

WABASHA PLANNING COMMISSION

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June 14, 2022 6:00 PM

MEETING AGENDA

- 1) Call to Order
- 2) Approval of Minutes-
 - a) Minutes 5-10-2022
- 3) Changes or Additions to Agenda
- 4) Public Comment
- 5) Public Hearings
- 6) Old Business
 - a) Short Term Rental Review
- 7) New Business
 - a) Consideration to modify existing Mining Ordinance or Implement a Small Mining Ordinance
- 8) Board of Adjustment Business
- 9) Other Business
- 10) Next Regular Meeting Date - July 12, 2022
- 11) Adjourn

Planning Commission

2) a)

Meeting Date: 06/14/2022

SUBJECT: Minutes 5-10-2022

DEPARTMENT: Administration

TITLE:

Minutes 5-10-2022

PURPOSE:

Attachments

5-10-22 PC Minutes

DRAFT

WABASHA PLANNING COMMISSION

May 10, 2022 6:00 PM

MEETING MINUTES

Commission Members:	Tim Wallerich, Chair	Sara Carrels
	Scott Durand	Sharon Burke
	Ozzie Goodman	Jeff Sulla
	Kris Kruse	

Present: Scott Durand; Chair Tim Wallerich; Sara Carrels; Ozzie Goodman; Jeff Sulla

Absent: Sharon Burke

Also Present: Harry Davis, Contracted City Planner; Wendy Busch, City Clerk

- 1) Call to Order
The meeting was called to order by Chair Wallerich at 6:00 p.m.

- 2) Approval of Minutes

- a) Minutes from 3-8-2022

Motion made by Sara Carrels, seconded by Scott Durand to approve the meeting minutes as drafted.

Vote: 5 - 0 Adopted - Unanimously

Other: Sharon Burke (ABSENT)

- 3) Changes or Additions to Agenda
City Clerk Busch requested an addition to the Other Business portion of the agenda relating to discussion of SolarStone. There were no other changes or additions to the agenda.

4) Public Comment

Brenda Pearson, 136 Bridge Avenue, Wabasha, introduced herself as one of the owners of Turning Waters Bed and Breakfast and Hoppy Girl Brewing. She expressed concerns about the increasing number of illegal Airbnb and Vrbo properties in the area, often owned by people who do not live in the community. She encouraged the City to enforce the law while continuing to build the community and make it a safe place.

Ford Pearson, 136 Bridge Avenue, Wabasha, also expressed concerns about Airbnb and Vrbo type rentals. He encouraged City leaders to enact ordinances that would regulate these types of accommodations. He stated that the same rules should apply to everyone, including the collection of appropriate taxes.

5) Public Hearings

There were no public hearings.

6) Old Business

There was no old business.

7) New Business

a) Lodging Tax Discussion

City Clerk Busch referenced a recent Council motion to ask the Planning Commission to draft a definition and recommendation relating to short-term rentals within the Zoning Ordinance for Council consideration, as the first step in the process.

Commissioner Sulla suggested updating the Zoning Ordinance to allow short-term rentals within residential and commercial zoning districts as a legal use. He quoted from the current City Code and referenced definitions and ordinance language adopted by Lake City in this regard. He stated that this language would resolve any ambiguity in terms of allowing this use in Wabasha.

When asked about language in the City Code relating to RV parks and campgrounds in terms of whether the lodging tax would apply, City Clerk Busch and City Planner Davis provided additional information in this regard. The definitions of "campground," "family" and "dwelling unit" were reviewed. Information from the City Attorney was referenced. City Planner Davis discussed the importance of building consensus and promoting understanding throughout the process. He also discussed public engagement.

Potential definitions of "short-term rental" were discussed. Commissioner Sulla suggested using the Lake City ordinance language as a model. City Clerk Busch and City Planner Davis discussed rental management systems and the process of collecting lodging taxes.

It was clarified that bed and breakfast establishments are very different from short-term rentals. The challenges of regulating short-term rentals were discussed.

It was suggested to define short-term rentals / transient accommodations as 30 days or fewer. It was suggested to allow this use in residential and business districts but not in highway commercial or industrial districts. Insurance considerations were discussed. Concerns related to using properties as short-term rentals as opposed to other uses were raised. A potential registration or licensing process was discussed. Information from other communities was referenced.

Following discussion, it was decided to ask City staff to research and draft land use revisions, definitions, and a potential registration process or State licensing requirement for further discussion during the next Planning Commission meeting. The process and timeline were reviewed.

8) Board of Adjustment Business
There was no Board of Adjustment business.

9) Other Business

a) SolarStone Discussion

City Clerk Busch provided background information and described the location of the property under discussion. She referenced past discussion of concerns pertaining to screening. She summarized past meetings with SolarStone representatives, during which options were discussed. She requested that the Planning Commission provide a recommendation to the City Council in this regard. City Clerk Busch commented that lessons were learned from this experience that resulted in additional requirements for subsequent solar project developers.

Motion made by Chair Tim Wallerich, seconded by Jeff Sulla to recommend that the City Council determine a course of action relating to noncompliance issues with the SolarStone project.

Vote: 5 - 0 Adopted - Unanimously

Other: Sharon Burke (ABSENT)

10) Next Regular Meeting Date - June 14, 2022

11) Adjourn

Motion made by Scott Durand, seconded by Sara Carrels to adjourn the meeting. The meeting adjourned at 7:07 p.m.

Vote: 5 - 0 Adopted - Unanimously

Other: Sharon Burke (ABSENT)

Respectfully submitted by: _____
Wendy Busch, City Clerk

Adopted Date

Planning Commission

6) a)

Meeting Date: 06/14/2022

SUBJECT: Short Term Rental

DEPARTMENT: Administration

TITLE:

Short Term Rental Review

PURPOSE:

At May's Planning Commission meeting, staff was tasked with making edits to the zoning ordinance to include definitions of "Short Term Rentals" to bring back for the commission to review along with what regulations would look like. City Planner Davis has provided the attached edits/drafts for the commission to review and comment on. A draft application has also been supplied for review.

Attachments

Definitions

Use Chart

Use Definitions

STR Regulations

STR Registration Form

§ 162.013 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLEY. A dedicated public or private thoroughfare (platted or recorded easement) located through the interior of a block generally to provide secondary access and limited travel from local roads for the purpose of accessing utility, parking and service needs to adjacent lots.

ALLOWED USE. A use which is accepted in a certain zoning district with or without any additional permits required includes both permitted and conditional uses.

ANIMAL FEEDLOT.

(1) A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate; or, where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

(2) Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be ANIMAL FEEDLOTS.

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 slaughter steer or heifer for an animal feedlot or manure storage area calculated by multiplying the number of animals of each type below by the respective multiplication factor and summing the resulting values for the total number of animal units.

Dairy 1 mature cow (milked or dry)

> 1,000 lbs.

1.4 animal units

< 1,000 lbs.

1.0 animal units

1 calf

0.2 animal units

1 swine

> 300 lbs.

0.4 animal units

Between 55 lbs. - 300 lbs.

0.3 animal units

< 55 lbs.

0.05 animal units

1 horse

1.0 animal units

1 lamb/sheep

0.1 animal units

1 chicken (dry manure system)

> 5 lbs.

0.005 animal units

< 5 lbs.

0.003 animal units

1 Turkey

> 5 lbs.

0.018 animal units

< 5 lbs.

0.005 animal units

1 duck

0.01 animal units

NOTES TO TABLE:

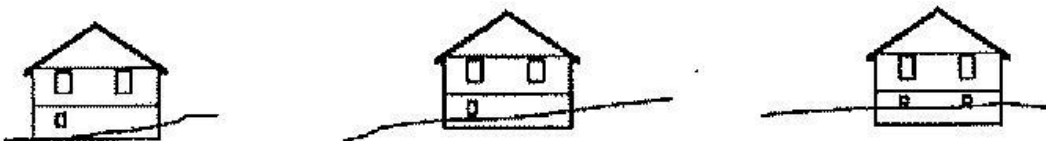
* Or as amended by the (MPCA) Minnesota Pollution Control Agency.

** For animals not listed above, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level (as defined in Ch. 160 of this code of ordinances).



BASEMENT STORY. A story which is not a crawl space that is that portion of any structure located at least partly below the average adjoining lot grade, including walkouts or basements.



BLUFF. A topographic feature such as a hill, cliff or embankment having the following characteristics:

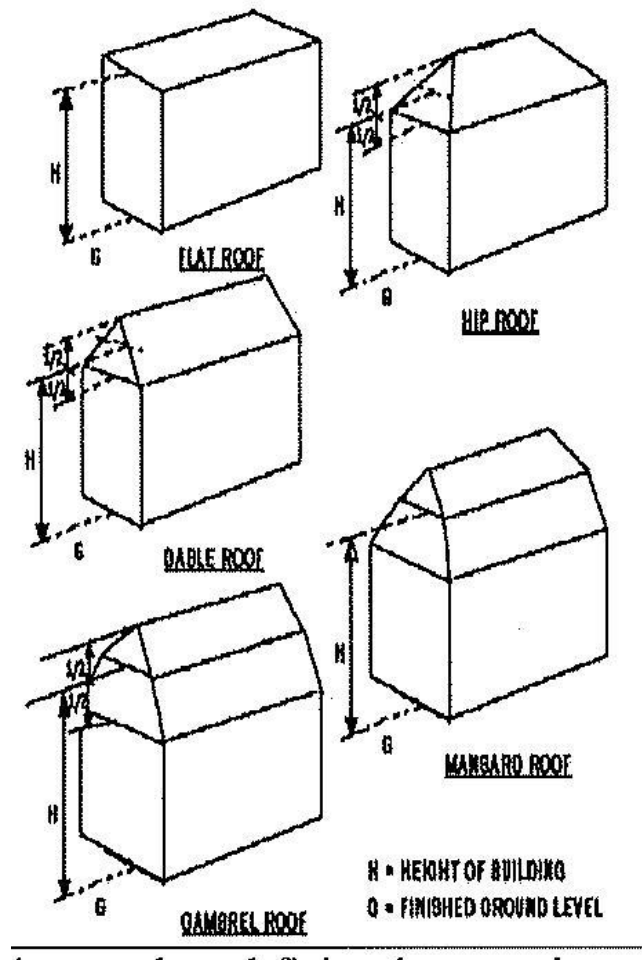
- (1) The slope rises at least 25 feet above the adjacent plain; and

(2) The grade of the slope from the toe of the bluff to a point 25 feet or more above the adjacent plain averages 30% or greater (an area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the BLUFF).

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BUILDING HEIGHT. The vertical distance from the average curb level in front of the lot, or the finished grade at the building line, whichever is higher, to the highest point of the coping of flat roof, to the deck line of a mansard roof, to the average height of the gable of a gambrel or to the hip or pitched roof.

BUILDING LINE. Lines creating a building envelope defining the area where a structure may be built. These are determined by drawing parallel lines to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.



BUILDING SETBACKS. See YARD REQUIREMENTS.

BUILDING, PRINCIPAL. A building in which the principal use of the site occurs.

BUILDING, ZERO LOT LINE. A building attached by party walls with other buildings in such a manner that the common (party walls) is located on the common lot line(s) including, but not limited to, such common references as twin homes.

CALIPER. The diameter of the trunk of a tree as measured six inches above ground level, up to and including four-inch caliper size and 12 inches above ground for larger sizes.

CITY. Includes Wabasha City Council, city staff and city departments and boards.

CONDITIONAL USE. A use of land, water or building, type of development or development activity which is not generally permitted in a specific zoning district, but may be allowed with restrictions and conditions after the issuance of a special permit upon a finding that with these conditions the use is appropriate to and compatible with the purpose of the district and conforms with the Comprehensive Plan.

CONDOMINIUM. As defined by M.S. § 515B.1-103, subd. 11, as it may be amended from time to time, which is a common interest community in which:

- (1) Portions of the real estate are designated as units;
- (2) The remainder of the real estate is designated for common ownership solely by the owners of the units; and
- (3) Undivided interests in the common elements are vested in the unit owners or as amended.

CONSTRUCTED RAIN GARDEN. A method of storm water management, a shallow water retention pond where the soil is amended to a minimum depth of 18 inches with one part organic matter to two parts soil, planted with grasses and/or shrubs and/or trees, that stores water and performs bio- filtration.

CORNER LOT. A lot abutting two or more streets at their intersection.

CRAWL SPACE. Space below or above grade below the first floor of a structure which is unusable as living space, but may provide access to structural systems or foundation.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

DENSITY, RESIDENTIAL. The number of dwelling units per acre; for the purpose of meeting minimum performance standards this shall be calculated as the net density and shall not include temporary structures or transient dwelling units.

DENSITY, RESIDENTIAL GROSS AND NET. DENSITY means the method of describing the intensity of development patterns typically measured in dwelling units per acre. GROSS DENSITY includes the entire property, whereas NET DENSITY refers to the land available for development (e.g., less roads and critical areas).

DUPLEX. See DWELLING UNIT, MULTI-FAMILY.

DWELLING. Any building or portion thereof used and occupied for human habitation or intended to be so used.

DWELLING UNIT. Any room or group of rooms located within a dwelling forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation by one family (with a connection to public or private sewer). Dwelling units, either by individual rooms or an entire dwelling, are rented or leased on a monthly or longer basis. Properties defined as Short Term Rental Dwelling Units are not considered Dwelling Units under this section.

ERA (EMERGENCY RESPONSE AREA). The part of the wellhead protection area that is defined by a one-year time of travel within the aquifer that is used by the public water

supply well. It is used to set priorities for managing potential contamination sources within the drinking water supply management area.

EXCAVATION. A development process and not an ultimate land use including any artificial movement of the earth, including grading, digging, filling, removal or addition of earth material made by tunneling or breaking or undermining the surface of the earth.

EXTRACTIVE USE. The use of land for surface or subsurface removal only of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time, through an excavation process.

FAMILY. An individual, couple or group of persons living together as a single housekeeping entity in a single dwelling unit.

FARM SITE. Land and farm buildings for storing and protecting farm machinery and equipment from the elements; and farm dwellings occupied by farm owners, operators, tenants or seasonal or year- round hired farm workers. Excluded in this definition are industrial operations such as grain elevators or commercial transfer stations and storage facilities.

FEEDLOT. See ANIMAL FEEDLOT.

FENCE HEIGHT. The height of a fence, hedge or wall measured from the ground level at the lowest grade level within three feet of either side thereof.

FENCE, OPEN. A fence, including entrance and exit gates, designed and constructed so that the surface area of any segment of the fence contains at least 70% open spaces and 30% or less solid materials.

FENCE, ORNAMENTAL. An open fence other than a chain link fence that is erected for decorative purposes only and is not intended to be used, either by itself or together with wire or other material, as an enclosure, barrier or means of protection or confinement.

FENCE, SOLID. A fence that is not an open fence.

FILL, FILLING or FILLING OPERATION. The depositing of fill, dredge, sand, gravel, dirt and all other similar material.

FLOOR AREA. Area in square feet of all floors in all buildings including elevators and stairways. Measured from outside of exterior wall to outside of exterior wall and multiplied by the number of floors. (Includes basement stories.)

FLOOR AREA RATIO. The square footage of floor area on all floors for each square foot of lot area.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

FRONTAGE. The smallest dimension of a lot, parcel or plot of land abutting a public street measured along the street line.

GENERAL DEVELOPMENT LAKES. As defined by Minn. Rules part 6120.3000, "Shoreland Management Classification System", are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

GRADE or GRADING. The process of moving 1,000 cubic yards or less of earth to level or smooth a site to a desired gradient in the preparation for construction or development of the land.

HAZARDOUS MATERIALS. Any substance that because of its quantity, concentration or physical/ chemical characteristic poses a significant present or potential hazard to human health or the environment when improperly used, handled, treated, processed, stored, transported, disposed of or otherwise managed.

HEAVY VEHICLE. A vehicle with a gross vehicle weight in excess of 26,000 pounds, but excluding school buses.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas and concrete, asphalt or gravel driveways.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

INTENSIFICATION OF USE. The changes to a use which is greater than when it was initially approved or allowed including such circumstances as the increase in traffic produced by the use (including both to or from the location of the use), an increase in the number of customers visiting the location, an increase in the amount of outside storage or other outdoor usage at the location and/or construction of additional structures, parking spaces or other facilities to allow the increases.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

INTERIM USE. A temporary use of property until a particular date, until the occurrence of a particular event, or until the use is no longer allowed by zoning regulations.

JUNKYARD. Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or two or more unregistered, inoperable motor vehicles or other type of junk and ancillary business offices. A JUNKYARD does not include such uses conducted entirely in an enclosed building.

KENNEL. See § 90.05 of this code of ordinances.

LANDFILL. See also WASTE MANAGEMENT FACILITY.

LANDSCAPING. Planting of vegetation material including items such as trees, grass, ground cover or shrubs, and including the use of items for soil or plant support, stabilization and containment such as rock, timbers, paving and trellis.

LIGHT TRESPASS. Exterior lighting from another property which is 0.5 horizontal foot candles or more at a distance of 25 feet beyond the property boundary.

LOADING AREA. A completely off-street space or berth on the same lot for the loading or unloading of carriers, having adequate ingress and egress to a public street or alley.

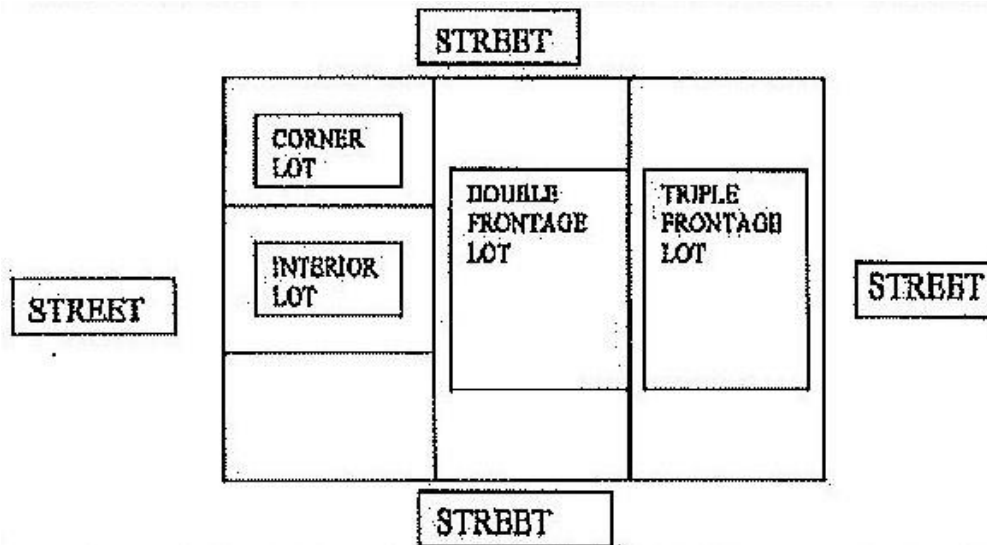
LOT. A parcel of land on a public street having a width and depth sufficient to provide the space necessary for one main building and its accessory building together with the open space required by this chapter.

LOT, DEPTH OF. The main horizontal distance between the front and rear lot lines.

LOT LINES. The lines bounding lots, as defined herein.

LOT SIZE. A measurement which is the area of the land surface of a designated lot.

LOT TYPES.



LOT WIDTH. The shortest distance between lot lines measured at the midpoint of the building line.

MAINTENANCE. The definition for “maintenance” from the Uniform Building Code (or as amended) shall apply.

MINERAL RESOURCES. Rock, gravel, sand and metallic and non-metallic substances of commercial value.

MINOR STRUCTURES. Any small (under 200 square feet), movable accessory construction such as birdhouses, tool houses, play equipment, arbors and walls and fences under four feet in height.

MOBILE HOME. Any vehicle designed, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and constructed in a manner as will permit occupancy thereof as a residence or sleeping place for one or more persons.

MOVABLE CONSTRUCTION. Any structure which is not permanently affixed to the ground by means of footings, foundation or slab.

OCCUPANT CAR RATIO. The minimum number of off-street parking stalls without parking time limits to be provided for the occupant of each living unit in a multi-family structure.

OPAQUE. At least 80% of the view from the opposite side is blocked, when observed from a point perpendicular to the opaque material, fence or wall.

OPEN SPACE RATIO. The square footage of site “open space” provided for each foot of building floor area.

ORDINARY HIGH WATER LEVEL. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

For watercourses, the ORDINARY HIGH WATER LEVEL is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ORDINARY HIGH WATER LEVEL is the operating elevation of the normal summer pool. For Wabasha, the OHWL elevation is based on the location (river mile) and has been determined as shown in § 162.072 of this chapter for the main river channel.

OVERLAY ZONE. A set of zoning requirements that are described in the zoning ordinance text, are mapped and subsequently imposed in addition to those of the underlying district. Development within the OVERLAY ZONE must conform to the requirements of both zones or whichever is stricter.

PASTURES. Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season, except in the immediate vicinity of temporary supplemental feeding or watering devices.

PATIO. An uncovered paved area or platform 17 inches or less above the ground (measured from the top of the decking surface) used as an outdoor living space within the yard of a principal use.

PERMANENT STRUCTURE. Any structure which is permanently affixed to the ground by means of footings, foundation, slab and/or utilities whether constructed or erected on site or prefabricated off site and relocated to the site wholly or in pieces and then assembled.

PLACES OF WORSHIP. A tax exempt institution that people regularly attend to participate in or hold religious services meetings and other activities related to religious ceremonies. See also INSTITUTIONAL USES.

PLANNED UNIT DEVELOPMENT (PUD). A method of land use or development which utilizes a unified site design characterized by mixed land uses, infill and/or clustering of development with the purpose of allowing flexibility in order to further broad public interests by encouraging variety, preservation of local identity, conservation of and sensitivity to resources, efficient use of land and infrastructure, cohesive high amenity neighborhoods or districts and goals identified in the adopted Comprehensive Plan. A SHORELAND PUD is one type of PUD with additional or alternate standards.

POLE BUILDING. A type of building constructed with a design using poles placed in holes in the ground, which are then filled with cement. These poles are generally spaced eight-plus feet apart to form square or rectangle buildings. Pole barns can have enclosed sides or open sides, as in a lean-to design.

PORCH. An open or enclosed gallery or room covered with a separate roof and attached to the outside of a structure or incorporated into the roofline of a structure generally used as an outdoor living space or entry to a building.

PORTABLE STORAGE CONTAINERS. Shipping containers, track bodies without wheels or carriages, trailers or similar items not permanently attached to the ground with footings or foundation.

PRESERVATION. The act or process of applying measures to maintain and sustain the existing form, integrity and material of a building, structure or district and the existing form of a site.

PRIMARY FACADE. One or more principal faces or elevations of a structure with features that define the character of the structure's architecture.

PRIMARY WATER SUPPLY WELL. A well that is regularly pumped by a public water supply system to provide drinking water.

PRINCIPAL. Primary or predominant, as applied to a use or structure, as distinguished from secondary or accessory.

PRIVATE OPEN SPACE. An outdoor area adjoining each dwelling unit, designed to provide privacy and having one or more points of ingress to the residence.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, subd. 15, as it may be amended from time to time.

RECREATION SPACE. Total area in square feet which is countable as open space, but is not paved in streets, walks or driveways and is suitable for active recreational pursuits. The smallest countable recreation area is 1,000 square feet. Part of a recreational area having a dimension of less than 20 feet shall not be included as countable RECREATION SPACE.

RECREATION SPACE RATIO. The square footage of space for active recreation provided for each square foot of building floor area.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A residential use project developed under the planned unit development process. A shoreland residential PUD is one type of RESIDENTIAL PUD with additional or alternate standards.

RESIDENTIAL USE. A location comprised of one or more dwelling units that are occupied by the owner or by a renter or lessee.

REZONING. An amendment to the zoning map, changing the designation of a parcel or parcels from one zoning district to different zoning district.

RIPARIAN LOTS. All lots within 200 feet of the ordinary high water level within any shoreland district.

RIPRAP. Coarse stones and natural rock averaging more than six inches and less than 30 inches in diameter which is free from debris (including concrete) that may cause pollution or siltation that is placed randomly and loosely along the shoreline to stabilize banks or slopes.

SCENIC VIEW. A view available to the public (visible from public right-of-way or public property) and/or visible from five or more private properties which provides a view of natural, cultural or historic area of importance within the community including the river, the slough, backwaters, bluffs, coulees and historically developed, open space or rural areas of the city.

SEMI-PUBLIC USE. The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, or other facility measured from the nearest point of the structure or any projection thereto and an ordinary high water level, top of a bluff, road, highway, property line or other facility. See also YARD.

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minn. Rules Ch. 7080.

SEWER SYSTEM. Pipelines or conduits, pumping stations and force main, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage and 300 feet from a river or stream, or the landward extent of a floodplain designated by section on a river or stream, whichever is greater, as indicated on the city zoning map. The city has several shoreland districts within this boundary which are detailed herein. Pool 4 of the Mississippi River includes the area commonly known as "the slough".

SIGN. Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association corporation, profession, business, commodity or product and which is visible from any public street or highway.

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A HISTORIC SITE meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state's archaeologist or the director of the state's Historical Society. All unplatted cemeteries are automatically considered to be SIGNIFICANT HISTORIC SITES.

SOLAR STRUCTURE. A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system. A SOLAR STRUCTURE may be erected on commercial, industrial or private lots or dwellings.

START OF CONSTRUCTION. The first placement of permanent construction of a structure on a site such as the pouring of slabs, footings or foundation, the installation of piles, columns or piers, or the placement of a manufactured home on a foundation. Land preparations such as clearing, grading and filling and the installation of streets and/or walkways, and the excavation for a basement or footings and the construction of accessory structures does not qualify as the START OF CONSTRUCTION.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, STEEP SLOPES are lands having average slopes over 12%, as measured over distances of 50 feet or more, that are not bluffs.

STOOP. An uncovered series of steps and landings along with railings and/or walls with no step or landing being more than 25 square feet in size.

STORY. The portion of a building included between the surface of a 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.

STREET. All property dedicated or intended for public or private street purposes or subject to public easement.

STREET LINE. A dividing line between a lot, tract or parcel of land and a contiguous street.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building or any substantial change in the roof or in the exterior walls.

STRUCTURE. Any thing constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins and manufactured homes.

STRUCTURE, TEMPORARY. Any enclosure larger than 120 square that does not meet the definition of “manufactured home” (as defined in state statutes) which is not permanently attached to the ground with a foundation, including, but not limited to, stretched fabric on frame structures, trailers or temporary construction offices or other constructions used for temporary or permanent storage.

TOE OF THE BLUFF.

(1) The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above.

(2) If no break in the slope is apparent, the TOE OF THE BLUFF shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOP OF THE BLUFF.

(1) The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above.

(2) If no break in the slope is apparent, the TOP OF THE BLUFF shall be determined to be the upper end of a 50 foot segment, measured on the ground, with an average slope exceeding 18%.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

TRIBUTARY RIVER SEGMENTS. As defined by Minn. Rules part 6120.3000, “Shoreland Management Classification System”, consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These SEGMENTS have a wide variety of existing land and recreational use characteristics. The SEGMENTS have considerable potential for additional development and recreational use, particularly those located near roads and cities.

USABLE FLOOR AREA.

(1) The interior area of a structure used for or intended to be used for the principal use such as living space for residences or for commercial use the sale of merchandises or services, use of space for patrons, clients or customers and all that area devoted to employee workspace. The floor area which is used or intended to be used principally for

the storage of merchandise, hallways, elevator or stair bulkheads or for utilities or sanitary facilities shall be excluded from this computation of USABLE FLOOR AREA.

(2) Measurement of USABLE FLOOR AREA shall be the horizontal areas of all the floors of a building, measured from interior wall to wall.

USE. Activity to which land or building is devoted and for which either land or building is, or may be occupied or maintained.

VARIANCE. The same as defined or described in M.S. Ch. 462, as it may be amended from time to time.

VISION CLEARANCE. An unoccupied triangular space at the corner of a corner lot which is bounded by the street lines and a setback line connecting the points determined by measurements for the corner of each street line.

WASTE MANAGEMENT FACILITY. The land, structures, monitoring devices and other improvements on the land used for the processing of garbage, mixed municipal solid waste, recyclable materials, construction debris and/or yard waste, as defined in M.S. § 115A.03, as it may be amended from time to time, or as amended.

WATER FEATURE. An artificial ornamental water storage structure used in a landscape such as fountains, fish ponds or other similar landscape features.

WELLHEAD PROTECTION PLAN. The city's wellhead protection plan adopted by City Council on 9-7-2010, including any amendments to that plan or any subsequent wellhead protection plan adopted by the City Council with a purpose of ensuring a safe and adequate drinking water supply.

WETLAND.

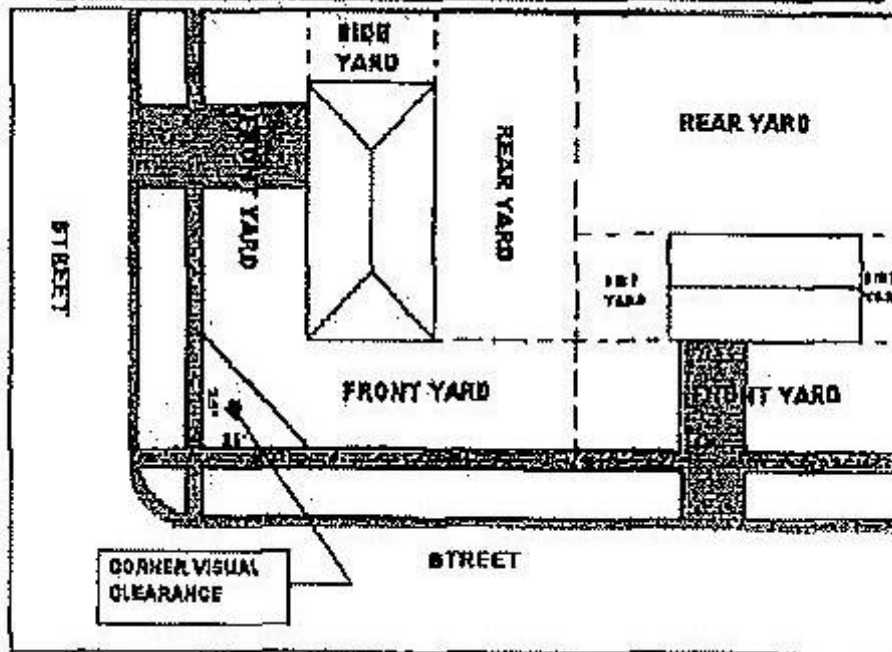
(1) Any lands as defined in M.S. § 103G.005, subd. 19, as it may be amended from time to time. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

(2) WETLANDS must have the following three attributes:

- (a) Have a predominance of hydric soils;
- (b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (c) Under normal circumstances support a prevalence of the vegetation.

YARD or YARDS. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

DEFINITION OF VARIOUS YARD AREAS



YARD, FRONT. A yard extending the full width of the lot between the front lot line and the nearest part of the main building.

YARD, REAR. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the main building.

YARD, SIDE. A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and side lot line.

ZONING ACTION. Actions regulated under this chapter, such as conditional and interim use permits, variances and zoning permits.

(Prior Code, § 305.09) (Ord. passed 12-18-2007; Ord. passed 7-2-2018)

§ 162.060 USE CHART.

[illegible]

SERVICE USES									
Funeral parlors					C	P	P	P	
Repair and maintenance services						C	P	P	P
Self-storage facilities (indoor only) up to 1,500 s.f.					C	C	P	P	P
Self-storage facilities (indoor only) > than 1,500 s.f.							P	P	P
Self-storage facilities - outdoor								C	C
NOTES TO TABLE: * C = conditional use * I = interim use * P = permitted use * Blank = not allowed * Zoning district acronym (see § 162.045 of this chapter)									

(Prior Code, § 305.06) (Ord. passed 12-18-2007; Ord. passed 7-2-2018; Ord. passed --)

§ 162.061 USE DEFINITIONS.

(A) Accessory use.

ACCESSORY BUILDING. A building subordinate to, but not part of, the principle building and used for a purpose incidental to the principle building, structure or use. Must not be connected to public or private sewer.

(B) Agricultural uses.

AGRICULTURAL STAND. A structure, or portion thereof, up to 1,000 square feet or an outdoor area used for the retail sale of agricultural and related incidental products primarily grown on the premises (excluding livestock).

CROP FARMING. The tilling of the soil, growing, harvesting and storing crops, agriculture related commercial, storage yards, industrial uses and services.

GRAIN STORAGE FACILITY. Storage structure for storing bulk agriculturally grown products. Excluding any mined, quarried or manufactured product. Only allowed in the General Commercial Zoning District when it is an existing legal non-conforming use.

LIMITED LIVESTOCK RAISING. The keeping, grazing or feeding of livestock for sale or livestock increase with a maximum of one animal unit per acre and a minimum of two acres for the first animal unit. Feedlots, stockyards and auction houses and other similar uses are not allowed.

(C) Bar/brewery uses.

BAR/COCKTAIL LOUNGE. An establishment where alcoholic beverages are sold at retail for consumption on the premises and where, if food is also sold, sale of alcoholic beverages is 25% or more of gross receipts.

BREWERY. A facility that produces, for sale, beer, ale or other beverages made from malt by fermentation and containing not less than 0.5% alcohol by volume.

BREW PUB. A small brewery that operates a restaurant on the same premises as the brewery, whose malt liquor production per calendar year may be limited by state statute.

DISTILLERY. A facility that produces ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin or other distilled spirits, including all dilutions and mixtures thereof for non-industrial use.

MICRO-DISTILLERY WITH TASTING ROOM. A facility that produces ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin or other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use not to exceed 40,000-proof gallons per calendar year.

SMALL BREWERY WITH TAPROOM. A brewery that produces no more than 20,000 barrels of malt liquor in a calendar year.

TAPROOM. An area for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A TAPROOM may also include sales for off-premises consumption of malt liquor produced at the brewery location or adjacent to the taproom and owned by the brewer for off-premises consumption, packaged subject to state statute.

TASTING ROOM. An area for the on-sale consumption of distilled spirits or wine produced on the premises of, or adjacent to one winery or one distillery and in common

ownership to the producer of the wine or distilled spirits. The TASTING ROOM AREA may include sales for off-premises consumption of products produced by the owner of the winery or distillery location if permissible by state law.

(D) Industrial uses.

HEAVY INDUSTRIAL. Establishments involved in the manufacturing, fabrication or compounding of products, on a primarily wholesale basis, in particular those involving the use of mechanical power and machinery to produce products from raw materials, or to prepare or alter materials for use in a finished product, or to assemble parts into products where there is the creation of odor, dirt, dust and noise.

INDUSTRIAL SERVICE. Establishments involved in repair and servicing of industrial, or business machinery, equipment, products with some ancillary sales, repair, storage or salvage operations and truck stops.

INDUSTRIAL WAREHOUSING DISTRIBUTION OR STORAGE. Establishments involved in the storage or distribution of materials or equipment on a primarily wholesale basis or as support to a service industry. Property can include equipment sales and rental and ancillary business offices.

LIGHT INDUSTRIAL. Establishments involved in the processing or assembly of products where the process involved is relatively clean and nuisance-free, in the creation of finished products for sale on a primarily wholesale basis.

MINING OPERATIONS OR EXTRACTIVE USE. Extracting mineral resources which may include stockpiling, for retail, wholesale, contract purchase or transfer of mineral products. For purposes of this chapter, the leveling, grading, filling or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development and the like) does not constitute a mining site/operation, if: processing of the material does not occur on the property; the activity is completed quickly, does not occur over an extended period of time and on-site stockpiles are fully depleted; and, a mining permit is not required from the Department of Natural Resources.

(E) Institutional uses.

COMMUNICATION TOWER. Any lower structure used for the purpose of providing transmission of cell phone, radio or other personal wireless facilities.

CULTURAL INSTITUTION. A facility used for the storage, preservation, study or exhibition of historic or cultural objects, or scientific interest for the recreation or cultural education of the public. Gift shops, educational or recreational services can be ancillary uses.

ESSENTIAL UTILITY FACILITY. Structures which provide shelter for equipment, a central utility hub for utilities, booster or transmitting (not including towers).

INSTITUTIONAL USE. Any use which typically provides a service on a not-for-profit basis by an organized establishment, foundation or society, including religious, private or public non-profit organizations such as schools, hospitals, churches and government facilities.

SOLAR GARDEN/FARM. A solar power installation that accepts capitol from and provides output credit and tax benefits to individuals and other investors.

STATE LICENSED RESIDENTIAL FACILITIES. A use which is required under M.S. § 462.357, as it may be amended from time to time.

(a) FAMILY DAY CARE. A day program providing care for not more than ten children at one time, and which is licensed by the county as a family day care home.

(b) GROUP DAY CARE. A day care program providing care for more than six children at one time. GROUP DAY CARE includes programs for children known as nursery schools, day nurseries, child care centers, play groups, day care centers for school age children, after school programs, infant day care centers, cooperative day care centers and Head Start programs.

(c) GROUP FAMILY DAY CARE. A day care program providing care for no more than 14 children at any one time of which no more than ten are under school age.

(d) SUPERVISED LIVING FACILITY. For persons with developmental disabilities or related conditions where supervision, counseling, housing and DHS-licensed habilitative or rehabilitative program services are provided to serve five or more developmentally disabled clients.

(F) Miscellaneous uses.

ADULT ENTERTAINMENT ESTABLISHMENT. As defined in M.S. § 617.242, as it may be amended from time to time, a business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or nudity.

COMMERCIAL KENNEL. The keeping of more than three dogs or four cats on the same premises, whether owned by the same person or not that are kept for sale, breeding, profit and/or training. A litter of pups or kittens may be kept up to three months before it shall be considered a KENNEL.

MAJOR TRAFFIC GENERATOR. Any use of land for whatever purpose (commercial, industrial, recreational or residential) which generates 500 or more vehicle trips per day total or 60 heavy vehicle trips per day according to the ITE (Institute of Transportation Engineers) most recent Trip Generation Manual.

MIXED USE. A mix of more than one principal use per lot or parcel including different types of residential (single- and multi-family) and/or mix of residential, commercial and/or institutional uses.

NURSERY/GREENHOUSE/LANDSCAPE BUSINESS. A business growing and selling trees, flowering, decorative and/or edible plants which may be conducted in or outside of a building.

PARKING GARAGE. A structure or any portion thereof designed for the parking of one or more motor vehicles, not including display or storage of motor vehicles for sale.

(G) Office uses.

PROFESSIONAL SERVICE. The selling of personal or professional services to the end consumers that typically do not produce a tangible commodity and the sale of merchandise is less than 25% of the business including medical, beauty, law and other professional services.

(H) Recreational uses.

CLUB. An establishment or properly operated for social, recreational or educational purposes, but open only to members and their guests and not the general public.

HUNTING/SHOOTING CLUB. An organized gun/archery club that allow the firing of dangerous weapons on the club grounds only by members and guests subject to such conditions as may be required by the city to protect the public health, safety and welfare.

MARINA. A dock or basin providing moorage for four watercraft or more and which may offer supply, repair, rental or other support facilities.

PARKS AND OPEN SPACE. Lands which are open to the public that provide a location for natural environmental, cultural or recreational activities and enjoyment.

RECREATIONAL ENTERTAINMENT FACILITY, MAJOR. A structure or open space providing entertainment or recreation, including, but not limited to: amusement centers; movie theaters with more than two screens or stages; and indoor or outdoor water parks or amusement parks, concert venues, dance halls, ski hill, golf course.

RECREATIONAL ENTERTAINMENT FACILITY, MINOR. A structure or open space providing entertainment or recreation, including, but not limited to: bowling alleys; pool or billiard halls; tennis courts; racquetball courts; exercise facilities; roller and ice skating rinks; concert venues with a capacity of up to 200 patrons; theaters with up to two screens or stages.

(I) Residential uses.

ACCESSORY APARTMENT. A dwelling unit with up to 50% of the principle structure, subordinate to and located in an owner-occupied single-family dwelling or principle structure of a commercial business.

BED AND BREAKFAST. An establishment in a single-family dwelling that provides temporary accommodations to overnight guests for compensation and meals for a daily or weekly fee.

CAMPGROUND. An open-air recreation area where temporary shelters are allowed and intended to provide transient occupancy and associated buildings and accessory structures and offices used in the operation of the facility.

GUEST COTTAGE. An accessory structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

HOME OCCUPATION. Any occupation or business conducted within the principle or accessory building by the resident(s). The space used by the business cannot exceed 25% of the usable floor area of the principal structure.

HOTEL/MOTEL. A structure or group of structures in which three or more units for lodging are offered to transient guests with furnishing of sleeping accommodation in rooms or suites of rooms for compensation, and may also include an ancillary eating establishment, gift shop or other ancillary tourist services available to guests and/or to the general public.

MANUFACTURED HOME PARK. A contiguous parcel of land which is developed for the placement of mobile homes which is owned by a single entity rather than parcels that are individually owned.

MULTIPLE-FAMILY DWELLING. A structure or portion thereof intended and designed for two or more dwelling units.

SHORT TERM RENTAL DWELLING UNIT. A dwelling unit, not considered part of a hotel/motel or bed and breakfast, rented for a period of less than 30 consecutive days, for tourist or transient use.

SINGLE-FAMILY ATTACHED DWELLING. A building designed or used exclusively for residential purposes by one family on its own separate lot and is attached on at least one side by another single-family dwelling.

SINGLE-FAMILY DETACHED DWELLING. A building containing one dwelling unit on its own separate lot, not attached to any other dwelling units, having yards on all sides of the unit.

(J) Retail uses.

COMMERCIAL RETAIL. The selling of merchandise or goods over a counter to consumers and rendering services incidental to the sale of the goods including services which support agricultural such as soil preparation, crop, farm and breeding services on a fee or contract basis. All commercial retail drive-thru services will require a conditional use permit.

CONTRACTOR YARD. A site used for storage of equipment and supplies used by a construction or landscape contractor in the operation of their business.

GARAGE, COMMERCIAL. Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, sold or stored.

GAS STATION. An establishment which sells gasoline typically at outdoor pumps to automobiles and other vehicles, and may include sale of convenience items.

OUTDOOR SALES, SERVICE, RENTAL LOT. An outdoor space for display and/or sales of goods, materials or merchandise where the majority of product is located and business can occur within a permanent structure.

RESTAURANT. An eating establishment where food and beverage is served to a customer. Establishments serving alcohol for consumption (where gross sales of alcohol are 25% or less) on site or providing take-out food to order as ancillary use are included.

RESTAURANT, BAR OUTDOOR SEATING. More than three tables (with or without chairs) or four benches or chairs provided by a business to allow patrons to eat and/or drink outside of the business.

RESTAURANT, DRIVE-IN/DRIVE-THRU. Any eating establishment with a drive-thru or a drive-in facility.

(K) Service uses.

FUNERAL PARLOR. Private non-denominational funeral chapels and other facilities for the purpose of spiritual meditation and vigil before burial of deceased persons.

REPAIR AND MAINTENANCE SERVICE. The provision of repair or maintenance services including auto, mechanical, machinery repair or retooling.

SELF-STORAGE FACILITY. A site, structure or building in which customers can rent space to store possessions. **INDOOR SELF-STORAGE FACILITIES** are those that are completely enclosed with walls and roof.

(Prior Code, § 305.06) (Ord. passed 12-18-2007; Ord. passed 7-2-2018)

§ 162.109 SHORT TERM RENTAL REGULATIONS.

(A) Registration Requirements:

- (1) A registration application for a short-term rental dwelling unit must be submitted by the owner on the form prescribed by the city.
- (2) The registration form shall include all requested information including the exact location and street address of the dwelling unit or units which will be used as a short-term rental dwelling unit.
- (3) The registration form must be completed by the owner(s) of the short-term rental dwelling unit. If the property is owned by a partnership, limited liability company, non-profit corporation, or partnership, the full legal names and addresses of all officers and persons holding a 25 percent or greater beneficial interest in the entity shall be provided on the application.
- (4) Registrations for short-term rental dwelling units shall be administered by the city's Planning and Zoning Department.

(B) Fees and Terms:

- (1) The registration fee for the short-term rental dwelling unit will be set forth in the city's fee schedule.
- (2) A short-term rental dwelling unit registration shall expire or be null and void under the following circumstances:
 - (a) Change of ownership of the short-term rental dwelling unit, including transfer of title to the ownership of the property or adding an officer or partner that owns 25 percent or greater of an entity described in § 162.109 (A)(3) above;
 - (b) Failure by the owner to notify the city within 30 days of a change in contact information for the person or entity on file with the City as the contact person;
 - (c) Lapse in the operation of the dwelling unit as a short-term rental dwelling unit for a period of more than 12 consecutive months;
 - (d) Upon revocation of the short-term rental dwelling unit's registration by the city council;
- (3) Short-term rental dwelling unit registrations are non-transferable.

(C) Approval, Denial, and Revocation of Short Term Rental Permits:

- (1) Process for Approval:
 - (a) The owner of a short-term rental must complete and submit a short-term rental registration form to the City of Wabasha Planning and Zoning Department, as described in §162.109(A) above.
 - (b) The owner, short-term rental unit, and operation of the short-term rental must comply with all applicable city, state, and federal laws, ordinances, and regulations, including all requirements found in §162.109(D).
 - (c) The application must include a signed affidavit of compliance, stating that the owner is responsible for:

- (i) Posting the following information about the short term rental unit in a conspicuous location in the dwelling unit: address, emergency contact information, responsible parties contact information, City of Wabasha's concerns/complaint contact information, floor plan showing emergency/escape routes and maximum occupancy limits.
 - (ii) Ensure that the licensed dwelling unit has a working smoke detector and carbon monoxide alarm(s) in every bedroom and on all habitable floors.
 - (iii) Ensure that the licensed dwelling unit has a properly maintained and charged fire extinguisher.
 - (iv) Ensure that the licensed dwelling unit complies with all City codes, State statutes and Federal laws.
 - (v) Remit all local, state and federal taxes unless the short-term rental platform remits these on my behalf.
 - (vi) Keep a Short-term rental registry for the licensed dwelling unit which includes the number of nights booked and the amount of rent paid by each guest.
 - (vii) Providing renters certification that they have the consent of the property owner to utilize this property as a Short-term rental;
- (2) Process for Denial:
 - (a) During the registration process, the Zoning Administrator or designee may deny a short-term rental application for the following reasons:
 - (i) Submitting an application with incorrect, inaccurate, misrepresented, or false statements or facts.
 - (ii) Failure of the property owner to sign the application and affidavit of compliance.
 - (iii) Failure to pay the required filing fees.
- (3) Process for Revocation:
 - (a) The Zoning Administrator or designee may start the process of revoking a short-term rental permit for the following reasons:
 - (i) Any action found under §162.109(B)(2).
 - (ii) It is found that the permit was issued by mistake.
 - (iii) It is found that the application included incorrect, inaccurate, misrepresented, or false statements or facts.
 - (iv) The operation or use of the short-term rental unit is found to not comply with applicable city, state, and federal laws, ordinances, and regulations
 - (v) The number of formal complaints to the City about a short-term rental reaches three or more. Permits that receive three or more complaints must follow §162.109(C)(3)(b)(iv) for revocation.

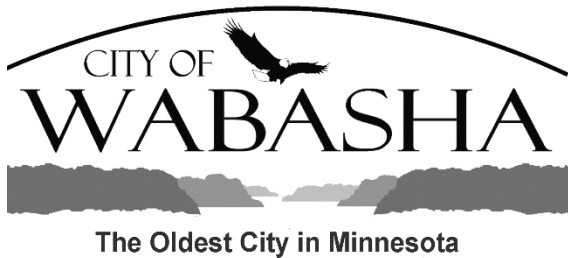
- (b) The process for revoking a permit is as follows:
 - (i) The Zoning Administrator or designee must verify that the short-term rental is in violation of §162.109(C)(3)(a)(i) – (iv)
 - (ii) The Zoning Administrator must contact the owner by mail and detail the issue in a violation letter. The Zoning Administrator must allow the owner 30 days from sending the letter to contact the City regarding the infringement of city code.
 - (iii) At 30 days from sending the violation letter:
 - (1) If the owner does contact the City, the owner has 60 days from sending the initial violation letter to fix the infringement of code. If the owner fixes the issue within 60 days, the revocation process will end. The Zoning Administrator may extend this process another 60 days provided the owner shows progress towards fixing the violation(s).
 - (2) If the owner does not contact the City, the Zoning Administrator or designee may send an additional violation letter granting the owner another 30 days to respond or the permit will be reviewed by City Council and revoked.
 - (iv) If the owner fails to respond to the violation letter, fails to fix the violation, or receives three or more formal complaints, the permit will be placed on the next feasible City Council agenda for a public hearing and review and revocation by City Council. The owner and all adjacent properties within 350-feet of the short-term rental dwelling unit must be notified no later than 10 days before the City Council meeting. A notice must be published in the official paper no later than 10 days prior to the City Council meeting. A majority vote by City Council is required to revoke a short-term rental permit.

(D) Operation Requirements:

- (1) All short-term rental dwelling unit owners and operators who offer dwelling units for short term rental use in the city must comply with the following:
 - (a) Comply with all applicable city, state, and federal laws, ordinances, and regulations.
 - (b) Remit all applicable local, state, and federal taxes, including, but limited to, the City's lodging tax as specified in Wabasha's Code of Ordinances.
 - (c) Ensure that all rental dwelling units have working smoke detectors and carbon monoxide alarm(s) in every bedroom and on all habitable floors. Additionally, each unit shall have at least one properly maintained and charged fire extinguisher located in an easily accessible location that is clearly marked and which is made known to the temporary occupants.

- (d) Provide and post the following information in a conspicuous place within each short-term rental dwelling unit:
 - (i) Emergency contact information for the short-term rental dwelling unit owner;
 - (ii) Emergency contact information for the short-term rental dwelling operator, if applicable;
 - (iii) The street address of the short-term rental dwelling unit;
 - (iv) A floor plan of the short-term rental dwelling unit indicating fire exits, escape routes, and the location of all fire extinguishers;
 - (v) The maximum occupancy limits of the short-term rental dwelling unit; and
 - (vi) A parking map showing all allowable parking locations serving the property.
- (e) A guest registry of the short-term rental dwelling unit must be kept by the owner that includes the following information: a record of the dates the unit was rented, the number of guests during the rental periods, and the amount of rent paid by the guests in connection with the rental of the short-term rental dwelling unit. This record shall be kept by the owner for a minimum of five years.
- (f) The city must be provided with accurate and up-to-date information regarding the name and contact information for the short-term rental dwelling unit owner and operator, if applicable. If the owner or operator's contact information changes, updates must be filed with the city within 30 days of the date of the change.
- (g) No short-term rental dwelling unit may be rented to any person who is under the age of 18. The person who rents the unit must provide a telephone number to the owner or operator and must be accessible to the owner or operator by telephone during the short-term rental period.
- (h) If the short-term rental dwelling unit includes a swimming pool, spa, or hot tub, the owner or operator must post a sign near the pool, spa, or hot tub indicating that it is not licensed or inspected by the State or the county.
- (i) The short-term rental dwelling unit must have a visible house number that can be easily seen from a public street during the day and at night.
- (j) The parking requirements that apply to dwelling units shall apply to short-term dwelling units. The owner or operator of the short-term rental dwelling unit must ensure through a notice in the rental agreement that all guests be aware of the city's on-street parking regulations within the neighborhood in which the short-term rental dwelling unit is being operated.

- (k) The owner of a short-term rental dwelling unit must provide sufficient trash collection containers and services for the short-term rental dwelling unit to meet the demand of the unit's occupants. The owner shall be solely responsible for ensuring that trash is properly collected, stored, and made available for regular collection.
- (l) The owner or operator of the short-term rental dwelling unit is responsible to ensure that the property remains in compliance with the city's public nuisance regulations, including, but not limited to, noise and smoke regulations.
- (m) Any violation of, or noncompliance with, any registration requirement or regulation, or any applicable law, statute, regulation, or ordinance shall be grounds for revocation of a short-term rental dwelling unit registration by the city council. The registration may be revoked by the city council after providing written notice to the owner of the violation and the intended revocation and providing an opportunity for a hearing before the city council.



Short Term Rental Registration

Registration No. _____

Date Received _____

Short Term Rental Registration Application Form

Dwelling units used as short-term rentals must be registered with the City prior to operation. Short term rentals are defined as dwelling units rented for a period of less than 30 consecutive days, for tourist or transient use. New owners must re-register, and registration forms cannot be transferred from one property owner to the next. Each unit must have its own registration.

RENTAL SITE INFORMATION

Site Address: _____

Name of Rental (if applicable) _____

Sleeps How Many? _____ Property/Site Manager? ____ Yes ____ No

Manager's Name _____

Manager's Phone Number _____

PROPERTY OWNER INFORMATION

Property Owner's Name: _____

Property Owner's Address: _____

Property Owner's Phone Number: _____

PROPERTY OWNER SIGNATURE

Print Name _____ Signature _____ Date _____

ADMINISTRATION

Review Notes and Conditions:

Reviewed By:

Date:

☐ Approved

☐ Denied

Fee
\$80

Receipt

Date Paid

AFFIDAVIT OF COMPLIANCE

§ 162.109 (A) REQUIRES ANY SHORT-TERM RENTAL HOST COMPLY WITH A NUMBER OF GENERAL PROVISIONS INCLUDING THE FOLLOWING:

- I certify or declare under penalty of perjury under the laws of the State of Minnesota, that the following is true and correct. I understand all information provided is subject to verification.
- I will ensure that the following information is posted in a conspicuous location in the dwelling unit: address, emergency contact information, responsible parties contact information, City of Wabasha's concerns/complaint contact information, floor plan showing emergency/escape routes and maximum occupancy limits.
- I will ensure that the licensed dwelling unit has a working smoke detector and carbon monoxide alarm(s) in every bedroom and on all habitable floors.
- I will ensure that the licensed dwelling unit has a properly maintained and charged fire extinguisher.
- I will ensure that the licensed dwelling unit complies with all City codes, State statutes and Federal laws.
- I agree to remit all local, state and federal taxes unless the short-term rental platform remits these on my behalf.
- I agree to keep a Short-term rental registry for the licensed dwelling unit which includes the number of nights booked and the amount of rent paid by each guest.
- If I am a renter – I hereby certify that I have the consent of the property owner to utilize this property as a Short-term rental. I, _____, hereby attest that the above information has been completed, is true and correct to the best of my knowledge.

I understand that I am required to ensure continued compliance with these short-term rental provisions. I understand that the City of Wabasha is authorized to suspend or revoke a permit or license issued in error or on the basis of incorrect, inaccurate or any false statement or misrepresentation, or in violation of any City ordinance or State statute.

FALSIFICATION OF ANSWERS GIVEN OR MATERIAL SUBMITTED WILL RESULT IN DENIAL OF APPLICATION I hereby state that I have answered all of the preceding questions and that the information contained herein is true and correct to the best of my knowledge and belief. I hereby state further that I have received no money or other consideration, by way of loan, gift, contribution, or otherwise, other than already disclosed in the application which I herewith submitted. I also understand this premise may be inspected by police, fire, health and other city officials at any and all times when the business is in operation.

Applicant Signature (Required)	Title	Date
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Planning Commission

7) a)

Meeting Date: 06/14/2022

SUBJECT: Consideration to modify existing Mining Ordinance or Implement a Small Mining Ordinance

DEPARTMENT: Administration

TITLE:

Consideration to modify existing Mining Ordinance or Implement a Small Mining Ordinance

PURPOSE:

City Staff including City Engineers Brian Malm and Katy Gehler met with Kohners and Chuck Dillerud regarding the current mining ordinance and application process. It was concluded that due to the small size of the request from the Kohners, that the specifics of the current mining ordinance is not applicable to small mines. The Kohners wish to request a review from the Planning Commission of the existing mining ordinance to add language to include things not applicable to small mines or at a minimum have staff amend the air quality standards. If the Commission does not want to amend the existing mining ordinance, would they reconsider adopting the small mining ordinance that was drafted in the past? Attached you will find the adopted Mining Ordinance and the draft small mine ordinance for your consideration and review.

Attachments

Mining & Extraction Ord

Small Limited Mine Ordinance Draft

CHAPTER 158: MINING AND EXTRACTION ACTIVITIES

Section

General Provisions

- 158.001 Statement of purpose
- 158.002 Definitions
- 158.003 Administration; application process
- 158.004 Permit applications; required information
- 158.005 Non-conforming mines; registration
- 158.006 Annual operators report and inspection
- 158.007 Permits; transfer or revocation

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GENERAL PROVISIONS

§ 158.001 STATEMENT OF PURPOSE.

(A) The city does ordain based on the following findings of fact and statement of purpose:

(1) The excavation of different mineral resources and aggregates have the potential for different levels of impact on the community based on:

(a) Content of the mineral resource being excavated;

(b) The excavation process of the resource and its potential impact on water and air quality and on safety and visual impacts;

(c) The size of particulates which become airborne;

(d) The cleaning, sorting and processing of the resource;

(e) The amount of material excavated over a given period of time along with the method of transporting the material away from the mine site; and

(f) The treatment of the land after the resource is removed.

(2) Atmospheric particulate matter under the size of ten microns are respirable; they are small enough to penetrate the nose and upper respiratory system and enter deep into the lungs. (As supported by *The Integrated Science Assessment for Particulate Matter* (U.S. EPA Integrated Science Assessment for Particulate Matter (final report)), U.S. Environmental Protection Agency, Washington, DC EPA/600R-08/139F, 2009.)

(3) The respiration of some mineral resources have the potential to cause health impacts to those breathing them in over time.

(4) The noise and vibrations created by some mining activities impact neighbors (in particular residential) in a negative manner.

(5) The location and depth of a mine has the potential to impact underground water sources depended upon by the public for drinking water.

(6) The methods and treatment of a mine site after the excavation process ends has a great impact on the ultimate use of the property and the impact of that site on neighboring properties and the community as a whole.

(7) The mining of industrial aggregates is generally more intensive than construction aggregate mining in terms of its negative impact on the land and the operations impact on plant, animal and human lives within the community.

(8) M.S. § 462.357, as it may be amended from time to time, allows: "A municipality may, by ordinance, permit an expansion or impose upon non-conformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare or safety."

(9) Guiding principles of the Comprehensive Plan include:

(a) A balanced approach to managing change and growth through community development, which is the combined efforts to sustain the community for the benefit of those living in it, considering and weighing all topic areas identified within this plan;

(b) Creation of an environment that allows for and encourages economic opportunities for individuals and businesses

choosing to locate in the city;

(c) Creation and maintenance of a healthy environment; providing a living, working and recreational environment which allows individuals residing or visiting the city to make choices for a healthy lifestyle;

(d) Creation and maintenance of a human habitat that includes the natural and physical environment and the relationship of people with that environment;

(e) Preservation of natural and cultural elements which gives the Wabasha community an exceptional sense of place and attracts people to live and visit; and

(f) Continued commitment to tourism, sharing the natural, cultural and built environment of the community with visitors and striving to provide services to meet the needs of that growing industry.

(B) Now, therefore, the city does ordain for the purpose of protecting the health, safety and general welfare of the community the following standards and regulations pertaining to mining, mineral resource extraction operations and subsurface mineral exploration within the city. The objective of this provision is to minimize soil erosion and land scarring, to monitor the consumption of natural resources and minimize the impact of these activities on the adjacent lands, resources and persons residing in the area, preventing mining and extraction operations from creating a nuisance and health hazards within the community.

(Prior Code, § 345.01)

§ 158.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE OF FEDERAL REGULATIONS (C.F.R.) EXCAVATION. A development process and not an ultimate land use including any artificial movement of the earth, including grading, digging, filling, removal or addition of earth material made by tunneling or breaking or undermining the surface of the earth.

CONSTRUCTION SAND AND GRAVEL. Mineral resources which typically are mined by open pit excavation (or by dredging) carried out with power shovels, draglines, front end loaders and bucket wheel excavators. Typically mined locally from dolomite geological strata, Standard Classification Code categories include: SCC 3-05-025; SIC 1442; and NAICS 21232.1.

CULTIVATION. The process of disturbing the land for agriculture purposes with no direct removal of mineral resources.

EQUIVALENT METHOD. A method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of the same chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §§ 53.11 or 53.16 of the chapter and which is incorporated by reference Minn. Rules part 7009.0050.

EXTRACTION. The process whereby materials are removed from the subsurface of the earth to be sold or used elsewhere.

EXTRACTIVE OPERATION/MINE. The surface or subsurface removal only of sand, gravel, rock or other non-metallic minerals, and peat from the site for use as a product elsewhere not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time, through an excavation or quarrying process. Excavations for the purpose of impounding water for agricultural purposes are exempted.

FILL, FILLING or FILLING OPERATION. The depositing of fill, dredge, sand, gravel, dirt and all other similar material in excess of 1,000 cubic yards or more onto or into a parcel of land.

HEAVY PROCESSING. Compounding, mixing or treatment of sand, gravels, rocks or any other extracted material with chemicals and/or into consumable products such as concrete, asphalt and other similar products or to an industrial sand or gravel product or to a volume which exceeds 500 tons per day (or 150,000 tons per year) or uses 500 gallons of water per minute (g.p.m.) or more.

INDUSTRIAL SAND AND GRAVEL. Mineral resources which typically are mined from quartz- rich sand and sandstone including the St. Peter, Jordan and Wonewoc geological strata locally. Standard Classification Code categories include: SCC 3-05-027; SIC 1446; and NAICS 212322.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

INDUSTRIAL WAREHOUSING DISTRIBUTION OR STORAGE. Establishments involved in the storage or distribution of materials or equipment on a primarily wholesale basis or as support to a service industry includes, but is not limited to: warehousing facilities; freight terminals; fleet storage; contractors yards; wholesale industrial equipment sales and rental; and ancillary business offices.

MINE or MINE SITE. See **EXTRACTIVE OPERATION/MINE**.

MINERAL RESOURCES. Rock, gravel, sand and metallic and non-metallic substances of commercial value.

NAICS CODE. The North American Industrial Classification System. A system for classifying industries by a six-digit code.

NON-CONFORMING MINING OPERATIONS. Existing mines which do not meet the standards of this chapter or mining standards of Ch. 162 of this code of ordinances.

PARTICULATE MATTER. Material, except water, which exists at standard conditions in a finely divided form as a liquid or solid as measured by an applicable reference method, or an equivalent or alternative method or as amended in Minn. Rules part 7005.0100, subpart 31.

PM 2.5. Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal two and one-half micrometers as measured by an applicable reference method, or an equivalent or alternative method or as amended in Minn. Rules part 7005.0100, subpart 30a.

PM 10. Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by an applicable reference method, or an equivalent or alternative method or as amended in Minn. Rules part 7005.0100, subpart 30b.

PROCESSING. The sorting, washing, crushing and/or screening of extracted material to construction grade sand, gravel or stone product.

RECLAMATION. To renew land to a self-sustaining, long-term use that is compatible with pre-mining situations and/or the city's Comprehensive Land Use Plan.

REFERENCE METHOD or METHOD.

(1) *Used in the context of performance test measurements.* The procedures for performance tests in 40 C.F.R. part 60, app. A, as amended; part 61, app. B, as amended; and part 51, app. M, as amended, or as amended in Minn. Rules part 7005.0100, subpart 35c.

(2) *Used in the context of measuring ambient air.* A method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to 40 C.F.R. § 50.1 in accordance with part 53 of the same chapter; it does not include a method for which a reference method designation has been cancelled in accordance with § 53.11 of the chapter and which is incorporated by reference Minn. Rules part 7009.0050.

SCC CODE.

(1) Source classification codes are an EPA classification system.

(2) Each **SCC** represents a unique source category-specific process or function that emits an air pollutant. The **SCCs** are used as a primary identifying data element in EPA's WebFIRE, the National Emissions Inventory (NEI) and other EPA databases. The **SCCs** are also used by many regional, state, local and tribal agency emissions data systems.

(3) Point source emissions use eight digit codes.

SIC CODE. The Standard Industrial Classification is a system for classifying industries by a four-digit code used by many departments of the U.S. Government, including OSHA.

SOIL EROSION AND SEDIMENT CONTROL PLAN. A document that illustrates, how the site will be designed to prevent or minimize soil erosion on a parcel of land and off-site sediment damages.

(Prior Code, § 345.02)

§ 158.003 ADMINISTRATION; APPLICATION PROCESS.

(A) New mines are allowed to locate in any place of the city where zoning (Ch. 162 of this code of ordinances) allows them as permitted, conditional or interim uses. A permit shall be required for all mining/mineral extraction and subsurface mineral exploration operations, as defined in this chapter, as follows.

(1) New operations shall apply for a permit prior to any commencement of excavation activities.

(2) Changes in activity for existing non-conforming mining operations shall require an application for a permit prior to the commencement of any work or operational changes for the following changes:

(a) Source for material mined, going into different group or formation of geological strata as illustrated on the Wabasha County Geological Survey from what was previously mined or approved. For example going from the Prairie du Chein Group (including dolomite, limestone and thin sands of the Shakopee, New Richmond (or Root River) and Oneonta formations), to the Jordan formation sandstone;

(b) The process of removing the material is modified (e.g., tunneling versus surface mining) when such changes provide for a departure from the original nature and purpose of the mining operation; and

(c) Subsurface mineral exploration, as detailed in §§ 158.055 through 158.064 of this chapter.

(B) All applications shall include the submittal of a form as provided for by the city completed along with all required attachments as identified in this section and any fees established under § 32.49 of this code of ordinances.

(1) (a) Any application for a permit within a designated shoreland zone (as indicated in Ch. 162 of this code of

ordinances) or floodplain shall require a submittal by the city of the application and Planning Commission/City Council meeting information to the DNR area hydrologist at least ten days prior to the Planning Commission review.

(b) Application materials shall be submitted to the city's Planning Commission for review.

(c) The Planning Commission shall hold a public hearing and review and consider the impact of the proposed operation and its conformance to this chapter along with anticipated impact to the future development of the city.

(d) Notice of time and place of the hearing shall be published at least once not less than ten days, nor more than 30 days, preceding the hearing in the newspaper of general circulation in the city.

(e) A similar notice shall be mailed at least ten days before the day of the hearing to each property situated wholly or partly within one-half mile of the property line of the land under ownership (of the contiguous parcel) of the proposed mine site.

(f) The Planning Commission may require additional review with additional materials to be submitted.

(g) City staff or the Planning Commission may request review and comment (to be forwarded to the City Council) from the Board of Water and Soil Resources, DNR, Department of Health, Pollution Control Agency or similar state or county departments as deemed appropriate.

(h) The Planning Commission shall provide a recommendation for issuance or denial of the permit with drafted findings of facts in support of its recommendation to the City Council.

(2) The City Council shall consider the application materials and recommendation of the Planning Commission as well as any comments or recommendations from other agencies and shall determine the approval or denial of the permit. The City Council shall also require a performance bond or a bank letter of credit for 110% of estimated reclamation expenses (as approved by the city) from the land owner to be submitted prior to or as a condition of the issuance of the mining permit. Total amount of assurance shall be based on the planned open mine cell in its entirety. The bond or letter of credit shall continue to be in effect until released by the city or completion of reclamation process occurs. City Council shall also require any additional assurances as indicated herein along with proof of liability insurance for \$2,000,000.

(3) The document *Tools to Assist Local Governments in Planning for and Regulating Silica Sand Projects* adopted by the state's Environmental Quality Board (3-7-2014) and similar advisory documents will be utilized for proposal analysis.

(4) Permit renewal is required every two years starting with the date of initial application submittal. The City Council may extend the renewal period to every five years after the first renewal permit has expired or the operation has been in existence for more than three years without receiving citations of improper operations.

(5) The applicant shall be required to submit to the city sufficient funds to cover all expected consulting fees related to application review, activity and site monitoring and post activity requirements. These may include, but are not limited to, establishing and monitoring environmental (e.g., air and water) or infrastructure (e.g., road and storm water management) concerns. The city shall establish an escrow account for this purpose.

(6) Reasons for denial (including renewal permits) include, but are not limited to, the following:

(a) Failure of the operation to follow agreed upon practices under previously issued permit;

(b) Air quality monitoring results that pose a health issue to the public;

(c) Applicants failure to provide an adequate permit application, reclamation plan, financial assurance or any other submittal required by this chapter. The city has discretion to assess the adequacy of the information provided in the permit application, including whether human health and the environment will be protected. Denial of a permit based on inadequate application submittal shall not be construed to disallow future applications on the same project; however, the applications shall be deemed a new review process; and

(d) Failure to prevent ground or surface water contamination.

(Prior Code, § 345.03)

§ 158.004 PERMIT APPLICATIONS; REQUIRED INFORMATION.

The following information shall be provided by the person requesting the permit in order for the city to consider the potential effects from the proposal on environmental, economic and social effects of the proposed project onto the community and shall be completed by a licensed engineer, geologist, surveyor or landscape architect or other professional specialist (as appropriate):

(A) Name and address of the property owner;

(B) Name, address, phone number and e-mail contact of the company or person conducting the excavation/mining on the property;

(C) The person or company requesting the mining permit, if different than the land owner or mine operator;

(D) The legal property description and acreage of the entire property under ownership and the area and volume of resource to be mined;

(E) A deed or other proof of ownership of the property along with a lease or other agreement with the property owner if applicant and property owner are not the same;

(F) The following maps/documents of the entire site and including all areas within one-fourth mile of the site. These shall be drawn to a legible scale.

(1) Map/Document 1. Existing conditions to include:

- (a) Contour lines at two-foot intervals;
- (b) Existing vegetation;
- (c) A DNR Natural Heritage Information System (NHIS) data request form with NHIS response;
- (d) Existing drainage and water retention areas;
- (e) Location of all wetlands per the National Wetland Inventory or as determined by a wetland delineation; and
- (f) Location of all archaeological, historic and cultural resources (including any cemeteries or known burials) located on the proposed mine prepared by a professional in the field of historic resource management property including:
 - 1. Any such resources known by the property owner;
 - 2. Those listed on or determined eligible for listing on the National Register of Historic Places;
 - 3. Those indicated on the statewide inventories or other statewide lists as overseen by the state's Historic Preservation Office;
 - 4. Those included on any local list of significant resources kept by the city under the guidance of the Heritage Preservation Commission;
 - 5. Existing structures (with photos and a keyed map of locations); and
 - 6. Existing fuel stations or chemical storage tanks.

(2) Map/Document 2. Proposed operations to include:

- (a) Structures to be erected;
- (b) Location of sites to be mined showing depth of proposed extraction in two-foot contours;
- (c) A description of the proposed depth of the mine, the geological strata from which material will be removed and the distance (vertically and horizontally) from any public or private drinking water source aquifers along with a plan for dewatering (if needed) and, of deemed necessary by the City Engineer a well interference response plan which must be approved prior to, and will be made a condition of approval of the permit;
- (d) Location of storage of excavated materials, showing the height of storage deposits;
- (e) Location of vehicle parking including surface treatment, number of spaces and numbers of employees; and
- (f) Location of storage of explosives (if any) along with containment structure description.

(3) Map/Document 3. Reclamation plan to include:

- (a) Final grade of proposed site showing elevations and contour lines at two-foot intervals;
- (b) Location and list of non-invasive species of vegetation to be replanted; and
- (c) Location and nature of any structures to be erected in relation to the end use plan.

(4) Map/Document 4. Proposed method to convey extracted material along with map showing the proposed route. If the mine operation meets the definition of major traffic generators (as defined in Ch. 162 of this code of ordinances), all standards and requirements for that CUP must be met and that process may occur concurrently to the review of the mine permit application:

- (a) A geologic survey and a karst features survey of the property and the surrounding area within 1,000 feet of the property prepared by a licensed and accredited mining geologist;
- (b) Plans for dust control, noise control and a soil erosion and sediment control plan; and
- (c) A plan for air quality monitoring which will address the following:
 - 1. Data on the type and specifications of the monitoring equipment proposed to be used; and
 - 2. Monitoring siting criteria as established by the U.S. Environmental Protection Agency (EPA) which are described in 40 C.F.R. part 58, app. E.

(G) For horizontal and vertical placement of monitors based on a study (submitted with the air quality plan) to determine the criteria for placement of air monitoring probes or sample inlets. In most cases, air monitoring probes and inlets must be located between seven and 23 feet above ground level. As a result, monitoring sites located at ground level typically

require the installation of an elevated platform or shelter. Air monitoring sites may also be located on the roof of a building which is no higher than two stories;

(H) For placement of monitors with spacing from emission sources for source-oriented or hot-spot monitoring. Air monitors should be located as close to the area of expected maximum air pollution concentration as safely possible;

(I) Spacing from obstructions: buildings and other obstacles can impact air monitoring results by scavenging pollutants and restricting airflow to the monitor, resulting in inaccurate air concentration measurements. In general, if an obstruction is located near an air monitoring site, the distance of the air monitor from the obstruction must be two-times the height of the obstruction;

(J) The monitoring of ambient air to compare air monitoring results with air quality standards, The air monitoring site must be measuring ambient air outside of the facility's property line if a fence or other physical obstruction prevents public access. If no such obstruction exists, air quality monitors located within a facility's property boundary may be considered ambient. Air monitors must conform to U.S. EPA's design standards as outlined in 40 C.F.R. parts 50, 53 and 58. The use of reference or equivalent methods to help assure the reliability of air quality measurements is required; and

(K) Recording of air concentrations of: total suspended particles (TSP), inhalable particles (PM10), fine particles (PM2.5) and crystalline silica as PM10 or PM4 per the standards agreed to in the accepted monitoring plan:

(1) A completed non-metallic mining and associated activities compliance audit checklist (created by the state's Pollution Control Agency). A copy of the issued NPDES/SDS permit may be provided with the application instead and (if required under state law) may be required as a condition of permit approval;

(2) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation and reclamation for each area;

(3) Type of material being removed from the site and intended use according to SCC, SIC and NAICS codes, including identification of particle size(s) being removed from the site;

(4) A complete list of any chemical or toxic substance proposed for use of any excavation or mining process including through injection, land application or other method of use;

(5) A description of the proposed depth of the mine;

(6) Identification of water needs including amount (overall and gallons per day), source of water and plans for water recycling/reclamation along with permits for any existing or approved wells from the county and from the state's Department of Natural Resources;

(7) Location and depth of any existing and proposed wells on the property and within one and one-half-mile radius of the mine pit. All wells including those for monitoring, dewatering, industrial processes and drinking water shall be indicated;

(8) A blasting and monitoring plan (for those operations using explosives) to include the following information:

(a) An indication of the circumstances blasting is proposed for the mining activity at that site along with anticipated timing and duration of blasting;

(b) The process and procedures which will be used to prepare for blasting at the site, including:

1. Company policies and procedures on blasting and use of explosives (generally and specific to this site);

2. Security procedures to be used for securing the site before and during the blasting activity; and

3. An indication of the use of best management practices to assure that the release of chemicals, including ammonia nitrate/fuel oil, nitrates, polyacrylamide and acrylamide into the environment during any point of the blasting process is minimized to the fullest extent possible.

(c) These procedures shall include notification to the city to be provided at least three business days prior to blasting activity and will include the following:

1. The date and time blasting will start along with the anticipated duration of the activity;

2. Name, address, license number, contact phone numbers and e-mail address of the blaster in charge of the blast;

3. Name, address, contact phone numbers and e-mail address of any person (agent or employee) in charge of the operation who will respond to inquiries by the city;

4. A map showing the location of the blasting site including the location of all the buildings located within one-half mile of the controlled blasting site, names, addresses and contact information of owners of those buildings;

5. Copy of license and/or permits issued by the state's Fire Marshal (as required by M.S. §§ 299F.73 and 299F.74, as they may be amended from time to time); and

6. Copy of any license and/or permit issued by the Federal Mining Safety and Health Administration (MSHA) (as required by 30 C.F.R part 56, as they may be amended from time to time).

(9) In any situation where the operation proposed will require a mandatory environmental assessment worksheet or environmental impact statement, pursuant to M.S. §§ 116D.04 and 116D.045, as they may be amended from time to time,

and the administrative rules Ch. 4410, this process shall be initiated upon mining permit application to the city. A discretionary EAW may be required per the standards and procedures set forth in state law after the mining permit is submitted. Review of the mining permit, per these regulations, may occur concurrently but the project may not proceed, no final approvals shall be made by the city, and a permit shall not be issued until the environmental review process is complete as indicated by one of the following:

- (a) A petition for an EAW is dismissed;
- (b) A negative declaration on the need for an EIS is made (by the RGU);
- (c) An EIS is determined adequate;
- (d) A variance is granted by the Environmental Quality Board; and
- (e) Current or proposed pollution prevention measures and emergency/spill response plan including:
 - 1. Spill prevention and fueling plan;
 - 2. Employee training and housekeeping practices;
 - 3. Storage locations and methods of containment for any chemicals or fuels;
 - 4. Existing and planned erosion and sediment control structures and methods; and
 - 5. Any other information requested by the Planning Commission or City Council.

(10) The city may utilize professional outside consultants to assist in review of submitted materials and the cost of the review shall be borne by the permit applicant; and

(11) Proof of liability insurance for \$2,000,000.

(Prior Code, § 345.04)

§ 158.005 NON-CONFORMING MINES; REGISTRATION.

(A) Existing mines which do not meet the standards of this chapter or mining standards of the zoning code are deemed non-conforming mining operations. These shall be allowed to continue to operate per M.S. § 462.357, as it may be amended from time to time. The extent of the non-conforming mine shall be established and recorded by the city.

(B) A non-conforming mine may register its operation as prescribed below. The city shall also investigate the nature and extent of the non-conforming use making a final determination of the extent of the non-conformity based on its own investigation and upon the information provided by the mining operation, and the city shall record and file the same with the County Recorder. The following information is needed to register:

- (1) Name and address of the property owner;
- (2) Name, address, phone number and e-mail contact of the company or person conducting the excavation/mining on the property;
- (3) A general history of the operation indicating when mining began and major changes to the operation occurred (if known);
- (4) The legal property description and acreage of the entire property under ownership by the land owner currently and at the time the mine became non-conforming;
- (5) A description of the specific area to be mined;
- (6) Any lease or mining agreements between the property owner and mine operator indicating the extent of the mining operation existing at the time the mine became non-conforming;
- (7) One or more maps or site plans showing:
 - (a) Existing mine location;
 - (b) Proposed extent of mine boundary including distances between the mine opening and any neighboring property boundaries, road rights-of-way and the top and toe of any bluffs;
 - (c) Anticipated time frame of mine extensions (a phasing plan of which areas will be mined and when);
 - (d) Proposed depth of mine;
 - (e) Existing drainage patterns and water retention areas, if any;
 - (f) Location of any known sinkholes, wetlands, springs or similar surface features, located on property;
 - (g) Existing and proposed fuel stations or chemical storage tanks with description of material and size of tank;
 - (h) A general description of any processing which occurs on site and a list of any chemicals used in that process; and
 - (i) Location of storage of excavated materials along with the height of storage deposits.

(8) An indication of any expectation of the need for dewatering and anticipated source of water (ground water or accumulating storm water/snow melt) along with a plan for water disposal or drainage routing;

(9) If blasting is used at the mine site, a general description of the process used including any safety or emergency response plans. The city may request additional information be provided to the city's Fire Chief or Director of Emergency Management if deemed necessary to protect the public health and safety;

(10) Annual registration of the non-conforming mine indicating:

(a) Divisions (B)(1) through (B)(4) above along with an updated site plan showing:

1. Areas mined in full where no additional mining is planned to occur;
2. Areas proposed for mining over the subsequent two-year period; and
3. Any areas proposed for reclamation within the next two-year period.

(b) Divisions (B)(5) through (B)(8) above shall be provided during annual registration only where changes have occurred since the previous registration provided to the city.

(11) A plan for eventual reclamation of the mine site is requested to be provided upon initial registration with as much detail as the property owner/mine operator has at that time. Additional information, proposed changes and updates to the reclamation plan shall be provided during annual registration. The following information shall be provided in the reclamation plan:

(a) Proposed final grades and elevations shown on a map along with a general description of the reclamation process such as filling or re-grading;

(b) A proposed description of final use of the mine site; and

(c) Locations of any areas proposed for final ponding including proposed depth of and slope of pond edges:

1. Location and type of (non-invasive species) vegetation to be replanted; and
2. Location and nature of any structures to be erected in relation to the end use planned for the site.

(12) Mine operators may provide to the city any additional information or data they would like for the city to have on file;

(13) Mine operators may record their registration along with any city approvals at the County Recorder's office; and

(14) Non-conforming mine registration materials shall be provided to the city's Planning Commission for review and official acceptance and shall be kept on file at City Hall documenting the legal non-conforming mine status.

(C) When no registration is provided, the city shall conduct a study, gathering data indicated in division (B) above and other available information making a final determination of the extent of the non-conformity based on its own investigation. The city shall record and file the same with the County Recorder.

(Prior Code, § 345.05)

§ 158.006 ANNUAL OPERATORS REPORT AND INSPECTION.

(A) An annual report of mining activities shall be submitted to the city specifying:

- (1) The amount of material removed from the mine site in the previous year;
- (2) The areas in which mining is complete and areas in which mining is ongoing;
- (3) Area of the mine which has been reclaimed or is ready to be reclaimed;
- (4) If mining into ground water, actual pumping rates and times, actual ground water discharge locations and quantities;
- (5) Ground water and surface water monitoring results;
- (6) Restoration performed and restoration yet to be performed;
- (7) Area proposed to be mined within the next year;
- (8) Evidence the required bond and liability insurance is valid and enforceable;
- (9) Copies of all reports given to state or federal agencies within the past year (including those for air and water quality monitoring) and any other permits or approvals issued; and
- (10) A log containing record of any grievances received by the operation and how they were addressed.

(B) Upon receiving the annual report, the city shall have the right to make an inspection.

(Prior Code, § 345.09)

§ 158.007 PERMITS; TRANSFER OR REVOCATION.

(A) The city will transfer existing mining permits to new operators upon request under the following circumstances:

(1) The new operator provides in writing that he or she will follow all plans and conditions of the previously approved permit; and/or

(2) The new operator provides financial sureties to replace those of the past operator. The existing financial assurance shall remain in effect until the new operator's financial assurance is approved.

(Prior Code, § 345.010)

(B) Corrective actions, fines and/or temporary or permanent revocation of mining permit may be implemented by the city if the mining operation is non-compliant with the terms of the permit.

(Prior Code, § 345.011)

MINIMUM STANDARDS FOR ALL MINES

§ 158.020 PROHIBITED ACTIVITIES.

The following activities shall be prohibited at any mine:

(A) The use of any excavation or mining process that injects, applies or uses any chemical or toxic substance, unless expressly permitted in the mining permit. Approval with potential conditions shall be based on:

(1) Amount of toxic material being stored and used on site;

(2) Location and security of the storage of the toxic material;

(3) Level of toxicity of the material based on material safety data sheets (MSDS1); and

(4) Proposed use of the material and its potential short- and long-term nuisance to neighboring properties as well as to the local environment and to the public health welfare and safety.

(B) The use of any excavation or mining process that includes hydraulic dredging or similar process or method;

(C) The use or application of any flocculants or chemical to wash or process excavated and mined industrial minerals at a mining site unless processing is allowed per § 158.041 of this chapter; and

(D) The use or placement of previously mined, processed and/or contaminated sand as fill material or reusing that sand at the mining site.

(Prior Code, § 345.06)

§ 158.021 ALLOWED MINE LOCATIONS.

(A) New mines are allowed to locate in any location of the city where Ch. 162 of this code of ordinances allows them as permitted, conditional or interim uses with the issuance of a permit under this section.

(B) Existing mines (defined as "legal non-conforming" uses under Ch. 162 of this code of ordinances) may continue to operate in their existing location even when not permitted, conditional or interim in their zoning district. However, they are not allowed to expand beyond the boundaries of the parcel under which the mine has ownership, contract or lease at the time it became non-conforming under this or other city ordinance, or change in the any manner as indicated in § 158.003 of this chapter.

(Prior Code, § 345.06)

§ 158.022 WATER RESOURCES.

(A) *General.* Pollution prevention measure shall be employed at the mine operation including the following (depending on specific operations, which may be made condition of permit approval):

(1) Confinement of equipment/vehicle maintenance activities indoors to the greatest extent feasible;

(2) Confinement of outdoor fueling activities to designated areas to the greatest extent possible that are covered, away from high traffic areas, outside of drainage pathways and on impervious surfaces;

(3) Regularly cleaning of areas used for equipment/vehicle maintenance and fueling using dry clean-up methods rather than wet (e.g., sweeping, squeegee and dust pan);

(4) Use of drip pans under all vehicles and equipment awaiting maintenance. Empty and clean drip pans and containers rather than leaving them full;

(5) Proper disposal of liquid waste (including wash water), which shall not be poured into floor drains, sinks, outdoor storm drain inlets or other storm drain or sewer connections; and

(6) Avoidance of topping off fuel tanks.

(B) *Surface water.*

(1) The extraction pit/mine operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operations property.

(2) The work done shall not adversely affect the quality of surface or subsurface water resources in a negative manner. Surface water originating outside and passing through the mining site shall, at its point of departure from the site, be of equal or better quality than the water at the point where it enters the site.

(3) The mining operation shall utilize best management practices specific to pollution prevention so that storm water runoff does not come into contact with any activities or materials of concern such as petroleum products, fueling areas and the like.

(4) Engineered structures may be required for new or expanding mines or suggested for any mine per the *Minnesota Storm Water Manual* and the *Industrial Storm Water BMP Guidebook*.

(C) *Ground water protection.*

(1) Mining activity shall not be allowed if it reduces the use in terms of quality or quantity of any neighboring domestic well.

(2) Prior to the establishment of new mines or the modification of an existing mine (per §158.003 of this chapter), the mine operator shall offer property owners with a domestic well within one-half mile of the mining site an inspection of their well and associated equipment and structures; evaluation of hydrologic conditions and sampling of the well water for quality analysis to determine baseline data. The neighboring property owner shall be given 30 days to respond to the offer and to allow on-site work after receiving the offer. The mine operator shall further offer these neighboring private well owners annual sampling and water quality analysis. This work shall be performed by an independent, credentialed third party at the expense of the operator. Samples shall be analyzed by a certified laboratory. Analysis shall include all chemicals and fuels used at the mine site that may impact ground water. In the event that monitoring shows that mining or reclamation activities have caused state or federal ground water quality standards to be exceeded, this information shall be provided to the MPCA and the operator shall seek to mitigate these effects by altering site operations and shall supply the well owner with bottled water for drinking until testing indicates levels are to pre-mining amounts. The reduction of quality of neighboring domestic wells shall be one reason for revocation of the mining permit. The city may require the permit holder to take corrective action in the event it is shown that the contamination was caused by the operation.

(3) The import, storage or disposal of any solid waste, recyclable materials or refuse generated outside the mine site is not allowed.

(D) *Ground water use.* Permits for well construction from the county and for water appropriation from the state's DNR shall be required and copies of these shall be provided to the city. The use of ground water for any mining activity shall not be allowed if it:

(1) Reduces water availability in existing domestic wells;

(2) Reduces water availability in municipal production wells; and

(3) Degrades calcareous fens, wetlands, ponds, lakes, streams, springs, seeps and watercourses and/or other fish and wildlife habitat.

(Prior Code, § 345.06)

§ 158.023 SAFETY FENCING.

Any operation adjacent to a residential zone, within 300 feet of two or more residential structures, or within 30 feet of a public right-of-way shall be bound by the following standards.

(A) Where collections of water occur that are one and one-half feet or more in depth existing for any period of at least one month, and occupy an area of 700 square feet or more, all access to the collections of water shall be barred by a fence of at least four feet in height.

(B) In locations where slopes occur that are steeper than one foot vertical to three feet horizontal existing for a period of one month or more, access to the slopes shall be barred by a fence or some similar effective barrier such as a snow fence at least four feet in height. Earthen berms also may be constructed to prevent access to the steeper slopes.

(Prior Code, § 345.06)

§ 158.024 ACCESS ROADS.

All access roads must meet city, county and/or state standards. The location of the intersection of access roads with any public roads shall be selected such that traffic on the access roads or public roads will have a sufficient site and breaking distance and room enough for adequate turn radii. Sufficiency shall be determined by the authority of the public road.

(Prior Code, § 345.06)

§ 158.025 DRIVEWAYS; ACCESS FOR SITES.

(A) Driveway/access to the mine site and/or ancillary uses shall not be located within 25 feet of adjacent property boundaries.

(B) Driveway/access shall also receive applicable county/highway department/state/federal approval with copies of the approvals provided to the city.

(Prior Code, § 345.06)

§ 158.026 TRACKING PADS; PAVEMENT.

The tracking pad/pavement shall be installed prior to site disturbance. Any material that is tracked on to the public road system shall be cleaned up at the end of the workday.

(Prior Code, § 345.06)

§ 158.027 SETBACKS.

Mining operations shall not be conducted closer than 100 feet to the boundary of any zone where such operations are not permitted, or closer than 100 feet to the boundary of an adjoining property line, unless the written consent of the owner of the adjoining property is first secured in writing. Mining operations shall not be conducted closer than 100 feet to the right-of-way line of an existing or platted street, road or highway; except that, excavating may be conducted closer to the right-of-way line in order to match the contour of the existing or platted street, road or highway. The city may impose greater setbacks as a condition of the mining or interim use permit when there is a finding that this is required to protect adjoining property from negative impact and in order to protect health, safety or welfare of the general public. Additional setback requirements for bluff areas are contained in §§ 162.085 through 162.108 of this code of ordinances.

(Prior Code, § 345.06)

§ 158.028 APPEARANCE GENERALLY.

All buildings, structures and plants as allowed at the mining site shall be maintained in such a manner as is practical and according to building code to assure that the buildings, structures and plants will not become dangerously dilapidated.

(Prior Code, § 345.06)

§ 158.029 SCREENING.

The use of vegetation, fencing and/or berms may be required.

(Prior Code, § 345.06)

§ 158.030 HOURS OF OPERATION.

Hours of operation shall be set at the time of interim use or mining permit approval and shall be based on (including, but not limited to):

(A) Distance and geographical situation between the mine and the closest residences;

(B) Proposed traffic being generated from the mining operation; and

(C) Type and location of activity proposed at the mine which will create noise or other nuisances or public health, safety or welfare concerns.

(Prior Code, § 345.06)

§ 158.031 LIGHTING.

All lighting at the mine site shall be required to meet any adopted city lighting standards (full cut off standards (downward lighting) of 80% maximum per Ch. 162 of this code of ordinances or as amended, modified or replaced). More intense lighting will be considered if needed to meet OSHA and/or MSHA safety standards if there is a finding by the city that it will have no greater impact on neighboring properties (in particular on adjacent residences) than the baseline standard. Conditions of permit approval for such lighting may include modifications to topography, vegetative planting, fencing or similar screening techniques to block light from neighboring properties, roadways or other public areas.

(Prior Code, § 345.06)

§ 158.032 INTERIOR ROADS.

Interior roads, driveways and parking areas shall be arranged on site to have the least amount of impact on neighboring properties in particularly those with residences. Conditions for screening, lighting and hours of operation may be imposed based on the proposed locations of the facilities and any other on-site that may produce noise, light or air pollution.

(Prior Code, § 345.06)

§ 158.033 TOPSOIL MANAGEMENT.

(A) 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.

(B) (1) 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.

(2) 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.

(Prior Code, § 345.06)

§ 158.034 INSPECTIONS.

With the issuance of a mining permit, the city reserves the right to inspect the mine site for compliance with this and other sections of city code and any conditions issued as part of the permit. At city staff discretion, county, state or federal authorities may be contacted to assist the city in determining compliance to any local, state or federal regulations.

(Prior Code, § 345.06)

§ 158.035 DUST CONTROL.

Roadway and site dust control shall be required and may be accomplished via methods approved by the city, which may include, but are not limited to, berming, landscaping, watering, dust extraction equipment, wheel washing, paving and the like. Operators shall be responsible for providing continuous dust control during facility operation and during hauling activity on gravel roads used to access the facility.

(Prior Code, § 345.06)

§ 158.036 AIR QUALITY MONITORING.

All mining operations shall provide air monitoring based upon a plan for such submitted, as required in §158.004 of this chapter, and agreed upon with the city in the issuance of the permit.

(A) This monitoring shall be performed by an independent, credentialed, third party at the expense of the operator.

(B) The results from air monitoring will be submitted to the city on a quarterly basis until the city deems under subsequent renewal permit review that air quality monitoring is no longer required at the facility.

(C) Results of monitoring may be submitted to the state's Pollution Control Agency, the state's Environmental Quality Board (or a technical team of that board) and/or to a private consultant as chosen by the city for assistance in the review of the results.

(Prior Code, § 345.06)

§ 158.037 SITE CLEARING.

(A) All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation.

(B) Burning of stumps or any other material at the mine site is prohibited. Woody material shall be ground or chipped and used in reclamation activities, if possible.

(C) Removal of vegetative cover and the amount of exposed earth must be kept to a minimum and be consistent with good construction practices.

(Prior Code, § 345.06)

§ 158.038 BLASTING AND USE OF EXPLOSIVES.

(A) Blasting logs shall be prepared by the mining operation and shall be maintained for a period not less than five years after a blasting event.

(B) Copies of blasting logs shall be given to the LGU within five working days upon request.

(C) Information to record in a blasting log includes:

- (1) Name, signature and license number of the blaster in charge of the blast;
- (2) Specific blast location, including address, bench and station number if applicable;
- (3) Type of blasting operation;
- (4) Date and time of the blast;
- (5) Copy of information provided to the city prior to blasting, as required in §158.035 of this chapter;

(6) Meteorological conditions, including temperature inversions, wind speed and directions as can be determined from the United States Weather Bureau and ground-based observations;

(7) Diagram of the blast layout and the delay pattern;

(8) Number of holes;

(9) Hole depth and diameter;

(10) Spacing of holes;

(11) Burden;

(12) Maximum holes per delay;

(13) Maximum pounds of explosives per delay;

(14) Number, type and length of stemming used between decks;

(15) Total pounds and type of explosives per each delay;

(16) Distance to nearest inhabited building not owned by the applicant;

(17) Type of initiation used;

(18) Seismographic and airblast records, which shall include all of the following:

(a) Type of instrument and last laboratory calibration date;

(b) Maps of the exact location of monitoring instrument(s);

(c) Records of the date, time and distance from the blast;

(d) Trigger levels for ground and air vibrations; and

(e) The vibration and airblast levels recorded.

(19) Particle velocity should be recorded in three mutually perpendicular directions.

(D) In the event that seismograph monitoring exceeds standards identified in either the blast plan or local permit, the company will notify the city within one working day.

(E) The water resource management plan should address potential nitrate contamination due to blasting.

(F) Whenever explosives are used, they shall be of such character and in such amount as is permitted by state and local laws and ordinances and all respective agencies having jurisdiction over them.

(G) The regulatory requirements of OSHA safety and health standards, 29 C.F.R. part 1926, subpart U, "Blasting and Use of Explosives", shall be applied.

(H) Operators will use all industry standard measures to control fly rock with the intent that fly rock not leave the mine property.

(I) Prior to any blasting event at the excavation and mining site, the mining operation is responsible for giving notice of the impending blasting event by displaying a fluorescent flag and legible sign within 100 feet of all public roads bordering the blasting site.

(J) Untreated ANFO should not be used in blastholes with standing water in the bottom. Water- proof blasting agents such as emulsions or gels, developed to prevent the release of nitrates into the ground water, should be used in blastholes with standing water at the bottom.

(K) The maximum single component peak particle velocity resulting from construction activity should not exceed the safe blasting criteria established in Office of Surface Mining recommendations, OSM Alternative Blasting Level Criteria (modified from Figure B1, R1 8507, U.S. Bureau of Mines). This criteria allows a constant peak particle velocity (ppv) of 2.0 inches per sec (ips) above 30 Hz. Below 30 Hz, the maximum velocity decreases at a rate equivalent to a constant peak displacement of 0.01 inch to 11 Hz. Between 11 Hz and 4 Hz the maximum velocity is 0.75 ips. Below 4 Hz, the maximum velocity decreases at a rate equivalent to a constant peak displacement of 0.03 inch.

(L) Appropriate vibration levels shall be used where there is the presence of fragile or extremely fragile historically significant buildings or sites. The following table is to be used as a guideline but limits shall be determined ultimately based on:

(1) Proximity of the resource to the blasting site and on site (ground conditions) and the anticipated travel of damaging vibrations;

(2) The level of significance of a resource as determined by its official listing on any federal, state or local register and as by the City Council; and

(3) Level of protection afforded to the resource by its official listing on any federal, state or local register.

Structure and Condition	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Intermittent Sources
Extremely fragile historic structures, ruins or monuments	0.12	0.08
Fragile buildings	0.2	0.1

(M) The mine operator shall provide a notification to all property owners within a one-half mile of the mine site at least 15 days prior to blasting activity occurring. A copy of the notification shall also be sent to the city along with a list of those being sent the notification. For blasting anticipated to occur for more than one day within a one-month period, one notification with the anticipated dates will suffice. The notification shall include:

- (1) The date(s) or range of dates that blasting is anticipated to occur;
- (2) The contact information including a contact person, a phone number and an address for questions to be addressed during business hours;
- (3) An offer to property owners for a pre-blast survey which shall:
 - (a) Be performed by an independent, credentialed third party at the expense of the operator;
 - (b) Consist of a record on paper, video or an unalterable electronic file to document the condition of a dwelling, structure or water well before the commencement of blasting activity; and
 - (c) Provide a record of inspection of the condition of a well and/or structure including the interior and exterior as requested by the owner.
- (4) A written statement that the survey must be requested in writing which shall identify the structures and/or well to be surveyed; and
- (5) A written statement indicating that all surveys completed will be available upon request of the property owner within a 72-hour period after the request is made.

(N) The City Engineer shall inspect, review and monitor all blasting operations.

(Prior Code, § 345.06)

§ 158.039 INTERMITTENT MINING.

Intermittent mining may be conducted provided that all other standards of this chapter are followed and the possibility of intermittent cessation of operations is addressed in an operator's application for mining permit. This shall also be accounted for in the reclamation plan. The city shall be given 72-hour notice prior to the cessation or resumption of activities.

(Prior Code, § 345.06)

§ 158.040 DIRECT IMPACT.

Direct impact to any historic, archeological or culturally significant resource shall not be allowed prior to providing proposed activity by the state's Historic Preservation Office and the city's Heritage Preservation Commission and allowing for their response.

(Prior Code, § 345.06)

§ 158.041 PROCESSING AT MINE SITE.

Unless the site is eligible under Ch. 162 of this code of ordinances for heavy industry (which shall require any additional permits for this activity within the zoning district the mine is located), processing at the mine site shall be limited to the following:

- (A) Scalping, the first cut of the incoming material including removing the largest size particles, cleaning the incoming material from foreign body contamination such as twigs, trash, glass or other unwanted oversize material;
- (B) Separation of product into different rock sizes, gravel and general sand category;
- (C) No fine screening for separation of sand into different classifications (for hardness/shape) shall be permitted;
- (D) Use of water for washing shall be limited to 250,000 gallons per day (g.p.d.);
- (E) Crushing for new or expanded operations shall be limited to 150,000 tons per year;
- (F) No use of chemicals in the processing, cleaning or separating of aggregate materials is allowed; and
- (G) Any processing of minerals shall not be conducted closer than 100 feet to the property line, nor closer than 500 feet, to any residential or commercial structures located prior to commencement of processing operations without the written

consent of all owners and residents of the structures for any new or expanded operation.

(1) The city may impose greater setbacks as a condition of the mining or interim use permit when there is a finding that this is required to protect adjoining property from negative impact and in order to protect health, safety or welfare of the general public.

(2) Additional setback requirements for bluff areas are contained in §§162.085 through 162.108 of this code of ordinances.

(Prior Code, § 345.06)

§ 158.042 ROAD MAINTENANCE AGREEMENT.

(A) All new or expanded mining operators will be required to enter into road maintenance agreements with the governing road authority if agreed to by the specific authority.

(B) The road maintenance agreement will provide for:

(1) A round-trip hauling route for the shipping of non-metallic minerals from the excavation or mining site to a targeted delivery location, including the estimated number of tons to be hauled per truck and estimated number of tons hauled per month;

(2) Mining operator's agreement to pay a road pavement impact fee as decided by the local government, which will be assessed on a per ton, per mile basis to reimburse the local government for the projected costs of repairing and replacing road pavement damaged by the hauling of non-metallic minerals from an excavation or mining site. The fee established at the time of application will be reviewed every two years; and

(3) All fees collected will be placed in a fund administered by the road authority, dedicated to the sole purpose of maintaining, repairing and replacing roads.

(Prior Code, § 345.06)

§ 158.043 RECLAMATION; COSTS.

(A) Along with a plan for reclamation required as part of an application for all mines, applicants shall submit, as part of the application for a permit to mine, a documented estimate of costs necessary to implement the reclamation plan (consistent with Minn. Rules part 6132.1300, subpart 4). This estimate shall include closure and post-closure maintenance activities required if operations cease within the first calendar year.

(B) The permittee shall annually adjust the contingency reclamation cost estimate.

(C) Cost estimates shall be based on the following:

(1) Current dollar value at the time of the estimate; and

(2) The cost to the city of administering and hiring a third party to implement the contingency reclamation plan.

(D) No salvage value attributed to the sale of wastes, facility structures, equipment, land or other assets shall be used for estimating purposes.

(Prior Code, § 345.06)

RECLAMATION STANDARDS

§ 158.055 GENERAL.

All sites shall be reclaimed after operations cease. The city may require the assistance in design and or review of reclamation plans of a credentialed consultant at the expense of the mine operator.

(Prior Code, § 345.07)

§ 158.056 COMPLETION; TERMINATION.

The following standards shall apply along with any additional or more stringent standards adopted under subsequent state law.

(A) Reclamation for each cell shall be completed within one calendar year after operation ceases.

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

(C) At least four months prior to the commencement of reclamation, the operator shall notify the city of its intent to commence reclamation. A preconstruction meeting shall be held at which the mine operator and the on-site reclamation construction supervisor shall attend to review the terms and conditions of the mining permit.

(Prior Code, § 345.07)

§ 158.057 TOPSOIL REDISTRIBUTION.

All uncontaminated soil from the site shall be retained on-site for reclamation purposes. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter 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.

(Prior Code, § 345.07)

§ 158.058 END LAND USE.

(A) Use of reclaimed land shall be appropriate to interim and final reclamation plan for the site and to the city's adopted land use policies and maps.

(B) The reclamation plan shall address final drainage and storm water plans, final topography indicating appropriate spaces for buildings, roads or other necessary infrastructure per intended proposed use and anticipated soil fertility for any proposed farming operations.

(C) Development of final uses may occur on the site as reclamation phasing occurs, but shall be identified and addressed in reclamation plan phasing.

(Prior Code, § 345.07)

§ 158.059 FINAL GRADING AND SLOPES.

(A) (1) All areas directly affected by mining shall be addressed in the approved reclamation plan to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate high walls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a three to one (3:1) slope, whether or not graded, as stable and safe. For slopes designated as stable under this section, the city may require that a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.

(2) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a four to one (4:1) horizontal to vertical incline, unless recommended by 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.

(B) If the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall be a slope no steeper than six to one (6:1).

(Prior Code, § 345.07)

§ 158.060 VEGETATION; REVEGETATION.

(A) (1) The plan for revegetation should include a mix of grass basal cover, native vegetation cover and rock cover, similar in type, diversity and percentage mix and location to pre-mining situation.

(2) Use of fast-growing vegetation to stabilize slopes is appropriate.

(3) Use of invasive species shall not be allowed in revegetation and the plan shall address the how invasive species will be managed during the operation of the mine.

(B) Revegetation success may be determined by:

(1) Comparison to an appropriate reference area;

(2) Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

(3) Comparison to an approved alternate technical standard.

(Prior Code, § 345.07)

§ 158.061 WATER.

The reclamation plan shall identify final surface and ground water conditions and no reclamation shall be conducted in a manner which will cause a permanent lowering of the water table or result in adverse effects on surface waters or reduce the quality of ground water reasonably available for future users of ground water.

(Prior Code, § 345.07)

§ 158.062 ASSESSING COMPLETION OF SUCCESSFUL RECLAMATION.

(A) The criteria for assessing when reclamation is complete shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

(B) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

(1) On-site inspections by the city or its agent and/or the MN DNR; and

(2) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the reclamation plan criteria have been met.

(Prior Code, § 345.07)

§ 158.063 RETURN TO PRE-EXISTING CONDITION.

In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-existing condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(Prior Code, § 345.07)

§ 158.064 MAINTENANCE.

During the period of the site reclamation, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

(Prior Code, § 345.07)

SUBSURFACE MINERAL EXPLORATION

§ 158.075 GENERAL.

(A) (1) Exploration of natural resources can have a serious effect on land and the ground water below.

(2) It is the intention of this subchapter to monitor any exploratory activity.

(B) Remote sensing/exploration that does not disturb any soil do not require a mining permit.

(Prior Code, § 345.08)

§ 158.076 PERMIT REQUIRED.

(A) All subsurface mineral exploration borings shall require a permit in all zoning districts and shall only be allowed in zoning districts where the potential mining activity is allowed as a permitted, conditional or interim use.

(B) The following information shall be required to be submitted by the applicant as part of the permit for exploratory borings if any of the following criteria is met.

(1) The drill hole will intercept a water bearing layer.

(2) The drill hole will be either deeper than 25 feet or penetrate a confining layer.

(3) The drill hole will be used for testing without extracting water.

(Prior Code, § 345.07)

§ 158.077 INFORMATION REQUIRED.

The following shall be submitted:

(A) Individuals or organizations wishing to undertake mineral exploration in the city must provide sufficient proof to the city, legal authority to explore and/or mine the property;

(B) A description of the mineral or minerals which are the subject of the exploration;

(C) A copy of the lease arrangement with the land owner shall be provided. This lease shall be recorded in the County Recorder's office prior to granting the permit. The time limit and the location of the permit shall be incidental to that of the lease arrangement;

(D) A map indicating the location of the proposed exploratory boring(s);

(E) The applicant shall post a surety performance bond in an amount of 110% of cost of installation per hole to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground water and surface water. The bond shall be released two years after exploration has ceased unless the city finds, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed;

(F) An exact, technical description of the exploration process, types of equipment to be used and an estimated timetable

for each phase of work and for final completion of the program;

(G) A general description of the regional environmental conditions to include surface land use and vegetation, as well as a general description of the area's geological formations and hydrology;

(H) A description of the major environmental impacts that exploration will create as well as a proposed plan to mitigate those impacts including such items as soil erosion, air and water contamination, as well as related hazards to public life and safety; and

(I) A plan shall be provided for the reclamation of the land after exploration is completed. Surface reclamation shall take into account the impact on adjacent land uses, natural resources and the proposed future use of the lands explored. The plans shall include:

- (1) A reclamation schedule;
- (2) Method used to plug drill holes which must meet state standards;
- (3) Method of grading, backfilling and contouring of exploration sites and access roads;
- (4) Methods of waste management and disposal, including liquid and solid wastes such as tailings; and
- (5) Method of revegetation.

(Prior Code, § 345.07)

§ 158.078 EXPLORATORY BORING CONSTRUCTION REQUIREMENTS.

All test borings shall be constructed in accordance with the following and shall be constructed in a manner as to prevent all known sources of contamination from entering the boring at any time.

(A) Drilling mud additives shall be stored in clean containers and shall be free of material that may adversely affect the aquifer.

(B) Water used for cooling parts of engines, air compressors or other equipment may not be returned into the boring.

(C) Drilling mud, cuttings and discharge water shall not be disposed of in a manner so as to create damage to public or private property.

(D) Exploratory borings encountering flowing artesian conditions should be constructed to prevent erosion of the aquifer or the overlying confining mantle.

(E) Any boring which encounters a karst feature shall be cased and grouted to prevent the introduction of surface water into the ground water and to prevent the passage of water from one aquifer to another.

(F) In the case of an unexpected emergency, including, but not limited to, any act or condition that would affect the health, welfare and property of area residents, the explorer shall have the ability to cap the boring at any time. In this instance the explorer shall immediately notify the city and proper state agencies of such an emergency. In case of such an emergency, all costs shall be borne by the explorer.

(G) A boring for aggregate exploration must not be used for any purpose that is regulated under M.S. Ch. 103I, as it may be amended from time to time, and Minn. Rules Ch. 4725 or 4727, unless that well or boring is constructed in accordance with all applicable requirements of statute and rule, including licensing, notification, permitting, construction, sealing, testing and reporting requirements. Wells and borings regulated under state statute and rule include water supply wells, dewatering wells, monitoring wells, bored geothermal heat exchangers, elevator borings, environmental bore holes and exploratory borings, as defined in Minn. Rules Ch. 4727.

(Prior Code, § 345.07)

§ 158.079 EXPLORATORY BORING SETBACKS.

The following setbacks shall be applicable to exploratory drilling sites:

(A) Required setbacks from road centerline:

- (1) One hundred thirty feet for state highways;
- (2) One hundred feet for county and state aid roads; and
- (3) Sixty-five feet for city streets.

(B) Two hundred feet to adjoining property line;

(C) Five hundred feet to nearest occupied residence;

(D) One hundred feet to any overhead or underground electrical line;

(E) One hundred and fifty feet to any gas line;

(F) One hundred and fifty feet to a preparation or storage area of spray materials, commercial fertilizers or chemicals that

may result in pollution of the soil or ground water;

(G) One hundred feet from a below grade manure storage area if in conformance with the state's Pollution Control Agency;

(H) One hundred feet from a buried sewer, septic tank, subsurface disposal field or privy;

(I) Two hundred feet from existing water wells; and

(J) Two hundred feet from any lake, stream or river.

(Prior Code, § 345.07)

§ 158.080 ABANDONMENT OF EXPLORATORY BORINGS.

(A) Abandonment of all exploratory borings shall be carried out in accordance with the following provisions.

(1) Abandonment, whether temporary or permanent, shall be undertaken immediately upon completion of drilling activities. When the test hole is to be abandoned, the city shall be notified so that the abandonment process may be inspected.

(2) Within 30 days of the completion of drilling or the drilling equipment leaving the site, whichever occurs first, an abandonment report shall be completed by the explorer, and filed with the city. The report shall include, but not be limited to, such things as water bearing formations encountered, method of construction used and method of abandonment. The abandonment report shall specify whether the boring is being temporary or permanently abandoned.

(B) A boring which is temporarily abandoned shall be constructed to prevent the introduction of surface contaminants into the boring and to prevent passage of water from one aquifer to another.

(1) At the minimum, a temporary abandoned boring shall be cased from bedrock or from the bottom of the boring if the boring terminates in unconsolidated materials, to a point one foot above the ground surface or, if in a floodplain, at least two feet above the level of the highest flood of record. The casing shall be protected with an overlapping cap which will prevent any surface contamination from entering the boring.

(2) Any boring which is temporarily abandoned shall be marked and protected with four steel posts (schedule 40 pipe) of at least four-inch diameter at equal distance from each other, two feet from the center of the casing. Such posts shall be installed to a minimum depth of three feet into solid ground.

(3) A boring shall not be temporarily abandoned for more than two years.

(C) (1) Whenever the explorer determines that a boring needs not remain open any longer, or whenever the explorer is about to lose the right to explore, the explorer shall permanently abandon the boring. The boring shall be filled with grout to prevent contaminating materials from entering the water bearing ground formations.

(2) All materials, debris and obstructions that may interfere with sealing operations shall be removed from the boring.

(3) All casing and screen may be salvaged, except for casing that has been cemented in place.

(4) The top of the hole shall be fitted with ten feet of cement or concrete grout to within two feet of the land surface. Casing remaining in the hole shall be cut off at least six feet below the land surface. The remaining two feet of the hole shall be filled with native topsoil.

(5) When concrete or cement is used as a grout material, it shall be inserted in the boring through a grout pipe from the bottom of the boring upward to the surface under pressure.

(6) A permanently abandoned boring shall be filled and sealed using one or more of the following substances in accordance with geological materials penetrated.

(a) The section of a boring in unconsolidated deposits shall be filled with neat cement, concrete or heavy drilling fluid to provide a permeability no greater than the natural condition.

(b) The section of a boring in a rock formation shall be filled with neat cement or concrete.

(c) The section of a boring in a cavernous or crevice rock such as cavernous limestone or creviced granite shall be filled with concrete or neat cement and gravel or stone aggregate. At the top of cavernous or creviced formation, the filling shall be completed by a layer of neat cement or concrete extending at least ten feet into the above overlying formation and finished as provided in those rules.

(d) When a temporarily abandoned boring is permanently abandoned, a separate abandonment report shall be filed.

(Prior Code, § 345.07)

§ 158.999 PENALTY.

Any person, firm or corporation who fails to comply with the provisions of this chapter shall, upon conviction thereof, be guilty of a misdemeanor, subject to a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both. Each day a violation exists or continues shall constitute a separate offense. The city reserves the right to seek injunctive relief in

addition to the criminal penalties set forth herein.

(Prior Code, § 345.012)

Section 0344 - An Ordinance Regulating
Small / Limited Mining & Extraction Activities
(draft 8/26/19)

Section 344.01 Statement of Purpose

The City of Wabasha Does Ordain based on the following Findings of Fact & Statement of purpose:

- Subd. A. The excavation of different mineral resources and aggregates have the potential for different levels of impact on the community based on:
1. Content of the mineral resource being excavated,
 2. The excavation process of the resource and its potential impact on water and air quality and on safety and visual impacts,
 3. The size of particulates which become airborne,
 4. The cleaning, sorting, and processing of the resource,
 5. The amount of material excavated over a given period of time along with the method of transporting the material away from the mine site, and
 6. The treatment of the land after the resource is removed.
- Subd. B. Atmospheric particulate matter under the size of 10 microns are respirable; they are small enough to penetrate the nose and upper respiratory system and enter deep into the lungs¹.
- Subd. C. The respiration of some mineral resources have the potential to cause health impacts to those breathing them in over time.
- Subd. D. The noise and vibrations created by some mining activities impact neighbors (in particular residential) in a negative manner.
- Subd. E. The location and depth of a mine has the potential to impact underground water sources depended upon by the public for drinking water.
- Subd. F. The methods and treatment of a mine site after the excavation process ends has a great impact on the ultimate use of the property and the impact of that site on neighboring properties and the community as a whole.
- Subd. G. The mining of industrial aggregates is generally more intensive than construction aggregate mining in terms of its negative impact on the land and the operations impact on plant, animal and human lives within the community.
- Subd. H. Minnesota State Statute 462.357 allows: "A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety."

Now therefore, the City of Wabasha does ordain for the purpose of protecting the health, safety, and general welfare of the community the following standards and regulations pertaining to **small / limited construction sand and gravel** mining/extraction operations within the City. The objective of this provision is to minimize soil erosion and land scarring, to monitor the consumption of natural resources and minimize the impact of these activities on the adjacent

lands, resources and persons residing in the area, preventing mining and extraction operations from creating a nuisance and health hazards within the community.

Section 344.02 Definitions

Construction Sand & Gravel:	Mineral Resources which typically are mined by open pit excavation (or by dredging) carried out with power shovels, draglines, front end loaders, and bucket wheel excavators. Typically mined locally from Dolomite geological strata, Standard Classification Code categories include: SCC 3-05-025, SIC 1442, NAICS 21232.1.
Extraction:	The process whereby materials are removed from the sub surface of the earth to be sold or used elsewhere.
Extractive Operation/Mine:	The surface or subsurface removal only of sand, gravel, rock, or other nonmetallic minerals, and peat from the site for use as a product elsewhere not regulated under Minnesota Statutes, sections 93.44 to 93.51 through an excavation or quarrying process. Excavations for the purpose of impounding water for agricultural purposes are exempted.
Mineral resources:	Rock, gravel, sand and metallic and non-metallic substances of commercial value.
Processing:	The sorting, washing, crushing and/or screening of extracted material to construction grade sand, gravel or stone product.
Reclamation:	To renew land to a self-sustaining, long term use that is compatible with pre-mining situations and/or the City's Comprehensive Land Use Plan.
Soil Erosion & Sediment Control Plan:	A document that illustrates, how the site will be designed to prevent or minimize soil erosion on a parcel of land and off-site sediment damages.
Small / Limited Mines	Construction Sand and Gravel mines that are limited to an active mineable area of less than 10 acres in size with only one mine per contiguous property, where no on-site processing or blasting can be used, and the mine must be reclaimed within three years from the date of approval.

Section 344.03 Administration/Application Process

Subd. A. New **small / limited** mines are allowed to locate in any place of the City where Zoning (Section 305 of Wabasha City Code) allows them as an interim use **that are not within the Bluff Impact Zone**. A Permit shall be required for all mining/mineral extraction defined in this section of City Code as follows:

1. New operations shall apply for a permit prior to any commencement of excavation activities.

Subd. B. All applications shall include the submittal of a form as provided for by the City of Wabasha completed along with all required attachments as identified in this section and any fees established under Chapter VIII of City Code.

1. Permit Review

- a. Any application for a permit within a designated shoreland zone (as indicated in the City Zoning Ordinance) or floodplain shall require a submittal by the City of the application and Planning Commission/City Council meeting information to the DNR area hydrologist at least 10 days prior to the Planning Commission review.
 - b. Application materials shall be submitted to the City Planning Commission for review.
 - c. The Planning Commission shall hold a public hearing and review and consider the impact of the proposed operation and its conformance to this section of City Code along with anticipated impact to the future development of the City.
 - d. Notice of time and place of such hearing shall be published at least once not less than 10 days nor more than 30 day preceding said hearing in the newspaper of general circulation in the City.
 - e. A similar notice shall be mailed at least ten days before the day of the hearing to each property situated wholly or partly within ½ mile of the property line of the land under ownership (of the contiguous parcel) of the proposed mine site.
 - f. The Planning Commission may require additional review with additional materials to be submitted.
 - g. City Staff or the Planning Commission may request review and comment (to be forwarded to the City Council) from the Board of Water & Soil Resources, DNR, Department of Health, Pollution Control Agency, or similar state or county departments as deemed appropriate.
 - h. The Planning Commission shall provide a recommendation for issuance or denial of the permit with drafted findings of facts in support of their recommendation to the City Council.
 - i. **The City shall have the right to make an on-site inspection whenever necessary.**
2. The City Council shall consider the application materials and recommendation of the Planning Commission as well as any comments or recommendations from other agencies and shall determine the approval or denial of the permit. The City Council shall also require a performance bond or a bank letter of credit for one hundred and ten (110) percent of estimated reclamation expenses (as approved by the City) from the land owner to be submitted prior to or as a condition of the issuance of the mining permit. Total amount of assurance shall be based on the planned open mine cell in its entirety. The bond or letter of credit shall continue to be in effect until released by the city or completion of reclamation process occurs. City Council shall also require any additional assurances as indicated herein along with proof of liability insurance for \$2,000,000.

Section 344.04 Required Information for all permit applications

The following information shall be provided by the person requesting the permit in order for the City to consider the potential effects from the proposal on environmental, economic, and social effects of the proposed project onto the community and shall be completed by a licensed engineer, geologist, surveyor or landscape architect or other professional specialist (as appropriate):

1. Name and address of the property owner and name, address, phone number and e-mail contact of the company or person conducting the excavation/mining on the property.
2. The legal property description and acreage of the entire property under ownership and the area and volume of resource to be mined.
3. A deed or other proof of ownership of the property along with a lease or other agreement with the property owner if applicant and property owner are not the same.

4. The following maps/documents of the entire site and including all areas within 1/4 mile of the site. These shall be drawn to a legible scale.
 - a. Existing conditions to include:
 1. Contour lines at two (2) foot intervals.
 2. Existing vegetation.
 3. A DNR Natural Heritage Information System (NHIS) Data Request Form with NHIS response.
 4. Existing drainage & water retention areas.
 5. Location of all wetlands per the National Wetland Inventory or as determined by a wetland delineation.
 6. Location of all archaeological, historic and cultural resources (including any cemeteries or known burials) located on the proposed mine prepared by a professional in the field of historic resource management property including:
 1. Any such resources known by the property owner.
 2. Those listed on or determined eligible for listing on the National Register of Historic Places.
 3. Those indicated on the statewide inventories or other statewide lists as overseen by the State Historic Preservation Office.
 4. Those included on any local list of significant resources kept by the City of Wabasha under the guidance of the Heritage Preservation Commission.
 5. Existing structures (with photos and a keyed map of locations).
 6. Existing fuel stations or chemical storage tanks.
 - b. Proposed operations to include:
 1. Structures to be erected.
 2. Location of sites to be mined showing depth of proposed extraction in two (2) foot contours.
 3. **Provide boring logs including a water table as well as a** description of the proposed depth of the mine, the geological strata from which material will be removed, and the distance (vertically & horizontally) from any public or private drinking water source aquifers along with a plan for dewatering (if needed) and, of deemed necessary by the City Engineer a well interference response plan which must be approved prior to, and will be made a condition of approval of the permit.
 4. Location of storage of excavated materials, showing the height of storage deposits.
 5. Location of vehicle parking including surface treatment, number of spaces, and numbers of employees.
 - c. Reclamation Plan to include:
 1. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
 2. Location and list of non-invasive species of vegetation to be replanted.
 3. Location and nature of any structures to be erected in relation to the end use plan.
 - d. Proposed method to convey extracted material along with map showing the proposed route. If the mine operation meets the definition of major traffic generators (as defined in the City Zoning Ordinance, Section 305 of City Code), all standards and requirements for that IUP must be met and that process may occur concurrently to the review of the mine permit application

- e. Plans for dust control, noise control and a soil erosion and sediment control plan.
- f. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation and reclamation for each area.
- g. Identification of water needs including amount (overall and gallons per day), source of water, and plans for water recycling/reclamation along with permits for any existing or approved wells from Wabasha County and from the Minnesota Department of Natural Resources.
- h. Location and depth of any existing and proposed wells on the property and within one and ½ mile radius of the mine pit. All wells including those for monitoring, dewatering, industrial processes and drinking water shall be indicated.
- i. In any situation where the operation proposed will require a mandatory Environmental Assessment Worksheet or Environmental Impact Statement, pursuant to Minnesota state statute 116D.04 and 116D.045 and the administrative rules Chapter 4410, this process shall be initiated upon mining permit application to the City. A discretionary E.A.W. may be required per the standards and procedures set forth in state law after the mining permit is submitted. Review of the mining permit per Section III.B of these regulations may occur concurrently but the project may not proceed, no final approvals shall be made by the City, and a permit shall not be issued until the environmental review process is complete as indicated by one of the following
 - 1. A petition for an EAW is dismissed.
 - 2. A negative declaration on the need for an EIS is made (by the RGU).
 - 3. An EIS is determined adequate; or
 - 4. A variance is granted by the Environmental Quality Board.
 - 5. Current or proposed pollution prevention measures & emergency/spill response plan including:
 - 6. Spill prevention and fueling plan.
 - 7. Employee training and housekeeping practices.
 - 8. Storage locations and methods of containment for any chemicals or fuels.
 - 9. Existing and planned erosion and sediment control structures and methods.
 - 10. Any other information requested by the Planning Commission or City Council.
 - 11. The City may utilize professional outside consultants to assist in review of submitted materials and the cost of such review shall be borne by the permit applicant.
 - 12. Proof of liability insurance for \$2,000,000.

Section 344.05 Standard Practices for all mines

Subd. A. Water Resources:

- 1. Pollution Prevention measure shall be employed at the mine operation including the following:
 - a. Confinement of equipment /vehicle maintenance activities indoors to the greatest extent feasible.
 - b. Confinement of outdoor fueling activities to designated areas to the greatest extent possible that are covered, away from high traffic areas, outside of drainage pathways, and on impervious surfaces.

2. Surface Water

- a. The extraction pit/mine operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operations property.
- b. The work done shall not adversely affect the quality of surface or subsurface water resources in a negative manner. Surface water originating outside and passing through the mining site shall, at its point of departure from the site, be of equal or better quality than the water at the point where it enters the site.
- c. The mining operation shall utilize best management practices specific to pollution prevention so that storm water runoff does not come into contact with any activities or materials of concern such as petroleum products, fueling areas etc.

3. Groundwater protection

- a. Mining activity shall not be allowed if it reduces the use in terms of quality or quantity of any neighboring domestic well.
- b. Prior to the establishment of new mines or the modification of an existing mine (per Section III.A.2 of this ordinance) the mine operator shall offer property owners with a domestic well within $\frac{1}{2}$ mile of the mining site an inspection of their well and associated equipment and structures; evaluation of hydrologic conditions and sampling of the well water for quality analysis to determine baseline data. The neighboring property owner shall be given 30 days to respond to the offer and to allow on-site work after receiving the offer. The mine operator shall further offer these neighboring private well owners annual sampling and water quality analysis. This work shall be performed by an independent, credentialed, third party at the expense of the operator. Samples shall be analyzed by a certified laboratory. Analysis shall include all chemicals and fuels used at the mine site that may impact groundwater. In the event that monitoring shows that mining or reclamation activities have caused state or federal groundwater quality standards to be exceeded, this information shall be provided to the MPCA and the operator shall seek to mitigate these effects by altering site operations and shall supply the well owner with bottled water for drinking until testing indicates levels are to pre-mining amounts. The reduction of quality of neighboring domestic wells shall be one reason for revocation of the mining permit. The City may require the permit holder to take corrective action in the event it is shown that the contamination was caused by the operation.
- c. The import, storage or disposal of any solid waste, recyclable materials, or refuse generated outside the mine site is not allowed.

Subd. B. Safety Fencing: Any operation adjacent to a residential zone, within three hundred (300) feet of two or more residential structures, or within 30 feet of a public right of way shall be bound by the following standards:

1. Where collections of water occur that are one and one-half ($1\frac{1}{2}$) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence of at least four (4) feet in height.
2. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similar effective barrier such as a snow fence at least four (4) feet in height. Earthen berms also may be constructed to prevent access to the steeper slopes.

Subd. C. Driveway/Access For Site:

1. Driveway/access to the mine site and/or ancillary uses shall not be located within twenty-five (25) feet of adjacent property boundaries.

2. Driveway/access shall also receive applicable roadway agency approval with copies of such approvals provided to the City.
- Subd. D. Setback: Mining operations shall not be conducted closer than fifty (50) feet to the boundary of any zone where such operations are not permitted, or closer than fifty (50) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured in writing. Mining operations shall not be conducted closer than fifty (50) feet to the right-of-way line of an existing or platted street, road or highway, except that excavating may be conducted closer to the right of way line in order to match the contour of the existing or platted street, road or highway. The City may impose greater setbacks as a condition of the mining permit when there is a finding that this is required to protect adjoining property from negative impact and in order to protect health, safety, or welfare of the general public. Additional setback requirements for bluff areas are contained in the Performance Standards of the City Zoning Code.
- Subd. E. Screening Requirements: The use of vegetation, fencing, and/or berms may be required.
- Subd. F. Hours of operation shall be based on (including but not limited to):
1. Distance and geographical situation between the mine and the closest residences
 2. Proposed traffic being generated from the mining operation
 3. Type and location of activity proposed at the mine which will create noise or other nuisances or public health, safety, or welfare concerns
- Subd. G. Lighting: All lighting at the mine site shall be required to meet any adopted city lighting standards. More intense lighting will be considered if needed to meet OSHA² and/or MSHA³ safety standards if there is a finding by the City that it will have no greater impact on neighboring properties.
- Subd. H. Interior roads, driveways and parking areas shall be arranged on site to have the least amount of impact on neighboring properties in particularly those with residences. Conditions for screening, lighting and hours of operation may be imposed based on the proposed locations of such facilities and any other on site that may produce noise, light, or air pollution.
- Subd. I. Topsoil Management:
1. 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.
- Subd. J. 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.
1. 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.
- Subd. K. Inspections: With the issuance of a mining permit, the City reserves the right to inspect the mine site for compliance with this and other sections of City code and any conditions issued as part of the permit. At City staff discretion County, State, or Federal

² Occupational Safety and Health Administration

³ Mining Health and Safety Administration

authorities may be contacted to assist the City in determining compliance to any local, state, or federal regulations.

Subd. L. Dust Control: Roadway and site dust control shall be required and may be accomplished via methods approved by the City which may include but are not limited to berming, landscaping, watering, dust extraction equipment, wheel washing, paving etc. Operators shall be responsible for providing continuous dust control during facility operation and during hauling activity on gravel roads used to access the facility.

Subd. M. Site clearing

1. All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation.
2. Burning of stumps or any other material at the mine site is prohibited. Woody material shall be ground or chipped and used in reclamation activities if possible.
3. Removal of vegetative cover and the amount of exposed earth must be kept to a minimum and be consistent with good construction practices.

Subd. N. Road Maintenance Agreement: All new or expanded mining operators will be required to enter into road maintenance agreements with the governing road authority('s) if agreed to by the specific authority. The Road Maintenance Agreement will provide for:

1. A roundtrip hauling route for the shipping of nonmetallic minerals from the excavation or mining site to a targeted delivery location, including the estimated number of tons to be hauled per truck and estimated number of tons hauled per month.

Subd. O. Reclamation Plan Costs - This estimate shall include closure and postclosure maintenance activities required if operations cease.

Section 344.06 Reclamation Standards

All sites shall be reclaimed after operations cease. The City may require the assistance in design and or review of reclamation plans of a credentialed consultant at the expense of the mine operator. The following standards shall apply along with any additional or more stringent standards adopted under subsequent state law:

- A. Reclamation for each **small / limited mine** shall be completed within one (1) calendar year after operation ceases.
- B. Topsoil Redistribution for Reclamation: All uncontaminated soil from the site shall be retained on-site for reclamation purposes. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter 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.
- C. End Land Use Use of reclaimed land shall be appropriate to interim and final reclamation plan for the site and to the City's adopted land use policies and maps. The reclamation plan shall address final drainage and storm water plans, final topography indicating appropriate spaces for buildings, roads or other necessary infrastructure per intended proposed use and anticipated soil fertility for any proposed farming operations. Development of final uses may occur on the site as reclamation phasing occurs but shall be identified and addressed in reclamation plan phasing.
- D. Final Grading & Slopes:
 1. All areas directly affected by mining shall be addressed in the approved reclamation plan to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate high walls or other unmined and undisturbed natural solid bedrock as stable and safe and

- not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this Subsection, the City may require that a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.
2. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 4:1 horizontal to vertical incline, unless recommended by 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.
- E. Vegetation requirements. The plan for re-vegetation should include a mix of grass basal cover, native vegetation cover, and rock cover, similar in type, diversity, and percentage mix and location to pre-mining situation. Use of fast-growing vegetation to stabilize slopes is appropriate. Use of Invasive species shall not be allowed in re-vegetation and the plan shall address the how invasive species will be managed during the operation of the mine.
- F. Water requirements. The reclamation plan shall identify final surface and groundwater conditions and no reclamation shall be conducted in a manner which will cause a permanent lowering of the water table or result in adverse effects on surface waters or reduce the quality of groundwater reasonably available for future users of groundwater.
- G. Assessing Completion of Successful Reclamation:
1. The criteria for assessing when reclamation is complete shall be specified in the reclamation plan approved pursuant to this Chapter. Criteria to evaluate reclamation success shall be quantifiable.
 2. Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
 - a. On-site inspections by the City or its agent; and/or the MN DNR.
 - b. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that the reclamation plan criteria have been met.
- H. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-existing condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
- I. Re-vegetation success may be determined by:
1. Comparison to an appropriate reference area;
 2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 3. Comparison to an approved alternate technical standard.
- J. Maintenance: During the period of the site reclamation the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this Subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this Chapter.

Section 344.07 Transfer of Permits

The City will transfer existing mining permits to new operators upon request under the following circumstances:

- A. The new operator provides in writing that they will follow all plans and conditions of the previously approved permit.
- B. The new operator provides financial sureties to replace those of the past operator. The existing financial assurance shall remain in effect until the new operator's financial assurance is approved.

Section 345.08 Permit Revocation

Corrective actions, fines, and/or temporary or permanent revocation of mining permit may be implemented by the City if the mining operation is non-compliant with the terms of the permit.

Section 345.09 Violations and Penalties

Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor, subject to a fine of not more than \$1,000 or imprisonment for not more than ninety (90) days, or both. Each day a violation exists or continues shall constitute a separate offense. The City reserves the right to seek injunctive relief in addition to the criminal penalties set forth herein.