

Winona City Zoning Ordinance Excerpts

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ARTICLE I. IN GENERAL

43.1 DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Accessory Use or Structure: A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use.

Agricultural Use: The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:

- (1) Field crops, including but not limited to: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat.
- (2) livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, rabbits, mink, buffalo, and deer.
- (3) Livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur, and honey.
- (4) Fruits and vegetables.

Airport: Any runway, landing area or other facility designed, used or intended to be used either publicly or privately by any persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

Alley or Lane: A public or private way not more than 20 feet wide affording only secondary means of access to abutting property.

Animal Unit: A unit of measure used to compare differences in the production of animal manure that employs as a standard, the amount of manure produced on a regular basis by a 1,000 pound slaughter steer or heifer based upon Minn. Rules 7020:

	<u>Animal Units</u>
One horse	1.0
One slaughter steer or heifer	1.0
One mature dairy cow	1.4
One swine over 55 pounds	0.4
One swine under 55 pounds	0.1
One sheep	0.1
One turkey	0.018
One chicken	0.01
One duck	0.02

For animals not listed, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

Apartment Efficiency: A dwelling unit in a multi-family building, consisting of not more than one habitable room, together with kitchen or kitchenette and sanitary facilities.

Apartment Hotel: An apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels.

Apartment House: See Dwelling, multi-family.

Automobile Repair, Major: General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.

Automobile Repair, Minor: Incidental body or fender work, or other minor repairs, painting and upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half tons' capacity, but not including any operation named under "Automobile Repair, Major," or any other similar thereto.

Automobile or Trailer Sales Area: An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automobile Service Station or Filling Station: A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling on the premises.

Automobile Wrecking: The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Basement: A story whose floor line is below grade at any entrance or exit and whose ceiling is not more than 5 feet above grade at any such entrance or exit.

Bed and Breakfast: A building or part thereof, other than a hotel or motel, where lodging and breakfast are provided to transient guests by a resident family for compensation.
Ord. No. 2807 05/19/86.

Beginning of Construction: The incorporation of labor and material within the walls of the building or buildings.

Block: The enclosed areas within the perimeter of streets; watercourses; railroad rights-of-way; and City boundaries. Ord. No. 3675 12/5/05

Bluff Face: That area between United States Geological Survey Contour intervals of 1180 and 800 feet.

Bluff Slope: The average slope between United States Geological Survey Contour intervals of 800 and 1180 mean sea level.

Board: The board of adjustment of the city.

Brewery. A facility which produces malt liquor for sale. Ord. No. 3759 1/07/08

Large Brewery. A brewery that produces more than 60,000 barrels of malt liquor annually for sale and wholesale distribution purposes. Such uses shall be licensed and conducted in accordance with all applicable federal, state, and local laws.

Small Brewery. A brewery that produces no more than 60,000 barrels of malt liquor annually for sale and/or wholesale distribution purposes. Such uses shall be licensed and conducted in accordance with all applicable federal, state and local laws, and exclude brewpubs and brew on premises stores as defined herein.

Brew on Premises Store. A facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the facility for personal use. Such uses shall comply with all applicable federal, state, and local laws.

Brewpub. A bar, restaurant, or similar retail establishment, in which no more than 3500 barrels of malt liquor are brewed annually for retail on and off sale purposes. Such facilities shall be licensed in accordance with provisions of City Code Chapter 55 and Minnesota Statutes 340A.301 subd.6 while their use and operation must comply with these and all other applicable federal, state, and local laws.

Building: Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements, as hereinafter provided.

Building, Height of: The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip or gambrel roofs.

Cellar: That portion of a building between floor and ceiling underground, but having half or more than half of its clear height below the adjoining finished grade.

Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

Central Business District Core: An area defined as follows: Beginning at the intersection of Fourth and Johnson Streets; north to the center line of the alley between Levee Park and Second Street; east to the center line of Lafayette street; south to the center line of the alley between Second and Third Streets; east to the center line of Market Street; south to the center line of the alley between Third Street and Fourth Street; west to the center line of Lafayette Street; south to the center line of Fourth Street; west to the point of beginning. Ord. No. 3115 01/21/92.

Change of Use: Altering the character of the existing use of land, a building, or a structure. Ord. No. 2861 02102187.

Clinic: A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

Club: A nonprofit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commission: The city planning commission.

Council: The city council.

Court: An open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

Display Sign: A structure that is arranged, intended, designed or used as an advertisement, announcement or direction, including a sign, billboard and advertising device of any kind.

District: A portion of the territory of the city within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter. The term "R-

district" shall mean any R-S, R-1, R-2 or R-3 district, the term "B-district" shall mean any B-1, B-2 or B-3 district and the term "M-district" shall mean any M-1 or M-2 district.

Dormitory: A structure specifically designed for a long-term stay by students of a college, university, or nonprofit organization. Such structures contain facilities for living, sleeping, and sanitation; and may include separate group facilities for cooking and eating.

Ord. No. 3878 9/6/2011

Driveway: A private road, the use of which is limited to persons residing or working on the site and their invitees, licensees, and business visitors, and which provides access to off-street parking or loading facilities. Ord. No. 3672 12/7/05

Driveway Approach: An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide access for vehicles from the roadway to the adjacent property. On roadways with curbs, this includes a lowered curb level. Ord. No. 3710 10/02/06

Dwelling: Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach, boardinghouse or rooming house.

Dwelling, Single Family: A building designed for or used exclusively for residence purposes by one family.

Dwelling, Two Family: A building designed for or used exclusively by two families.

Dwelling, Multi-Family: A building or portion thereof designed for or used by three or more families or housekeeping units.

Dwelling Unit: A unit containing a habitable room or suite of rooms forming a single housekeeping unit for one or more persons and containing complete, independent facilities for living, sleeping, cooking, eating and sanitation, and containing only one kitchen or kitchenette.

Dwelling Group: A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

Essential Services: The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

Extraction Pits: Any artificial excavation of the earth which is intended to remove more than 1,500 cubic yards of organic or inorganic material from the property on which the excavation activity is being conducted. An extraction pit shall not include any such excavation, which is:

1. Incidental to any activity with an active building permit, provided that the building or installation shall be completed immediately following such excavation.
2. Incidental to the construction of any subdivision for which a grading management plan has been submitted and approved by the Planning Commission and City Council.
3. Incidental to the creation of water impoundments for agricultural purposes.

Family: Persons living together on the premises in a single dwelling unit under one of the following conditions:

1. One person living alone.
2. Any number of persons related by blood, marriage or adoption, including foster children.
3. Three (3) or fewer unrelated persons.
4. Any number of persons related by blood, marriage or adoption, including foster children and up to two (2) unrelated persons.

Exempt from this definition shall be any state-licensed residential facilities.

Ord. No. 3673 12/5/05

Flood Plain Management: See definitions contained in Section 43.67(h).

Frontage: All the property abutting on one side of a street between intersecting or intercepting streets, or between a street and a right of way, waterway, end of a dead-end street, or city boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

Garage, Private: A detached accessory building or a portion of the principal building used only for the storage of self-propelled passenger vehicles or trailers by the families resident upon the premises.

Garage, Public: A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers; except that a structure or part thereof used only for storage or display of self-propelled passenger vehicles, but not for transients, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired or hired, shall not be deemed to be a public garage.

Grading Management Plan: A document which fully describes the location, method, timing, and erosion control measures of any grading activity, which is incidental to the development of a subdivision or other site.

Heavy Commercial Vehicle: Any vehicle with a gross vehicle weight rating over 33,000 pounds.

Ord. No. 3924 2/16/2013

Home Occupation: Any occupation which is customarily incident to the principal use of the premises and is conducted by a resident occupant.

Horizontal Plane: A plane tangent to a level surface.

Hospital: A building or portion thereof used for the accommodation of sick, injured, or infirm persons, including sanitaria, sanatoria.

Hotel: Any building or portion thereof containing 5 or more guest rooms or suites where no provision for cooking is made in any individual guest room or suite, except hospitals and jails.

Improvement Area: A land area to be prepared for construction upon it, including the area for utilities, driveways, sidewalks, structures, accessories and other activities customarily associated with development.

Industry: Storage, repair, manufacture, preparation or treatment of any article, substance or commodity.

Junk Yard: A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials

incidental to manufacturing operations.

Kennel: Any structure or premises on which 3 or more dogs over 6 months of age are kept.

Kitchen: Any room in a building or dwelling unit which is used for cooking or the preparation of food.

Land Alteration: The excavation, grading or filling of land involving the moving of earthen materials, when none of the materials will be removed from the property on which the land alteration is to take place.

Land Use Plan: The long-range plan for the desirable use of land in the city as officially adopted and as amended from time to time by the city planning commission; the purpose of such plan being, among other things, to serve as a guide in the zoning and progressive changes in the zoning of land to meet the changing needs in the subdividing and use of undeveloped land, and in the acquisition of rights of way or sites for public purposes such as streets, parks, schools and public buildings.

Loading Space: An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot: A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this chapter, and having frontage on a public street.

Lot Area: The computed area contained within the lot lines.

Lot, Corner: A lot abutting upon 2 or more streets at their intersection or upon 2 parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the "corner."

Lot, Depth: The mean horizontal distance between the front and the rear lot lines.

Lot, Interior: A lot other than a corner lot.

Lot Lines: The property lines bounding the lot.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

Lot Line, Street or Alley: A lot line separating the lot from a street or alley.

Lot of Record: Any part of a subdivision, the plat of which has been duly recorded in the office of the County Recorder, or a parcel of land, the deed to which was recorded in the office of said recorder, prior to adoption of this Chapter or any amendment thereto.

Lot, Through: A lot having frontage on 2 parallel or approximately parallel streets.

Lot, Width: The mean width of the lot measured at right angles to its depth.

Malt Liquor. Any beer, ale, or other beverage made from malt by fermentation and

containing not less than one-half of one percent alcohol by volume.

Manufactured Home: "Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Also, this term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this chapter.

Microwave Receiving Dish: Any conical or dish-shaped device or structure used for receiving television or other telecommunication signals transmitted from satellites or earth based transmitters.

Ord. No. 2805 05/19/86.

Mobile Home: The words "mobile home" shall mean a transportable, single family dwelling unit suitable for year round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing and subject to tax or registration, as such, under the provisions of Minnesota Statutes, Chapters 168 or 273 and having no foundation other than wheels, jacks or skirtings.

Mobile Home Park: The words "mobile home park" shall mean any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. Ord. No. 2643 09120182.

Motel or Motor Hotel: A series of attached, semi-attached or detached sleeping or living units, for the accommodation of automobile transient guests, said units having convenient access to off-street parking spaces, for the exclusive use of the guest or occupants.

Natural Slope: That slope established by U.S.G.S. topographic map and existing prior to grading of any kind.

Nonconformity: Any land use, structure, lot, or site characteristic, which existed lawfully at the effective date of a zoning ordinance or subdivision ordinance, has been continued since that time, but which would not have been permitted to become established under the terms of the City Code as now written.

Nonconforming use: A use that was legally conforming at the time it was established but which does not comply with the current City Code.

Nonconforming structure: A structure that was legally conforming at the time it was constructed but which does not comply with the current City Code.

Nonconforming lot: A lot lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements for lot area, and/or width, depth, lot frontage, or other requirement of the existing City Code.

Nonconforming site characteristic: A site characteristic lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements of the existing City Code. For the purposes of nonconformities, "site characteristics" are physical improvements to the site beyond structures, and may include but are not limited to: impervious surface coverage, storm water facilities, parking and parking lots, driveway surfaces, screening, fences, landscaping, sidewalks, patios, man-made water features such as ponds or swimming pools, and similar features.

Nonconformity Agreement. A recordable agreement between the City and the property owner of a nonconformity, which imposes reasonable regulations or conditions upon nonconformities to prevent and abate nuisances and to protect the public health, safety, or welfare. Such agreement may only be approved by the City Council.

Nonconformity, legal: A nonconformity that was legally conforming at the time it was established and received all required approvals.

Nonconformity, illegal: A nonconformity that was not legal at the time it was established or did not receive all required approvals.

Parking Area, Private: An open area for the same uses as private garage.

Parking Area, Public: An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Parking Space: A permanently surfaced area of not less than 160 square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.

Recreational Vehicle: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The term "recreational vehicle" includes the following:

Road Use Agreement: An agreement between a developer or property owner and a road authority identifying the road improvements, road impacts, and impact mitigation and remediation measures necessary to preserve the condition of road infrastructure and to make such improvements as may be necessary to handle the volume, weight, size, turning radius, and other attributes of the truck traffic generated by a land use. Ord. No. 3924 2/19/2013

Camper Trailer: A folding or collapsible vehicular structure, without its own power designed as a temporary living quarters for travel, camping, recreation, and vacation uses; and eligible to be licensed or registered and insured for highway use.

Theme House: A university/college sanctioned structure of a residential nature, housing students with a common academic interest. Such a structure resembles single-family houses in the vicinity and contains full-kitchen facilities. Theme houses shall only be established within a campus overlay. Ord. No. 3878 9/6/2011

Travel Trailer: A rigid vehicular structure without its own motive power, designed as a temporary dwelling for travel, camping, recreation and vacation use; eligible to be licensed or registered and insured for highway use; and which when equipped for the road, has a body width of not more than eight (8) feet.

Truck Camper: A portable structure, without its own motive power designed to be transported on a power vehicle as a temporary dwelling for travel, camping, recreation and vacation use; and which in combination with the carrying vehicle is eligible to be licensed or registered and insured for highway use.

Motor Home: A vehicular unit built on or as a part of a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for travel, camping, recreation, and vacation use; and which is eligible to be licensed or registered and insured for highway use.

Boat and/or Utility Trailer: A vehicular structure without its own motive power designed or used for the transportation of all manner of motor vehicles and boats, goods, materials and eligible to be licensed or registered and insured for highway use. Ord. 2559 01/05/81.

Resident Family: A resident family is a family that resides in an owner-occupied home. Ord. No. 3674 12/5/05

Residential Retreat Center: A single family detached residential structure/property

with sleeping and living quarters, including cooking facilities, that is wholly rented to one (1) common party for the purpose of overnight lodging for one (1) night or longer, but less than one (1) week. Retreat Centers shall not be rented to more than one (1) common party at a time, the premises shall not be the primary residence of the owner, the owner or a representative of the owner shall not occupy the premises during the rental period, no meals shall be catered, and the number of guests shall be limited to a maximum of twelve (12) guests at any one time.

Ord. No. 3786 3/2/09

Ridgeline: The uppermost boundary of the conservancy district, which is represented by the contour line of 1,180 feet, as shown on a United States Geological Survey Topographic Map, 1972.

Roadside Stand: A temporary structure designed or used for the display or sale of agricultural products produced on the premises upon which such a stand is located.

Roominghouse: A single family dwelling occupied by a resident family in which one or more rooming units are occupied, or intended to be occupied, by one or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the occupying owner or operator; or a single family dwelling occupied by persons other than a family; or a dwelling containing 2 or more dwelling units, one or more of which is occupied by other than a family as defined herein; or a portion of a dwelling housing one or more rooming units independent of a dwelling unit.

Rooming Unit: A unit containing one or more habitable rooms located in an operator-occupied dwelling or dwelling unit and so arranged as to provide a private habitable unit used, or intended to be used, for living and sleeping but not for cooking purposes, along with private or shared sanitation facilities; or a dwelling unit in a rooming house containing more than one dwelling unit and occupied by other than a family.

School: A school is defined in Minnesota Statutes Section 120A.05 or a school, nonpublic school, or nonsectarian nonpublic school as defined in Minnesota Statutes Section 1238.41.

Ord. 3500 09/4/01

Sign, Area of: The total exterior surface computed in square feet of a sign having but one exposed exterior surface; one-half the total of the exposed exterior surface computed in square feet of a sign having more than one such surface.

Silica Sand: naturally existing well-rounded, high compressive strength, high quartz (silicon dioxide) level sand having a composition of nearly pure quartz (few impurities from other minerals) and a grain-size distribution required for industrial applications, including the hydraulic fracturing of shale rock to obtain oil and natural gas. Silica sand does not include common rock, stone, aggregate, gravel, or sand with a low quartz level.

Stable, Commercial: A stable for horses, mules or ponies which are let, hired, used or boarded on a commercial basis and for compensation.

Stable, Private: An accessory building for the keeping of horses, mules, or ponies owned by the occupant of the premises and not kept for remuneration, hire or sale.

Standard, Equipment: A criterion for the control of type and placing of industrial equipment.

Standard, Performance: A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

Story: That portion of a building, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, First: The lowest story or the ground story of any building the floor of which is not more than 12 inches below the average contact surface ground level at the exterior walls of the building.

Ord. No. 3115 01/21/92.

Story, Half: A partial story under a gable, hip or gambrel roof, the wall plates of which on at least 2 opposite exterior walls are not more than 4 feet above the floor of such story; provided, however, that any partial story used for residence purposes shall be deemed a full story.

Story, Mezzanine: A story which covers one-third or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full story in case it covers more than one-third of the area of the story directly underneath such mezzanine story.

Street: A public right of way, 60 feet or more in width, which provides a public means of access to abutting property or any such right of way more than 30 feet and less than 60 feet in width; provided, that it existed prior to the original enactment of the regulations of this chapter. The term street shall include avenue, drive, circle, road, parkway, boulevard, thoroughfare or any other similar terms.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders.

Structure: Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Thoroughfare, Primary or Secondary: An officially designated federal or state numbered highway or county or other road or street designated as a primary thoroughfare on the official thoroughfare plan of the city or a county or other road or street designated as a secondary thoroughfare on such plan, respectively.

Thoroughfare, Plan: The official thoroughfare plan of, and as adopted by the city planning commission of the city, establishing the location and official right-of-way width of principal highways and streets in the city, on file in the office of the city engineer and the city planning commission, dated August 17, 1959, together with all amendments subsequently adopted.

Tourist Home: A building or part thereof, other than a hotel or motel, where lodging is provided to transient guests by a residence family for compensation. Ord. No. 2807 05/19/86.

Trailer Park or Camp: Any lot or part thereof, or any parcel of land, which is used or offered as a location for 2 or more trailers or mobile homes. Ord. No. 2616 02/16/82.

Use: The purpose for which land or a building or a structure is arranged, designed or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

Use, First Permitted in "X" District: A use which in the sequence is successively less restricted districts occurs as a permitted use for the first time in the "X" district.

Used: The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used.

Yard: An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Front, How Measured: Such depth shall be measured, from the right-of-way line of the existing street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way line of such street as established on the thoroughfare plan or on the official map of the city differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on the thoroughfare plan or official map.

Yard, Rear: A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot.

Yard, Side: A yard between the side lot line and a line parallel thereto on the lot and extending from the front yard, or the front lot line if no front yard exists, to the rear yard, or the rear lot line if no rear yard exists.

Side Yard, Least Width, How Measured: Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line from the right-of-way line of the existing street; provided, however, that if the proposed location of the right-of-way line of such street as established on the thoroughfare plan or on the official map of the city differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as designated on the thoroughfare plan or official map.

Zoning Map: The zoning map of the city, dated August 17, 1959, together with all amendments subsequently adopted.

Zoning Certificate: A document issued by the zoning or building inspector authorizing building, structures or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

- Ord. No. 2540 06/16/80
- Ord.No. 2374 12/06/76.
- Ord. No. 3907 10/01/2012

43.2 COMPLIANCE WITH CHAPTER. Except as hereinafter specified, no land, building, structure or premises shall hereafter be used and no building or part thereof or other structure shall be located, erected, moved, reconstructed, extended, enlarged or altered, except in conformity with the regulations herein specified for the district in which it is located, such regulations including, but without limitation, the following: The use of buildings, structures or land, including performance standards for the control of any "dangerous and objectionable elements", as defined in this chapter, in connection with such use; the height, size, dimensions of buildings or structures, the size or dimensions of lots, yards and other open spaces surrounding buildings; the provision, location, size, improvement and operation of off-street parking, loading and unloading spaces. (08-17-59)

43.3 PURPOSE AND SCOPE OF CHAPTER. This chapter is enacted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property and property values, to secure the most appropriate use of land, and to facilitate adequate and economical provisions for public improvements, all in accordance with a comprehensive plan for the desirable future development of the city, and to provide a method of administration and to prescribe penalties for violation of provisions hereafter described. (08-17-59)

43.4 REQUIREMENTS OF CHAPTER DEEMED MINIMUMS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Wherever this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall govern. (08-17-59)

43.5 DISTRICTS, ENUMERATED. For the purpose of this chapter, the city is hereby divided into 18 categories of zoning districts:

Thirteen districts are designated as follows:

- R-S Residential Suburban District
- R-1 One-family Residence District
- R-1.5 One to Four-Family, Medium Density
- R-2 One to Four-Family Residence District
- R-3 Multiple-Family Residence District

R-MHP -----	Residential Mobile Home Park
R-R	Rural Residential District
B-1	Neighborhood Business District
B-2	Central Business District
B-2.5 B-	Mixed-use Business District
3	General Business District
M-1	Light Manufacturing District
M-2	General Manufacturing District

Five districts are designated as follows:

AG	Agricultural District
F-1	High Flood Hazard Overlay District
F-2	Moderate Flood Hazard Overlay District
F-3	Low Flood Hazard Overlay District
C-1	Conservancy District

(08-17-59; 05-6-74)
Ord. No. 2374 12/06/76
Ord. No. 2582 07/20/81
Ord. No. 3788 04/06/09

43.6 DISTRICT ZONING MAP ADOPTED AND ESTABLISHED. The several districts and boundaries thereof enumerated in the preceding section are hereby adopted and established as shown on the zoning map of the city, which map, together with all notations, references, data, district boundaries and other information shown thereon, shall be and are hereby made a part of this chapter. Such zoning map, properly attested, shall be and remain on file in the office of the city engineer.

A copy of the zoning map shall be displayed in the community development office. (08-17-59)

Ord. No. 2327 03/01/76.

Sections Omitted

ARTICLE IV. PERFORMANCE STANDARDS

43.24 PERFORMANCE STANDARDS

- (a) Compliance with Regulations. No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive or other hazard, noise or vibration, smoke, dust, odor or other form of air pollution, heat, cold, dampness, electrical or other substance, condition or element in such a manner or in such amount as to adversely affect the surrounding area or adjoining premises (referred to herein as "dangerous or objectionable elements"); provided, that any use permitted or not expressly prohibited by this chapter may be undertaken and maintained if it conforms to the regulations of this section limiting dangerous and objectionable elements at the point of the determination of their existence. (08-17-59)
- (b) Enforcement Provisions Applicable to Other Uses. Even though compliance with performance standards procedure in obtaining a zoning certificate is not required for a particular use, initial and continued compliance with performance standards is required of every use and provisions for enforcement of continued compliance with performance standards shall be invoked by the zoning administrator or board as the case may be, against any use, if there are reasonable grounds to believe that performance standards are being violated by such use. (08-17-59)
- (c) Nonconforming Uses. Certain uses established before the original effective date of the regulations of this chapter and nonconforming as to performance standards shall be given a reasonable time in which to conform therewith, as provided in Section 43.32(e). (08-17-59)
- (d) Locations where Determinations are to be Made for Enforcement of Performance Standards. The determination of the existence of any dangerous and objectionable elements shall be made at the location of the use creating the

same and at any points where the existence of such elements may be more apparent (herein referred to as "at any point"); provided, however, that the measurements necessary for enforcement of performance standards set forth in this section shall be taken at different points in different districts in relation to the establishment or use creating the element being measured (herein referred to as "point of measurement") as follows:

- (1) In any R District and B-1 and B-2 Districts. Twenty-five feet from the establishment or use or at the lot line of the use, if closer to the establishment or use.
- (2) In B-2.5, B-3 and M Districts. At the boundary of the district or at any point within an adjacent R district.

(e) Performance Standards, Regulations. The following provisions, standards and specifications shall apply:

- (1) Fire and explosion hazard. All activities involving and all storage of inflammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standards in the industry. Burning of waste materials in open fire shall be prohibited at any point. The relevant provisions of state and local laws and regulations shall also apply.
- (2) Radioactivity or electric disturbance. No activities shall be permitted which emit dangerous radioactivity at any point or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- (3) Noise. In accordance with measured at locations stated in Chapter 39. (4)

Vibration. No vibration shall be permitted which is discernible without instruments at the points of measurement specified in subsection (d) above.
- (5) Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 of the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954 (being a direct facsimile reduction of the standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible gray smoke of a shade equal to No. 2 on said Chart may be emitted for 4 minutes in any 30 minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of different color but with an apparently equivalent capacity.
- (6) Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be offensive at the points of measurement specified in subsection (d) above. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table III, "Odor Thresholds," in Chapter 5 "Air Pollution Abatement Manual," copyright 1951 by Manufacturing Chemists' Assn., Inc., Washington, D.C.

- (7) Fly ash, dust, fumes, vapors, gases, and other forms of air pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation or other forms of property, or which can cause any excessive soiling, at any point; and in no event any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 3/10 grains per cubic foot of the conveying gas at any point. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air. All activities shall comply with applicable state law, rules and local ordinances for dust and Particulate Matter generation, and any stockpiles (including sand and dirt) which product windblown dust shall be covered. A fugitive dust control plan may be required detailing dust control measures both on-site and off-site. Moisture testing of sand or other materials with the potential to produce Particulate Matter emissions may be required to ensure that moisture levels are above 2.5%. A substitute for moisture testing is air quality monitoring completed in correspondence with the MPCA and according to applicable state regulations.
- (8) Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion, welding or otherwise, so as to be visible at the points of measurement specified in subsection (d) above. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter.
- (9) Liquid or solid wastes. No discharge at any point into any public sewer, private sewage disposal system or stream or into the ground, except in accord with standards approved by the department of health of the state or standards equivalent to those approved by such department for similar uses of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. (08-17-59)
- (10) Additional Requirements. The City of Winona reserves the right to impose additional conditions to, within and upon the issuance of a Conditional Use Permit as it deems necessary or appropriate to protect the health, safety, morals and general welfare of the public.

Ord. No. 2327 03/01/76
 Ord. No. 3788 04106109
 Ord. No. 3893 03/13/2012
 Ord. No. 3922 2/14/2013

43.33.1 DETACHED HEATING SYSTEM

(a) **Permit Required.** No person shall allow, maintain or use any detached heating system in the City of Winona without first obtaining a mechanical permit for the installation/operation of said appliance. The permit will be issued to install only new "listed" appliances. All detached heating systems are to meet emission standards currently required by the Environmental Protection Agency (EPA) and the Underwriters Laboratories (UL) listing. This documentation must be provided to the Building Inspector at the time the Permit Application is made.

(b) **Compliance Requirements.** Any existing detached heating system shall immediately comply with all manufacturer's requirements and appropriate fuel requirements. Any person having installed a detached heating system without a mechanical permit must obtain a permit and conform to the requirements of this section within 60 days of adoption. Detached heating systems without a mechanical permit that do not conform to the requirements of this section shall be removed within 60 days of adoption. Detached heating systems installed with a mechanical permit shall comply as closely as possible with the requirements of this section. Legal non-conforming detached heating system shall not

be replaced once it is no longer operational.

(c) **Location.**

(1) No detached heating system shall be located in a front or street yard. The intended location shall be behind the rear building line of the principal structure served by the appliance.

(2) Setbacks shall be as follows: Side and rear yard setbacks shall be not less than 150 feet to the lot line.

(3) Distance to buildings served by the appliance shall be per the manufacturer's installation instructions.

(4) Distance to any structures of adjoining properties not served by the appliance, and related stack heights, will be as follows:

a. 150-250 feet away from adjoining property structure: stack height to meet or exceed the peak line of the residence plus two feet.

b. 250 feet away from adjoining property structure: 20 foot minimum stack height measured from the adjoining grade to the appliance. The minimum chimney height shall be 20 feet unless a greater height is required by the above requirements.

c. Stacks shall be designed, constructed and maintained to withstand horizontal wind pressures of not less than 30 pounds per square feet.

(d) **Operation of Detached Heating System**

(1) Installation.

a. All detached heating systems shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter than the regulations promulgated hereunder, in which case the manufacturer's instructions shall apply.

b. The heating appliance shall be installed on a concrete slab that extends a minimum of 2 feet past the rear and sides of the appliance and shall provide a minimum 5 foot by 5 foot area at the loading end of the appliance.

(2) Fuel. Fuel shall be only natural untreated dry wood or wood specifically permitted by the manufacturer or other fuels listed by the manufacturer of the unit. Notwithstanding the foregoing following fuels are strictly prohibited:

a. The burning of processed wood products and other non-wood products, including but not limited to pallet lumber.

b. Kerosene

c. Garbage/Trash

d. Painted wood and/or any "treated" wood

e. Any other item not specifically allowed by the manufacturer or this provision.

(3) Fuel Storage. Stacks of fuel for the outdoor wood-burning furnaces shall be arranged in a neat and orderly fashion in the rear yard a minimum of 10 feet from side and rear lot lines, so as to maintain the aesthetic value of the neighboring City properties. Wood shall be stacked on pallets or racks a minimum of 4 inches off the ground to minimize rodent harborage. Other fuels shall be stored in suitable containers to prevent attracting rodents.

(4) Usage. The operation of a detached heating system shall be allowed only from November 1 to March 31 of any calendar year.

(e) **Definition.** A detached heating system shall include any system for the production of heat for any residential or other structure used for human habitation, whether fueled by the burning of wood or other approved natural or processed materials, which is located outside of the structure for which the heat is generated. Such shall include but not be limited to outdoor wood-burning furnaces, wood-burning boilers

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and other detached energy systems, whether the same be free-standing or encompassed within a separate building or structure not intended as the primary beneficiary of the heat produced thereby, and regardless of the method of heat exchange.

(f) **Enforcement/Penalties.** Any person violating any provision of this section, including the operation of a detached heating system without a permit, shall be guilty of a misdemeanor. Every twenty-four (24) hours of continued unauthorized or illegal use after the initial citation may be cited as a separate occurrence. Any enforcement officer with citation powers may issue the citation for the offense.

Ord. No. 3813 10/05/09

Sections Omitted.

ARTICLE XII. EXTRACTION PITS

43.48 EXTRACTION PITS.

- (a) General Requirements. Unless otherwise provided, the Board of Adjustment shall grant a conditional use permit for all such uses in accordance with Section 22.21, Section 43.30, the underlying zoning district, and the following conditions:
- (1) No part of an extraction operation shall be conducted closer than 500 feet to any residential or commercial structure. No extraction operation or any stock pile placed closer than 50 feet to any property line, unless a greater distance is specified by the Board where such is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to 25 feet by written consent of the owner of the abutting property.
 - (2) No excavation shall occur within 200 feet of a top of bluff as defined in Article XVII Bluffland Protection.
 - (3) In the event that the site of the extraction operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than 30 feet to the nearest line of such right-of-way.
 - (4) Fencing shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Board, such fencing is necessary for the protection of the public safety, and shall be of a type and height specified by the Board.
 - (5) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment, as may be specified by the Board, following consultation with the City Engineer.
 - (6) Washing, refining or other similar processing may be authorized by the Board as an accessory use; provided that such accessory processing shall not be in conflict with the land use regulations of the district in which the operation is located.
 - (7) Hours of operation for all mines shall be 6:00 a.m. to 9:00 p.m.

- (8) All local, state or federal laws applicable to the specific extraction activity and subsequent rehabilitation must be met.
- (9) Water Quality Monitoring. The mine operator/owner shall install groundwater monitoring wells adjacent to the proposed mine site where the site is adjacent to residential plats or suburban development, springs, sinkholes and/or wellhead protection areas or community wells and shall provide the City with groundwater testing by an independent environmental engineer, approved by the City, at the time of commencement of disturbance activities and twice per year until 1 year after the mine has been completely reclaimed.
- (10) Phase 1 Archeological Study. Any land disturbance activity (e.g. excavation, construction, alteration of existing vegetation) within 1000 feet of a top of bluff as defined in Article XVII shall complete a Phase 1 Archeological Study. The study shall be prepared by a qualified professional, as defined by MS 138.31, subd. 10, or who is listed on the Minnesota State Historic Preservation Office Archeological Contractors list, and in accordance with protocols of the State Historic Preservation Office document entitled "SHPO Manual for Archeological Projects in Minnesota", July, 2005, or as amended. The scope of the study shall include all land located within 150 feet from the limits of any proposed land disturbance activity, or at the applicant's property line, whichever is less. The study shall follow the process detailed in Article XVII.
- (11) Prohibited Activities. Blasting and crushing shall not be permitted at the mine site, except by specific Board of Adjustment approval with specified time limits, mitigation of airborne particulate, and in compliance with Chapter 63. Applicants intending on blasting must submit detailed information as to the frequency, duration, schedule and vibration standard/thresholds for review and approval by the Board of Adjustment.
- (12) Project Manager/ Contact Person Required. Owner/applicant shall at all times have an agent whose name, fax number, telephone number/cellular number and email address are on file with the City in order to respond promptly to concerns. The agent's name and contact information shall be available on site on a 2' x 3' placard or sign at the site entrance.
- (13) Contact with Other Jurisdictions. Mines with property and/or entrances/exits in other jurisdictions shall obtain appropriate permits from such jurisdictions and provide the permits to the City of Winona.
- (14) Access Permit. Owner/applicant shall obtain an access permit from the road jurisdiction where mine traffic enters or exits. Such permit shall be placed on file with the City.
- (15) Tracking Pad Required. The owner/applicant shall be responsible for asphalt paving the approach to adjacent roads for a minimum distance of 40 feet.
- (16) Reporting Vehicle Weights. Owner/Applicant shall be required to identify a method of positive controls regarding the weight of vehicles leaving the mine and method to insure vehicles do not exceed the weight limits of the roads and bridges upon which they will travel, and obtain approval by the City Engineer on the methods and frequency of inspection used. Controls such as scales and regular

reporting on vehicle weights shall be implemented with weekly reporting to the City Engineer.

- (17) Street Maintenance and Sweeping Required. Owner/applicant shall be responsible for monitoring roadways and roadway sweeping as necessary to maintain safe conditions. All transportation routes used by the mine shall not have any accumulation of visible debris or sand from the mine site. The owner/applicant shall take all necessary precautions to avoid spillage on roadways.
- (18) Requirement for Secure Loads. No vehicle shall be driven or moved on any roadway unless such vehicle has the load securely covered as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from vehicles.
- (19) Transportation Impact Analysis. Notwithstanding the provisions of Section 43.89 (a), all extraction operations/mines shall complete a Transportation Impact Analysis in accordance with Article XIX "Transportation Impact Analyses and Road Use Agreements."
- (20) Road Use Agreement. A road use agreement shall be required in accordance with Section 43.91 for projects subject to a Transportation Impact Analysis.
- (21) Reclamation Plan Required. A complete and detailed reclamation plan shall accompany all applications which meets or exceeds the requirements of paragraph (e) of this section.
- (22) Subterranean Engineering Analysis Required. Owner/applicant shall submit an analysis prepared by a qualified independent engineering firm of the existing geologic conditions both in the extraction area and sub-extraction area and the impacts of the mining operations, including the applicability of the reclamation plan including any potential adverse effect on area hydrology, springs or Karst formations. The City reserves the right to have this data reviewed by state geologists/hydrologists and/or SWCD staff.
- (23) Performance Guarantees Required. Performance bonds shall be required for the following:
 - 110% of the estimated cost of reclamation for a period equal to the life of the quarry plus 2 years. Performance bonds for reclamation may only cover the areas of disturbance for the duration of mining activity and may 'roll' with disturbance activity accordingly in order to minimize financial burden on the applicant.
 - A performance surety shall be provided in the amount of \$1,000 per acre for the total proposed site disturbance. The surety shall be used to reimburse the City for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit.
- (24) An EAW or EIS May be Required. Discretionary environmental review can be initiated by the Planning Commission and City Council upon review of a discretionary EAW checklist on file in the office of the City Planner. If ordered, the owner/applicant shall provide an Environmental Assessment Worksheet for the proposed site in accordance with standards determined by the City of Winona.

- (b) Performance Standards. Extraction uses shall also comply with the following performance standards:
- (1) **Water Resources:** The extraction pit or land alteration operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operation. The work done shall not adversely affect the quality of surface or subsurface water resources. Surface water originating outside and passing through the mining district shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site.
 - (2) **Access Roads:** The location of the intersection of access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance or public road in view so that any turns onto the public road can be completed with a margin of safety.
 - (3) **Appearance:** All buildings, structures and plants used for the production of processing of sand and gravel shall be maintained in such a manner as is practical and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
 - (4) **Topsoil Management:**
 - i. **Removal:** Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.
 - ii. **Volume:** The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.
 - iii. **Storage:** Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.
 - (5) **Driveway/Access** to the commercial/industrial site shall not be located within twenty-five (25) feet of adjacent property boundaries.
- (c) Financial Ability of Applicant. In accepting such plan for review, the Board must be satisfied that the proponents are financially able to carry out the proposed extraction and rehabilitation operation in accordance with the plans and specifications submitted.
- (d) Application. An application for such operation shall set forth the following information:
- (1) The name of the owner of the land from which removal is to be made.
 - (2) The name of the applicant making request for such a permit.
 - (3) The name of the person or corporation conducting the actual removal operation.
 - (4) A legal property description and acreage of the area to be mined.

- (5) Maps of the entire site and all areas within two thousand (2,000) feet of the site. Such maps shall show land use, zoning, bluffland, and shoreland information. In addition, the maps described below shall be provided for the entire site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below.

Map/Document A - Existing conditions to include:

- i. Contour lines at five (5) foot intervals.
- ii. Existing vegetation.
- iii. Existing drainage & permanent water areas.
- iv. Existing structures.
- v. Existing wells.

Map/Document B - Proposed operations to include:

- i. Structures to be erected.
- ii. Location of sites to be excavated showing depth of proposed excavation.
- iii. Location of excavated deposits showing maximum height of deposits.
- iv. Location of storage of excavated materials, showing the height of storage deposits.
- v. Location of vehicle parking.
- vi. Location of storage of explosives.
- vii. Erosion and sediment control structures.

Map/Document C - Reclamation Plan to include:

- i. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
- ii. Location and non-invasive species of vegetation to be replanted.
- iii. Location and nature of any structures to be erected in relation the end use plan.
- iv. Stipulations and standards of paragraph (e) below.

- (6) The type of resources or materials to be removed.
 - (7) The proposed method of removal and whether or not the use of explosives will be required.
 - (8) A description of all equipment to be used.
 - (9) Hours of operation.
 - (10) A soil erosion and sediment control plan.
 - (11) A plan for dust and noise control.
 - (12) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
 - (13) Responses to stipulations of paragraphs (a), (b), and (e) of this section.
 - (14) Any other information requested by the Board of Adjustment.
- (e) Reclamation. Reclamation shall be complete within one (1) calendar year after the operation ceases. A performance bond shall be required for 110% of the estimated cost of reclamation for a period equal to the life of the quarry plus 2 years. Performance

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bonds for reclamation may only cover the areas of disturbance for the duration of mining activity and may 'roll' with disturbance activity accordingly in order to minimize financial burden on the applicant. The plan shall specify a systematic approach to land reclamation for the mining site, including phases and schedule for reclamation. The City reserves the right to review the conditional use permit annually to enforce compliance.

Reclamation plans for sand mining sites shall include a land use/cover plan equal to the actual land use/cover types previous to mining operations. Areas intended for post-mining agricultural uses must include approval by SWCD for best management practices.

Inactivity at the mine site shall require reclamation in accordance with the terms of an NPDES permit. The NPDES permit shall be placed on file with the City of Winona before extraction/mining operations commence. Inactivity shall be defined as when an operator of a surface mining operation has curtailed production at the site/operation with the intent to resume at a date more than one year in the future.

Within a period of three (3) months after the termination of an operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a permit, all buildings, structures and plans incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants.

The following standards shall apply to the reclamation plan:

- (1) When the post-mining land use includes a body of water, all excavation shall be made to a water producing depth, not less than 5 feet below the bow watermark. A slope no steeper than 3:1 shall be created to allow for a safe exit.

Excavation may also be graded or backfilled with non-noxious, nonflammable and noncombustible solids, to secure (a) that the excavated area shall not collect and permit to remain therein stagnant water or (b) that the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.

Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 4:1 horizontal to vertical incline, unless demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the extraction pit site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

- (2) Topsoil Redistribution for Reclamation: Topsoil or topsoil substitute material shall be redistributed in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.
- (3) Vegetation shall be restored by appropriate seeding of grasses or planting of shrubs or trees in all parts of such extraction area where such area is not to be submerged under water.

- (4) Assessing Completion of Successful Reclamation:
- i. The criteria for assessing when reclamation is complete shall be specified in the reclamation plan. Criteria to evaluate reclamation success shall be quantifiable.
 - ii. Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
 - a. On-site inspections by the City of Winona or its agent;
 - b. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that the criteria in the reclamation plan have been met; or
 - c. A combination of inspections and reports. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre- mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
 - iii. Re-vegetation success may be determined by:
 - a. Comparison to an appropriate reference area;
 - b. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 - c. Comparison to an approved alternate technical standard.
 - iv. Re-vegetation using a variety of plants indigenous to the area is encouraged.
- (5) Maintenance: During the period of the site reclamation the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution.
- (6) In addition to the foregoing, the Board may impose such other conditions, requirements, or limitations concerning the nature, extent of the use, and operation of the extraction pit as the Board may deem necessary for the protection of adjacent properties and the public interest. The conditions shall be determined by the Board prior to issuance of the conditional use permit.

ORD. NO. 3921 2/4/2013, ORD NO. 3934 6/17/2013

Sections Omitted