursuant to this Ordinance, no mining will be allowed until evidence is shown the operator has obtained these permits or none are necessary.
- 5.9** A mining permit must be secured from the township in which the property to be mined is located or the applicant must present evidence a permit is not needed.
- 5.10** Any mining operation having access from a State or County highway must obtain an access permit from the respective agency. A turn lane and/or bypass lane may be required by the respective agency to reduce the risk of traffic safety hazards. The cost of construction of a turn or bypass lane shall be the sole expense of the operator.
- 5.11** As part of the original application for a mining permit and any subsequent renewals, the applicant shall submit grading plans and phased rehabilitation plans to the Washington County Soil & Water Conservation District and the appropriate Watershed District or Water Management Organization for approval. Their approval shall be made prior to the adoption by the Planning Advisory Commission..
- 5.12** Abandoned wells must be sealed in accordance with State and County requirements.

SECTION 6. OPERATING CONDITIONS

6.1 Operating Conditions. The following operating conditions and standards must be met for all mining operations.

- (1) Setbacks. No mining, stockpiling or land disturbance shall take place within:
 - (A) 50 feet of adjoining property lines;
 - (B) 200 feet of any existing occupied structures not owned by the operator or owner;
 - (C) 100 feet of any contiguous property subdivided into residential lots;
 - (D) 100 feet of any road right-of-way of any existing or platted street, except the amount of material stockpiled on the effective date of this Ordinance may continue but not be expanded. Mining may be allowed up to 50 feet of the road right-of-way so long as the property is restored to 100 feet within one mining season period as set forth in the approved reclamation plans, and;
 - (E) If 2 or more mining operations are contiguous to one another, the common boundary may be mined if the Planning Commission approves the respective restoration plans.
- (2) Fencing. Where deemed necessary by the Planning Advisory Commission for the protection of the general public, a fence shall be constructed prior to the commencement of the operation, enclosing the area authorized by the permit to be mined. Where fencing is required by the Planning Advisory Commission, said fence shall be, at a minimum, a three strand wire fence and the fence shall be posted with warning signs. The Planning Advisory Commission reserves the right to require alternative fencing standards if conditions warrant. The fence shall be maintained and shall remain until reclamation is determined to be complete.
- (3) Hours of Operation. Those portions of the mining operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless other hours or days of operation are specifically authorized by the local governing body. No such operations shall be allowed on Holidays unless approved by the local governing body. Retail sales of product is allowed on Saturdays between the hours of 8:00 a.m. and 5:00 p.m. unless otherwise prohibited by the local governing body. Retail sales for purposes of this section shall mean the sale of product to individuals for personal use and shall exclude commercial hauling. Blasting shall only take place between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Blasting is not permitted on Holidays.
- (4) Screening. Where deemed necessary by the Planning Advisory Commission, extracting and processing operations shall be screened or located in such a manner so as to minimize their visual impact on surrounding properties. To minimize their visual impact on surrounding properties, a

continuous screen shall be installed and maintained, either along the street or along the perimeter of the visible portion of the area being operated.

The following shall serve as the minimum performance standards and may be varied as determined by the Planning Advisory Commission:

(A) The screen shall have a total height of not less than six feet and shall consist of the following types:

- (1) Walls. A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of four inches thick.
- (2) Berms. A berm shall be constructed of earthen materials, and it shall be landscaped.
- (3) Fences, Solid. A solid fence shall be constructed of wood and shall form a continuous screen.
- (4) Fences, Open. An open weave or mesh-type fence, when not used in combination with a berm, shall be combined with plant materials to form an continuous screen.
- (5) Planting. Plant materials, when used as a screen, shall consist of dense evergreen plants or a majority of dense evergreen plant materials combined with deciduous plants provided a continuous screen is established. They shall be of a kind or used in such a manner so as to provide a continuous screen within 24 months after commencement of operations in the area to be screened. Plant materials shall not be limited to a maximum height. Said design shall be prepared by a licensed landscape contractor or an architect.

The County Planning Commission shall require that either (1), (2), or (3) above shall be installed if, after 24 months after commencement of operations in the area to be screened, plant materials have not formed an opaque screen, or if an opaque screen is not maintained.

- (6) Required screening shall be setback at least 20 feet from the point of intersection of:
 - (a) A vehicular accessway or driveway and a street;
 - (b) A vehicular accessway or driveway and a sidewalk; and
 - (c) Two or more vehicular accessways, driveways, or streets.

- (d) Required screening shall be installed prior to commencement of operations.
- (5) **Dust Control.** The owner must construct, maintain and operate all equipment in such a manner as to minimize on-site and off-site dust conditions. All operations shall meet the standards of the State Pollution Control Agency. The driveway access to the sand and gravel operation must be setback at least 25 feet from neighboring property lines. The operator shall maintain all ways and roads within the site in a dust-free condition, providing such surfacing or other treatment as may be deemed necessary by the Planning Advisory Commission, provided that the treatment produces no potential pollution hazards to the ground and surface waters of the area. All gravel pit accessroads shall be provided and maintained with a dustless non-oiled surface not less than twenty-two (22) feet wide from the connection to a public road to a point within one hundred (100) feet of the loading area. Access roads shall also be constructed and maintained in such a manner that the deposit of earth materials on public roads is minimized. The Planning Advisory Commission may require a blacktopped road if deemed necessary.
- (6) **Noise.** All equipment and other sources of noise must operate so as to be in accordance with Federal, State and County noise standards.
- (7) **Depth of Excavation.** The maximum depth of excavation may be regulated based on groundwater protection and/or the ability to restore the property.
- (8) **Site Clearance.** All stumps and other debris resulting from the excavation or related activities should be disposed of by approved methods.
- (9) **Appearance/Condition.** The 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. Existing trees and topsoil along existing public rights-of-way shall be preserved, maintained and supplemented for the depth of the setback or as stipulated in the conditional use permit or excavation permit.
- (10) **Sewer.** The operator shall provide for adequate drainage to sanitary sewer and storm sewer including lift stations, if necessary.
- (11) **Waste Disposal.** Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with Federal, State and County requirements.
- (12) **Water Quality Monitoring.** Water quality monitoring when required shall conform to the following standards:

Water from monitoring wells and water collected or discharged from the mining area shall be analyzed until one year after reclamation is completed. Samples from monitoring wells shall be taken and testing results submitted prior to the annual permit renewal. More frequent monitoring may be required by the Planning Advisory Commission. Sampling and testing shall be done by an independent testing laboratory or an agency chosen by the Planning Advisory Commission. Monitoring wells shall be sealed one year after reclamation efforts are complete if the site is determined to be uncontaminated. Water samples shall be analyzed to determine the level of nitrates, pesticides, herbicides, and volatile organic compounds specified by the Planning Commission.

- (13) **Added Provisions.** The operator must comply with such other requirements that Washington County, from time to time, may find necessary to adopt for protection of the health, safety, welfare and prevention of nuisance in the area.
- (14) **Processing.** Any mining operation in which processing is proposed must meet the following performance standards:
 - (A) A conditional use permit is required for any new or existing mining operation which desires to add processing equipment on-site.
 - (B) 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.
 - (C) Operators who wish to have processing equipment on a temporary basis (processing to be done no more than 15 working days a calendar year, excluding time for assembly and disassembly) shall meet the following criteria:
 - (1) Only materials removed on site are allowed to be processed. No materials may be hauled onto the property for processing, unless all material can be processed during the 15 day time period.
 - (2) Setbacks as outlined in Section 6.1 (1) must be met.
 - (3) All Federal, State and local air, water and noise standards must be met.
 - (4) Operator must notify Washington County and the local township one (1) week in advance and obtain a certificate of compliance from the Zoning Administrator.
 - (5) Processing shall not take place more than fifteen (15) working days per year.

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- (6) Crushing equipment must be placed in the bottom of the pit area if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
- (D) Operators desiring to have permanent processing equipment (more than 15 days per year) on site must meet the following standards:
- (1) All Federal, State and local air, water, and noise quality standards must be met.
 - (2) Mining operations established after the effective date of this ordinance must encompass at least 40 acres of land area under permit.
 - (3) Processing equipment must be screened from view from property lines and the road.
 - (4) Machinery must be buffered and all noise standards of the State and County must be met.
 - (5) Crushing equipment must be placed in the bottom of the pit if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
 - (6) Setback requirements as set forth in Section 6.1 (1) of this Ordinance must be met.
- (E) A temporary processing plant in conjunction with a specific road project, located in the right-of-way or very close proximity to the subject road, will be allowed subject to the following conditions:
- (1) All Federal, State and local air, water and noise quality standards must be met.
 - (2) A certificate of compliance must be obtained from the Washington County Zoning Administrator.
 - (3) The processing equipment must be located so as to minimize the effect on surrounding property owners.
 - (4) Site selection shall not have a negative effect on the public health, safety and welfare.
 - (5) The local governing body must approve the request.

- (6) The processing plant shall not be on the property for more than 120 calendar days.
 - (7) No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining."
 - (8) A bond, in an amount determined by the Zoning Administrator, must be posted to assure restoration of the site.
- (15) Recycling. The crushing/processing of used aggregate, concrete and asphalt will be permitted subject to the following conditions:
- (A) Recycling in conjunction with a specific road project and within the right-of-way or in very close proximity to the subject road shall be permitted for a maximum of 120 days subject to the following standards:
 - (1) A certificate of compliance is obtained from the Washington County Zoning Administrator.
 - (2) The processing equipment must be located so as to minimize the effect on surrounding property owners.
 - (3) Site selection shall not have a negative effect on the public health, safety and welfare.
 - (4) The local governing body must approve the request.
 - (5) If the Zoning Administrator denies the certificate of compliance, appeal of this decision may be made to the Washington County Planning Advisory Commission.
 - (6) All Federal, State and local air, water and noise quality standards must be met.
 - (B) Recycling in conjunction with an approved mining permit shall be allowed subject to the following conditions:
 - (1) Standards contained in Section 6.1 (14) must be met.
 - (2) An estimate of the amount of material to be processed must be submitted. The pile of material to be recycled shall be limited to the amount that can reasonably be processed in two consecutive mining seasons.

- (3) Washington County Planning Advisory Commission approves the recycling as part of the mining permit.
- (C) Recycling not in conjunction with a specific road project or with a permitted mining operation shall only be permitted in an Industrial Zoning District.
- (16) Trucking Operations. All new mining operations must have access to the pit area from a 9 ton blacktop road unless the applicant can demonstrate to the Planning Advisory Commission that conditions are such in a particular area that access to a gravel road will not adversely affect the public health, safety or welfare. The operator shall ensure all loads leaving any pit regulated by this ordinance are loaded so as to comply with State Law.
- (17) Asphalt Plants **and Concrete Ready Mix Plants**. A Conditional Use Permit shall be required for any new or existing mining operation that wishes to have a permanent asphalt plant **and/or a concrete ready mix plant**. Temporary asphalt plants and **concrete ready mix plants** may be allowed if the following conditions are met:
 - (A) Operators desiring to have a temporary asphalt plant and/or a concrete ready mix plant must meet the following standards.
 - (1) Asphalt plants and **concrete ready mix plants** must not be on the property for more than 15 days per year.
 - (2) All setbacks as set forth in Section 6.1 (1) of this Ordinance must be met.
 - (3) All Federal, State and local air, water and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
 - (4) In the absence of a definitive plan to prevent surface and groundwater contamination, asphalt plants must be equipped with a bag house so there is no water discharge from the unit.
 - (5) Equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
 - (6) Must have approval of the local township and the Washington County Zoning Administrator.
 - (7) A certificate of compliance is obtained from the Zoning Administrator.

- (B) Operators desiring to have a permanent asphalt plant and/or a **concrete ready mix plant** (more than 15 days per year) must meet the following standards:
- (1) Asphalt operations and **concrete ready mix plants** established after the effective date of this Ordinance must encompass at least 40 acres under permit.
 - (2) All setbacks as set forth in Section 6.1 (1) of this Ordinance must be met unless it was in existence as a permanent asphalt plant on the effective date of this Ordinance; in which case, it cannot expand unless it complies with the setbacks set forth in Section 6.1 (1)
 - (3) All Federal, State and local air, water and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
 - (4) In the absence of a definitive plan to prevent surface and groundwater contamination, asphalt plants must be equipped with a bag house so there is no water discharge from the unit.
 - (5) Equipment must be screened and located in such a manner so as to have the least environmental and aesthetic impact.
- (C) A temporary asphalt plant in conjunction with a specific road project will be allowed subject to the following conditions:
- (1) All Federal, State and local air, water and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
 - (2) A certificate of compliance must be obtained from the Washington County Zoning Administrator.
 - (3) The processing equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
 - (4) Site selection shall not have a negative effect on the public health, safety, and welfare.
 - (5) The local governing body must approve the request.
 - (6) The asphalt plant shall not be on the property for more than 120 days.

- (7) In the absence of a definitive plan to prevent surface and groundwater contamination, asphalt plants must be equipped with a bag house so there is no water discharge from the unit.
 - (8) No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining."
 - (9) A bond, in an amount determined by the Zoning Administrator, must be posted to assure restoration of the site.
 - (10) Asphalt plants not associated with a permitted mining operation or temporary road project or not in existence as of the effective date of this ordinance shall only be allowed in Industrial Zoning Districts.
- (18) Fuel Storage. All on-site storage of fuel must meet Federal, State and local standards.

SECTION 7. RECLAMATION

7.1 The applicant must submit a reclamation plan consisting of graphic representation as required in Section 5 along with the written text. The plan must contain the following elements:

- (1) Intent of reclamation.
- (2) Methods and processes of reclamation.
- (3) Initial condition of mining site.
- (4) Limits of various operational areas.
- (5) Phasing and timing of operations and reclamation including areas to be stripped of overburden.
- (6) Final condition of site, including proposed contours and potential development plan.
- (7) Relation of final site condition to adjoining land forms and drainage features.
- (8) Relation of reclaimed site to planned or established uses of surrounding land
- (9) A plan for maintenance of reclaimed area.
- (10) A detailed cost estimate of reclamation.

7.2 Timing. Restoration should proceed in a continuous manner and must be subject to review and approval at each annual inspection and at the end of the permit period.

7.3 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, unless a plan for creation of a wetland or marsh has been approved.
- (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 surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four (4) inches; sodding or seeding and mulching is also required. Mulch must be properly anchored.
- (4) Such topsoil as required by Subsection 3 above shall be planted with trees, shrubs, legumes or grasses;
- (5) Slopes on reclaimed areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical, except in cases where non-erodible conditions are present and the Planning Advisory Commission approves the reclamation plan.
- (6) In man-made groundwater lakes, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body a maximum slope of 6 feet horizontal to 1 foot vertical for at least 100 feet from the proposed shoreline toward the center of the water body. Beyond 100 feet in horizontal distance, the slope of the bottom contours may be no steeper than 3:1.
- (7) All groundwater lakes or wetlands created as part of the end use plan for a mined area shall be subject to the County's Shoreland Management Ordinance. Such lakes and wetlands shall be classified as "Natural Environment (LS-1)" shoreland areas. Department of Natural Resources guidelines for surface water creation shall be closely followed.

7.4 Excavations not resulting in water areas after rehabilitation but which must be graded or backfilled, shall meet the following requirements:

- (1) Fill shall be inspected and certified as being clean (free of volatile organic compounds and heavy metals) before being used for reclamation. Organic soil shall be used only for topsoil.
- (2) Such grading or back-filling shall be made with non-noxious, nonflammable, noncombustible solids;
- (3) The graded or backfilled area shall not collect or permit stagnant water to remain therein;
- (4) 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;

- (5) Such graded or backfilled area shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth at least four (4) inches;
 - (6) Such topsoil as required by 7.3 (5) above shall be planted with trees, shrubs, legumes or grasses.
 - (7) Slopes on reclaimed areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical, except in cases where non-erodible conditions are present and the Planning Advisory Commission approves the reclamation plan.
 - (8) All rehabilitation areas which are planned for building purposes shall have a final elevation at least 10 feet above the normal ordinary groundwater level. If public sewer is not available, plans for on-site septic systems must be considered. If area is backfilled for purposes of future development, the soil must be compacted, and subsequently tested by a registered soils engineer and approved.
- 7.5** Drainage. Reclamation shall proceed in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of natural and storm drainage shall not adversely affect public roads or neighboring uses.
- 7.6** Cover and Planting. The reclamation area shall be planted with grass, trees, shrubs, or other vegetation to prevent erosion and provide for screening and natural beauty. Technical assistance and soils data should be obtained from the county agricultural agent, appropriate state and federal officials, conservation districts, and the nearest soil conservation service office.
- 7.7** Topsoil. When topsoil is stripped or removed, it must be set aside on the site for re-spreading over the excavated area. These overburden stockpiles must be used to minimize the effects of erosion of wind or water upon public roads, streams, or adjacent land uses and shall not be sold or removed from the property.
- 7.8** Removal of Structures. Within a period of six (6) months after the termination of a mining operation, or within six (6) months after abandonment of such operation for a period of six (6) months, or within six (6) months after expiration of a sand and gravel 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.

SECTION 8. INSURANCE, FINANCIAL GUARANTEES, FEES & INSPECTIONS

- 8.1** Insurance. The operator shall provide proof of bodily injury, property damage, and public liability insurance in the amount of \$1,000,000 for any occurrence, including blasting insurance if blasting is allowed as part of the permit.
- 8.2** Bond. An operator must post a bond, cash deposits or other security, in such form and sum as the Governing Body may require, running to the County, to cover the cost of reclamation of the property. The bond amount shall not exceed \$10,000 per acre of ground to be stripped of overburden. Bonds shall be for a minimum of one (1) year, and shall include a provision for notification to the County at least 30 days prior to cancellation or non-renewal.
- 8.3** Fees. Permit fees will be charged based on resolution of the County Board. Fees shall cover all administrative costs associated with the permit application, annual review, and costs of inspections.
- 8.4** Inspections. As a condition of approval of a mining permit, Washington County staff has the right to go on the subject property after providing reasonable notice to the operator.

SECTION 9. VIOLATIONS & PENALTIES

- 9.1** 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._
- 9.2** 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._
- 9.3** 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 the same or to perform any duties imposed by this Ordinance, provided that if such building or premises be occupied, the authorization shall first present proper credentials and demand entry and if such building or premises be unoccupied, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the County shall have recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

SECTION 10. TERMINATION OF PERMIT

- 10.1** 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.
- 10.2** Revocation shall not occur earlier than ten (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 Planning Advisory Commission 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. Such 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, he must, within ten (10) working days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing, stating the grounds for appeal and served personally or by registered or certified mail on the Washington County Public Health Department by midnight of the tenth County working day following service. Following the receipt of a request for hearing, the Washington County Department of Transportation and Physical Development shall set a time and place for the hearing, which hearing shall be conducted in accordance with the procedures set forth in Section 9 of the Washington County Development Code.

SECTION 11. EFFECTUATION

- 11.1** It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:
- (1) 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.
 - (2) 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 judgement shall not affect the application of said provision to any other property, building or structure not specifically included in said judgement.

BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 99-088

DATE July 27, 1999
MOTION BY COMMISSIONER

Peterson

Transportation & Physical
DEPARTMENT Development - Land Management

SECONDED BY COMMISSIONER Hegberg

RESOLUTION ADOPTING
THE WASHINGTON COUNTY DEVELOPMENT CODE
CHAPTER SEVEN, MINING REGULATIONS
ORDINANCE NO. 140

WHEREAS, Washington County is authorized to carry on County planning and zoning activities in the unincorporated areas of the County pursuant to MINN. STAT. CHAPT. 394; and

WHEREAS, MINN. STAT. § 473.851, *et. seq.* requires the County's planning and zoning activities to be consistent with the Metropolitan Systems Statement Plan; and

WHEREAS, in order to implement this requirement, counties are required to adopt a comprehensive plan; and

WHEREAS, the Washington County 2015 Comprehensive Plan was adopted by the Washington County Board of Commissioners on April 22, 1997 and became effective October 1, 1997 as Washington County Ordinance No. 124; and

WHEREAS, MINN. STAT. § 473.865 requires counties to adopt the official controls described in their Comprehensive Plan so as to implement the Comprehensive Plan; and

WHEREAS, on March 23, 1999, the Washington County Planning Advisory Commission referred the Mining Regulations in the form of Chapter Seven of the Washington County Development Code to the County Board with their recommendations as required by MINN. STAT. § 394.25; and

WHEREAS, on June 15, 1999 and July 13, 1999, the Washington County Board of Commissioners conducted a public hearing to consider adopting Chapter Seven of the Washington County Development Code as required by MINN. STAT. § 394.26 and MINN. STAT. § 375.51.

NOW, THEREFORE, BE IT RESOLVED, that for the purposes of implementing the Washington County 2015 Comprehensive plan pursuant to MINN. STAT. § 394.25, the Board of Commissioners of Washington County ordains:

1. Chapter Seven of the The Washington County Development Code attached hereto is hereby adopted in its entirety as Washington County Ordinance No. 140 and is declared to be effective from and after its publication date according to law.
2. From and after the effective date of Ordinance No. 140, the previous Washington County Mining Ordinance No. 85, effective December 18, 1990, together with all amendments thereto is repealed.

ATTEST:

James R. Schug
County Administrator

Wally Abrahamson
Chairman, County Board

	YES	NO
ABRAHAMSON	X	
HEGBERG	X	
PETERSON	X	
PULKRABEK	X	
STAFFORD	X	

SUMMARY
WASHINGTON COUNTY DEVELOPMENT CODE
CHAPTER SEVEN
MINING REGULATIONS
ORDINANCE NO. 140

MINN. STAT. §§ 473.851 to 473.871 require counties to adopt a comprehensive plan to guide the physical development of the county. The plan must be periodically updated to be consistent with the Metropolitan System Statements. To implement the land use component, the counties are also required to adopt official controls.

Since 1979, the official controls of Washington County have been found in the Washington County Development Code. This code regulates such things as agricultural, residential and commercial land uses, the use and development of the St. Croix River corridor and the shoreland and bluffland areas adjacent to other rivers, lakes and streams, state and federally funded "201 sewage treatment systems, mining operations, flood plain developments, officially mapped areas, the location, design, installation, use and maintenance of on-site sewage treatment systems and standards and procedures to be employed in the subdivision of land. On October 1, 1997 in response to the most recent Metropolitan System Statement, Washington County adopted its 2015 Comprehensive Plan.

In order to implement the plan and consistent with the power granted to counties in MINN. STAT. CHAPT. 394, the existing Washington County Mining Regulations Ordinance originally adopted on December 18, 1999 as Ordinance No. 85, has been repealed and in its place, the Washington County Board of Commissioners has adopted new Mining Regulations as Ordinance No. 140, setting forth the regulation of the removal of sand, gravel, rock, soil and other materials within the unincorporated areas of Washington County. These Mining regulations are found in Chapter Seven, which is divided into eleven sections. These regulations will be effective on August 11, 1999 (publication date) after their publication according to law.

Sections 1 and 2 set forth the intent, purpose, scope and application of the regulations. In order to provide for the economic availability and removal of sand, gravel, rock, soil and other material vital to the growth of Washington County, the County must establish regulations, safeguards and controls regarding noise, dust, traffic, drainage, ground water quality, potential pollution cause by wind, soil erosion and sedimentation. Such regulations shall minimize the environmental and aesthetic impacts on mined or adjacent properties.

Section 3 is the general provision which explains that mining operations require a conditional use permit that is valid for a maximum of five years and can then be renewed. The permit standards are listed, as well as the criteria that must be met for new mining, expansion or change in use of an existing mining operation. Section 3 also states how the local township board shall issue an annual permit, unless the township board requests that the County issue annual permits in lieu of the townships.

Section 4 contains the definitions of Chapter Seven, which are in addition to those of Chapter One, Section 2, of the Washington County Development Code.

Section 5 establishes the application process for a Conditional Use Permit or renewal of a Conditional Use Permit. This also sets forth requirements for a Environmental Assessment Worksheet, possible Environmental Impact Statements and other provisions of rules and regulations that must be complied with in order to obtain a Conditional Use Permit.

Section 6 defines the operating conditions, such as set back, fencing, hours of operation, screening, dust control, noise, depth of excavation, site clearance, appearance, sewer, waste disposal, water, quality monitoring, processing, recycling, trucking operations, asphalt plant and concrete ready mix plants and fuel storage.

Section 7 describes the reclamation process and Section 8 reviews the insurance, financial guarantees and fees. It describes the rights of the county staff to conduct inspections of the property

Sections 9 and 10 describe the enforcement of this ordinance for criminal and civil violations and that each day a violation is permitted to exist by the mining operation, the violation shall constitute a separate offense.

Section 10 discusses that a mining permit can be revoked and the appeal process that is available.

Section 11 describes that the separability of the provisions of the ordinance and that any court of competent jurisdiction can judge the validity of such.

The foregoing is intended only as a summary of the Washington County Development Code, Chapter Seven, Mining Regulations. A printed copy of these regulations adopted by Washington County Ordinance No. 140 is available for inspection during regular office hours at the Washington County Offices of Auditor, Administrator, and Department of Transportation and Physical Development.