

Woodbury MN- CITY CODE
Chapter 18 - SAND AND GRAVEL PITS

ARTICLE I. IN GENERAL

[Sec. 18-1. Agreement to hold city harmless.](#)

[Sec. 18-2. Inspections—When required.](#)

[Sec. 18-3. Same—Statement of inspection and review costs; reimbursement to city; corrective action by city in event of noncompliance.](#)

[Secs. 18-4—18-15. Reserved.](#)

Sec. 18-1. Agreement to hold city harmless.

No person shall open, operate or maintain any sand, gravel or other pit or place or grounds for the excavation of sand, rock, gravel or other soil without an agreement with the city saving the city free and harmless from any and all suits or claims for damage resulting from the negligent excavation, removal or storage of rock, sand, dirt, gravel, clay or other material within the city.

(Code 1985, § 902.02(A))

Sec. 18-2. Inspections—When required.

The city's engineer shall inspect gravel mining pits three times a year, May 1, August 1, and November 1. Written reports shall be submitted to the city administrator following each of these inspections.

(Code 1985, §§ 902.02(D), 903.02)

Sec. 18-3. Same—Statement of inspection and review costs; reimbursement to city; corrective action by city in event of noncompliance.

Within 30 days following each inspection as required herein, the city shall provide the operator with an itemized statement of the inspection and review costs. In the event that any time within the year of the permit the inspection and review costs exceed the amount of the annual permit, the operator shall reimburse to the city the difference within 30 days of receipt of an invoice. In the event the inspection discloses that any provision of this chapter or the permit has not been complied with and the operator fails to bring the pit into compliance within 30 days after receiving notice of such noncompliance, the city may proceed to cause such requirements to be complied with and the costs of any corrective work necessary by the city or its agents or contractors shall be reimbursed by the operator or the sureties.

(Ord. No. 904, § 904.01, 2-11-87)

Secs. 18-4—18-15. Reserved.

ARTICLE II. SPECIAL USE PERMIT ^[2]

[Sec. 18-16. Required.](#)

[Sec. 18-17. Application.](#)

[Sec. 18-18. Issuance, renewal and revocation.](#)

[Sec. 18-19. Fees and applications.](#)

[Sec. 18-20. Insurance.](#)

[Sec. 18-21. Bonds.](#)

[Sec. 18-22. Permit conditions.](#)

[Sec. 18-23. Condition of permit revocation.](#)

Sec. 18-16. Required.

No person shall open, operate or maintain any sand, gravel or other pit or place or grounds for the excavation of sand, rock, gravel or other soil without a special use permit from the city council. No special use permit is required for the owner of land to take gravel or rock for use on the premises except for commercial use.

(Code 1985, § 902.02(A))

Sec. 18-17. Application.

- (a) An application for a special use permit required by this article shall contain the following:
- (1) A legal description of the lands from which it is proposed to remove earth deposits.
 - (2) The name and address of the applicant and of the owner of the land.
 - (3) Names and addresses of all adjacent landowners within one-half mile radius.
 - (4) Copies of any agreements pertaining to the operation including the duration of any lease if applicable.
 - (5) The purpose of the removal.
 - (6) The estimated time required to complete the removal.
 - (7) The highways, streets or other public ways within the city upon and along which the material removed shall be transported.
 - (8) The plan of operation, including soil processing (any operation other than direct mining and removal), nature of the processing and equipment, the area, depth and grade of such processing, the estimated quantity of earth deposits to be added to or removed from the premises, location of the plant, source of water, disposal of water and reuse of water. In the event that water is used in the operation of a pit, approval from the state department of natural resources and other appropriate state or federal agencies shall be obtained as to the type, location and depth of such well and contained with such application.

Woodbury MN- CITY CODE
Chapter 18 - SAND AND GRAVEL PITS

- (9) A concept plan of the property where the mining is to occur. Such plan shall contain site analysis information such as trees, depth of topsoil, soil type, adjacent and on-site buildings and land uses, a map or plat of the proposed pit or excavation showing the confines or limits thereof, together with the proposed finished elevations based on sea level readings. Elevations and percent slope within 100 feet beyond the perimeter of the excavation and other such information necessary to analyze the site shall be provided by the applicant. United States Geological Survey datum shall be used for all topographic mapping where feasible.
- (10) Such additional information as required by the council.
- (b) The applicant for a special use permit or license shall submit a comprehensive restoration and land use plan, showing suitable provision for restoration of the excavated area to a usable condition compatible with the adjacent land and that it will not become a health or safety hazard or a nuisance, such plan to include anticipated final elevations, slope and a plan for the return of subsoil and topsoil. Where the city council deems it practical and necessary, such plan shall include adjoining related areas where excavations have previously been made and remain under the control of the owner of the land on which the excavating is to be done or under the control of the person other than the owner to whom the permit is to be issued.
- (c) The applicant shall submit a phasing plan which provides for no more than five acres of the site to be open to mining at any one time. Before any additional land may be mined, the applicant must reclaim the site to the condition that is indicated on the approved reclamation plan.
- (Code 1985, §§ 902.03, 902.07, 903.03)

Sec. 18-18. Issuance, renewal and revocation.

- (a) The applicant's original or first special use permit under this article shall be issued only after review by the planning and zoning commission and after a public hearing and approval by the city council. The original permit shall expire on May 1, next following the date of issuance.
- (b) Special use permits shall be renewable annually. Two-foot contour mapping shall be required annually for the area which has been excavated during the last year. This mapping must demonstrate that the excavations have been consistent with the approved reclamation plan. Failure to comply with the conditions of such permit shall be ground for revocation of the same or for refusal to renew the same upon expiration thereof.
- (Code 1985, §§ 902.02(B), (C), 903.01)

Cross reference— Conditions of permit revocation, § 18-23.

Sec. 18-19. Fees and applications.

- (a) *Inspection and review permit fee.* The annual inspection and review permit fee shall be established by council resolution adopted from time to time.
- (b) *Black dirt excavation fee.* If the applicant proposes to excavate surface soil known as black dirt annually showing a volume of less than 1,500 cubic yards, the annual fee shall be established by council resolution adopted from time to time.
- (c) *Denial of gravel permit application.* In the event an application for the issuance of a gravel permit is denied, the city council shall retain such amount of said fees as shall be necessary to defray costs of engineering and legal services incurred by the council in connection with such application and the balance, if any, shall be returned to the applicant.
- (d) *Reimbursement of city for engineering and legal services.* In the event the cost of engineering and legal services exceeds the permit fee, then and in that event the applicant shall, upon notice from the city, reimburse the city for the same within 30 days.

Woodbury MN- CITY CODE
Chapter 18 - SAND AND GRAVEL PITS

- (e) *Form of application.* The application shall be in such form and shall furnish such information as shall be required by the city council.

(Code 1985, § 902.07; Ord. No. 904, §§ 904.02, 904.03, 2-11-87)

Sec. 18-20. Insurance.

- (a) The contractor or lessor of the land for which a special use permit is issued under this article shall secure and maintain insurance from an insurance company acceptable to the city and authorized to write casualty insurance in the state as will protect himself, his agents and the city from claims for bodily injury, death or property damage which may arise from operations under the permit. A gravel contractor shall not commence work under this article and under a permit duly issued by the city until he has obtained all insurance required under this section and shall have filed a certificate of insurance or the certified copy of an insurance policy with the city.
- (b) Each insurance policy shall contain a clause providing that it shall not be cancelled by the insurance company without ten days' written notice to the city of intention to cancel.
- (c) The amounts of insurance shall not be less than the following:
- (1) Workmen's compensation and employer's liability, in the amount required by the state.
 - (2) Public liability, personal injury and property damage:
 - a. Injury or death of one person, \$250,000.00.
 - b. Injury to more than one person in a single accident, \$500,000.00.
 - c. Property damage, \$200,000.00.
 - (3) Automobile and truck public liability, personal injury and property damage, including owned and non-owned vehicles:
 - a. Injury or death of one person, \$250,000.00.
 - b. Injury to more than one person in a single accident, \$500,000.00.
 - c. Property damage, \$100,000.00.
- (d) The gravel contractor is responsible for any damage as a result of the work, operation, acts, omissions, neglect, equipment failure or other causes arising out of his contract, including such damage as may be caused by or result from water. Insurance for hazards other than protected by insurance herein specified is at the contractor's option.

(Code 1985, § 902.06)

Sec. 18-21. Bonds.

- (a) The city council shall require the applicant for a special use permit under this article, owner or user of the property on which the pit or excavation is located, to post a bond with surety acceptable to the city or cash escrow in such form and sum as the city council shall determine, with sufficient surety running to the city, conditioned to pay the city the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing material from any pit or excavation, the amount of such cost and expense to be determined by the city engineer; and conditioned further to comply with all the requirements of this chapter, and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

The city council, for failure of any person to comply with any requirements made of him in writing, under the provisions of this chapter, as promptly as the same can reasonably be done, may proceed to

Woodbury MN- CITY CODE
Chapter 18 - SAND AND GRAVEL PITS

cause such requirement to be complied with and the cost of such work to be taxed against the property, whereon the pit or excavation is located or the city council may at its option proceed to collect such costs by an action against the person to whom such permit has been issued and his sureties.

- (b) In addition to the bond required in subsection (a), the applicant for the permit shall post a performance bond of at least \$50,000.00. The amount may be greater based on the city engineer's recommendation. The performance bond shall be executed by a corporate surety company authorized to do business in the state. The performance bond shall be issued for the active areas for which a permit is granted and conditioned upon full performance of the terms and conditions of this chapter by the applicant and/or owner of the premises described in the permit application. The bond shall remain in effect for at least one year after expiration of the permit. The bond shall guarantee the required restoration of the entire site.

(Code 1985, §§ 902.05, 903.06)

Sec. 18-22. Permit conditions.

The city council may impose the following restrictions and requirements in agreement form upon the applicant or any other person interested in the issuance of a permit under this article, either as a prerequisite to the granting of the permit, or after such permit has been granted:

- (1) The owner or applicant properly fence any pit so that the pit or any standing waters therein may not be a hazard to children.
- (2) The applicant or owner slope the banks and otherwise guard and keep any pit in such condition as not to be dangerous to the persons or property because of sliding or caving banks; provided, however, that the maximum slopes shall be as follows:
 - a. Slopes on interior or working portions of the pit shall be at one foot horizontal to one foot vertical.
 - b. Slopes or any edge contiguous to property owned by others or railroads shall be four feet horizontal to one foot vertical.
- (3) The owner or applicant prevent water runoff damage, including erosion on adjacent property and the deposit of material by water run-off on adjacent property.
- (4) The owner or applicant employ all reasonable means to reduce dust, noise and nuisances, including but not limited to spraying the material that is being processed with water.
- (5) The applicant or owner shall plant suitable and fast growing screening trees which shall be a minimum of six feet high placed in two rows staggered with trees not more than ten feet apart in each row, when necessary to eliminate unsightly view of the operations.
- (6) On completion of the operation, the applicant shall properly drain and level off any pit and restore the contour of the site of the operation to a condition that is as indicated on the plan submitted and approved. Such condition must not adversely affect the surrounding land or future development of the site on which the operation was conducted. Upon closing operations or leaving any particular excavation or area in the site, the applicant shall re-grade that area which they have excavated or disturbed in order that no slopes are in excess of three feet horizontal to one foot vertical.
- (7) The applicant or owner shall remove any extracted material upon and along the highways, streets, and other public ways in the city as the city engineer shall order and direct.
- (8) The applicant or owner shall reimburse the city for the cost or periodic inspections by the city engineer, or other city employee, for the purpose of seeing that the terms under which the permit has been issued are being complied with.
- (9) The applicant and/or owner shall submit to the city council a detailed map of the highways, streets, roads and other public ways within the city upon and along which the material removed

Woodbury MN- CITY CODE
Chapter 18 - SAND AND GRAVEL PITS

shall be transported. The city engineer shall inspect the roads proposed to be used by the applicant and/or owner and shall recommend to the city council necessary upgrading or repairing of same prior to their use by the applicant and/or owner. The city council shall designate the roads and shall incorporate the recommendations of the engineer into the permit issued to the applicant. It shall be the responsibility of the applicant and/or owner to maintain the haul roads in accordance with the terms as set forth in the permit. The city engineer shall make periodic inspections of haul roads to assure compliance with the permit and upon completion of the operational period of the gravel pit. The owner and/or operator shall make any necessary repairs to haul roads as recommended by the city engineer.

All costs of the inspections above described shall be borne by the owner and/or operator. Dust control shall be the continuous obligation of the owner and/or operator during any operational period on all haul roads, and the use of such roads shall be further subject to any road and weight restrictions imposed by the city. The city council shall further designate the maximum speed limit which the trucks of the owner and/or operator shall be driven over haul roads.

- (10) No material may be removed or excavated from or stockpiled upon an area contiguous to private property or roadway rights-of-way closer than 100 feet.
- (11) The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. daily; provided however, that no excavation or processing work shall be conducted on Sundays or legal holidays as set forth in the Minnesota Statutes. "Operation" includes the driving of all hauling trucks or equipment into or out of a gravel pit, loading, roadwork or engine start-up of any kind. No drainage pumps of whatsoever kind or other similar units shall be run at any time other than during those hours specified above. It is the specific intent of this section that no crushing, loading, hauling, or engine startup activity of any kind shall take place on or upon any gravel pit area other than during those hours specified above.
- (12) Annually the applicant shall submit in writing to the city council the estimated quantity of gravel to be removed, the anticipated route over which the trucks are to travel, the beginning and completion time for the operation, and the area in the pit which will be used for excavation. It is understood that the above information may not at all times be submitted with certainty but it is the intent of this provision to keep the city as well informed as possible regarding the anticipated operation for the year in question.
- (13) In the event that a concept plan is submitted which anticipates a lake about which lots will be platted, said lake must be planned for at least a 15-foot depth. Any development plan indicating a lake development shall provide a means for level control or computations which prove that the lake can contain drainage directly to it by free board storage utilizing a 100-year storm. The water table in the area in question is unstable and any problems arising regarding the depth of the lake created shall be referred to the city engineer.
- (14) The operation of the gravel pit shall not effect the safety or quantity of any well within one-quarter mile from the pit. Proof that the hydraulic or static effect is not detrimental to any such well shall be provided by the applicant.
- (15) The depth of removal of materials shall be determined by the city council at the time of approval of the comprehensive restoration plan as part of the special use permit application. No excavation shall be allowed grade closer than 100 feet of the right-of-way line of any existing street, road or highway; except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or proposed street grades.
- (16) The operator shall maintain and operate all equipment in such a manner as to minimize air pollution. Any emission which can cause any damage to health, animals or vegetation or other forms of property or which can cause any excessive soiling at any point or any emission of any solid or liquid particles in concentrations exceeding state pollution control agency air quality regulations shall be prohibited.

Woodbury MN- CITY CODE
Chapter 18 - SAND AND GRAVEL PITS

- (17) No noise resulting from the excavation use shall exceed the most current state pollution control agency noise control regulations. These regulations shall not apply to incidental traffic or maintenance operations.

All equipment run by fossil fuels and used in the operation of any gravel pit in the city shall be equipped at all times with a muffler in good working order which blends the exhaust noise into the overall noise of said equipment and is in constant operation to prevent excessive or unusual noise. The exhaust system of such equipment shall not emit or produce a sharp, popping, or crackling sound.

- (18) Any vibration resulting in any combination of amplitude and frequencies beyond the "safe" range of the most current standards of the United States Bureau of Mines for any structure shall be prohibited.

- (19) All top soil shall be stripped from the entire mining area and stockpiled for use in reclamation of the site. Under no circumstances shall the top soil be removed from the site.

(Code 1985, §§ 902.04, 903.04, 903.05)

Sec. 18-23. Condition of permit revocation.

- (a) Any permit of an operator who fails to bring into compliance a noncompliance of the permit conditions or requirements of this article within 30 days after receiving notice of such shall be subject to revocation.

- (b) The council shall retain all application and permit fees of a revoked permit.

(Ord. No. 904, § 904.04, 2-11-87)

Cross reference— Revocation of permit for failure to comply with conditions thereof, § 18-18(b).

FOOTNOTE(S):

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Cross reference— Special use permit required for gravel mining, § 24-153(d). [\(Back\)](#)