



## **NOTICE OF PUBLIC HEARING**

The Waite Park Planning Commission will hold a public hearing at City Hall, 19 13<sup>th</sup> Ave N at 6:30 pm or soon thereafter on Monday, February 14th, 2023 to hear the following request:

\*\* Request of City of Waite Park to amend multiple sections of City Ordinance Section 52.45, "Mining and Extractive Uses".

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Planning and Community Development Director

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CHAPTER V ZONING, LAND USE AND BUILDING REGULATIONS

**THIS IS A DRAFT OF ORDINANCE AMENDMENTS TO BE PROPOSED AT THE  
FEBRUARY 21, 2023 WAITE PARK CITY COUNCIL MEETING.**

New language is noted in *italic underline*.

Removed language is noted in ~~strikethrough~~.

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SECTION 52.45. MINING AND EXTRACTIVE USES

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**Section 52.45. Mining and Extractive Uses.**

**Subd. 1. Purpose.** The purpose of this Section is to control mining operations so as to minimize conflicts with adjacent land uses and to ensure that the mining area is reclaimed with a use compatible with the City's Comprehensive Plan and completely restored at the completion of the mining/extraction operation.

**Subd. 2. Scope.**

- A. The operations covered by this Section shall be the mining, crushing, washing, refining or processing of sand, gravel, rock, black dirt, peat and soil and the removal thereof from the site.
- B. For the purposes of this Ordinance, mining shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved grading plans, development plans, plats, utility or highway construction, agricultural improvements within the property and sod removal with resulting materials distributed on the immediate property.

**Subd. 3. Permits/Financial Guarantee Required.**

- A. An interim use permit shall be required for all mining operations which are established after February 21, 2006. Any existing operations established by Conditional Use Permit prior to February 21, 2006 shall remain a conditional use as long as the operation does not discontinue commercial mining activity for a period of one year or more. All mining operations which discontinue commercial mining activity for a period of one (1) year or more shall obtain an interim use permit prior to the resumption of mining activities.

*Subd. 3. A. Amended 7/15/13*

- B. *No more than six (6) Interim Use Permits for uses described in Subd. 2(A) above shall be approved and/or active at any time within City limits. Such permits shall not encompass more than 500 total acres of impacted land.*

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- C. In the event of multiple applications for Interim Use Permits for uses as described in Subd. 2(A) are made, the total number of which would exceed the maximum number of six (6) approvals per Subd. 3(B) above, priority will be granted to first application received in full (with accompanying application materials as established by this ordinance) with associated application fee, as determined by City staff.
- D. The City is the sole determinant of how many Interim Use Permits have been granted.
- E. Once six (6) approvals for any Interim Use Permits as described in Subd. 2(A) above have been granted, no new applications for such uses may be made until after the expiration date and completion of reclamation plan to City satisfaction of one or more previously-approved Interim Use Permits.
- F. A renewal of an existing Interim Use Permit for uses described in Subd. 2(A) above is not considered as a new application for purposes of Subd. 3(B) and does not constitute an increase of approvals to be counted toward maximum six (6) active Interim Use Permits per Subd. 3(B) above.
- G. Initial Interim Use Permit applications are limited to maximum ten (10) year approval term. Approved term may be less than ten (10) years at City's discretion.
- H. Interim Use Permits approved after February 21, 2023 are limited to a total project term of no more than twenty (20) years, including initial term and any renewals.
- I. All reclamation plans shall demonstrate increased opportunities for long-term growth and development of the property. Preference for Interim Use Permits and renewals will be granted to proposals that demonstrate greater opportunities for long-term growth and higher-quality development upon the property upon completion of reclamation activities.
- ~~B.~~J. The City ~~may~~ shall require a performance bond or other form of financial guarantee from the landowner and/or applicant to ensure the conditions of this Section and the interim use permit are met.

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~~C.~~K. Renewal of Interim Use Permits. All property owners and residents within six hundred (600) feet of the mining operation shall be notified of a proposed mining interim use permit renewal request. Applications for renewal of Interim Use Permits will include the following as part of their consideration, in addition to application requirements outlined by Subd. 4 of this ordinance:

1. Proximity of any development that has occurred since initial approval date to any proposed expanded quarried/mined areas which may be incompatible with continued quarrying/mining.
2. Any impacts to operations that would present an overall increase in impacts to neighboring properties, including additional equipment or increased/expanded blasting schedule or increase in crushing days/hours.
3. New or modified public right-of-way established since time of initial approval that is or may be impacted via renewal.
4. History of any unresolved complaints or concerns with initially-approved project.

L. For proposed projects that are located within five-hundred (500) feet of any state, county, or municipally-owned property, a pre-submittal meeting shall be held between the applicant and/or property owner, the City, and the entity which owns, operates, or manages such property (if not the City). Such meeting shall be held at least 30 days prior to an anticipated formal application submittal.

~~D.~~M. Certificate of Permit Compliance Required. As a condition of any mining interim use permit, the City may require the property owner and/or applicant annually submit graphic and/or narrative information on the mining operation demonstrating compliance with the approved interim use permit, progress on restoration plans and related conditions. The City shall then review the compliance information and conduct a field inspection to certify that the mining operation is in compliance with the approved interim use permit and that the financial guarantee or bonding is adequate to complete the restoration. The certification shall be completed before mining begins. Failure to submit the annual compliance information or violations of the interim use permit shall be grounds for revocation of the interim use permit.

**Subd. 4. Application Requirements.** The following information shall be provided by the applicant.

- A. Name and address of all applicants/land owners-and written permission from subject property owners to pursue the request.

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- B. Legal description(s) of subject property.
  - C. Total acreage of area to be mined, including future expansion areas.
  - D. Total estimated material to be removed, including within potential future expansion areas.
  - E. A vicinity map of the proposed site in relation to all areas within 350 feet of the proposed site including existing land uses, roadways, wetlands, tree stands and vegetation.
- E.F. ~~Five~~One full-size (2' X 3') map(s) drawn at a scale of one (1) inch to one-hundred (100) feet including and ~~one 8½ X 11" copies of the map(s):~~ PDF copies of all submittals, including the following:
- 1. Existing Conditions.
    - a. Contour map at two (2) foot intervals.
    - b. Existing vegetation.
    - c. Observed or estimated groundwater elevation in reference to a permanent benchmark established in an area within the proposed site, but not disturbed by the mining operation.
    - d. Wetlands and existing surface water drainage patterns.
    - e. Existing structures.
  - 2. Proposed Operations Plan.
    - a. Structures to be erected.

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- b. Location of sites to be mined showing depth of proposed excavation.
  - c. Type and location of machinery to be used in the mining operation.
  - d. Location of storage of mined materials, showing maximum height of storage deposits.
  - e. Location of vehicle parking, access roads, local streets and truck routes.
  - f. Location and storage of explosives.
  - g. Proposed methods for stabilizing slopes from erosion following seasonal operations.
  - h. Staging of mining activity.
3. End Use Plan.
- a. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
  - b. Location and species of vegetation to be replanted.
- F. A Resource Management Plan including, but not limited to, measures for surface water runoff, erosion control and preservation of woodland and water resources, including groundwater.
- G. For any projects proposing impacts to groundwater, groundwater impact study completed by a certified hydrologist or hydrogeologist that denotes potential impacts of proposed operations to groundwater supplies to surrounding properties.
- ~~G.H.~~ A cross-section sketch of proposed mining operations.
- ~~H.I.~~ A proposed land use and development plan to be implemented following the conclusion of the mining operation.
- ~~I.J.~~ A plan for dust and noise control.
- ~~J.K.~~ A complete description of all phases of the proposed operation to include: duration of the mining operation, type and amount of sand/gravel/other products that will be removed, operational hours/days/months, site dewatering activities/volume, staging plan with approximate acreage included in each stage and mining and reclamation time schedule.

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- L. *Information regarding proposed compliance with MN Statutes regarding requirements for Environmental Assessment Worksheet (EAW) and Environmental Impact Statement (EIS).*
  
- ~~K.~~ M. A description of how materials will be transported from the site including the route, method of carrying, number of carriers involved and ultimate destination.



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- L.N. A security statement by the applicant which demonstrates proposed activities will not jeopardize the public health, safety and welfare and/or the activity is appropriately fenced to provide adequate protection.
- O. *Proof of bodily injury, property damage, and public liability insurance and blasting insurance when appropriate, in the amount of \$1,000,000 for any occurrence.*
- M.P. Written, signed and notarized agreement allowing the City and/or its assigns to enter the land at any time for the purpose of (1) determining compliance with all applicable conditions imposed on the operation, (2) carrying out activities covered by performance bond/other financial guarantees in the event the property owner/applicant does not comply with standards herein providing the City has sent a written warning to the property owner/applicant at the address included in the permit application or (3) providing emergency assistance.
- N.O. Additional information as requested by the City.
- R. *Failure to submit all information above results in application being deemed incomplete and not being accepted for processing or consideration by City.*

### **Subd. 5. Setbacks.**

- A. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line or five hundred (500) feet from a residential or commercial structure on adjacent properties.
- B. Mining operations shall not be conducted closer than two hundred (200) feet from any residence or residential zoning classification boundary existing on the approval date of the mining interim use permit.
- C. Mining operations shall not be conducted within thirty (30) feet of any property line or within thirty (30) feet of the right-of-way line of any existing or platted street.

### **Subd. 6. Performance Standards.** The following standards apply to all mining operations.

- A. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to minimize seeding on adjacent property.
- B. Equipment used for mining and extraction operations shall be constructed, maintained and operated in accordance with applicable local, state and federal regulations.
- C. Mining and extraction shall be conducted in a manner to minimize the production

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of noise, dust, odor, glare and vibration adversely affecting adjacent property.

- D. The mining operation shall be conducted and ended in a manner which minimizes interference with the surface water drainage of adjacent properties.

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- E. Safety fencing may be required around all or portions of the mining operation at the City's discretion.
- F. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient visual clearance as to ensure turns onto public rights-of-way can be completed safely as determined by the City Engineer. Signage may be required.
- G. All roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or otherwise maintained to control dust.
- H. The intersection of mining access roads and public rights-of-way shall at all times remain free of mining/extractive debris, sand, dirt, gravel, etc.
- I. A screening barrier sufficient to substantially shield mining operations from the view of adjacent properties, year-round, shall be required between mining operations and adjacent properties. Barriers shall be minimum of 15 feet above grade; applicant bears responsibility for submittal of survey or other documentation to establish base grade elevation. The City may also require screening between the mining site and public rights-of-way located within 500 feet of the mining or processing operation. Proposed screening treatments shall be approved by the City-and may be reduced or eliminated on portions of property with limited or no impact to adjacent properties with approval of adjacent property owner(s) and the City.
- J. All buildings, structures and equipment used for the production or processing of sand and gravel shall be properly maintained.
- K. ~~Hours of operation shall be approved by the City and set forth in the interim use permit.~~ No activity may occur between the hours of 6:30 PM and 6:30 AM. Hours and days of operation be further restricted via conditions of approval on individual project basis.
- L. Applicants shall obey all state, county, and municipal road limits in hauling to and from the site.
- ~~L.M.~~ Water pumps needed for mining operations shall require a permit from the Department of Natural Resources, Division of Waters, if necessary.
- N. The maximum noise level at the perimeter of the site shall be within the limits set by the state pollution control agency and the United States Environmental Protection Agency. An annual noise study be required at City's discretion to verify operating noise levels are within acceptable standards as set forth by the State of Minnesota Pollution Control Agency and the United States Pollution Control Agency. Such study shall be performed by consultant of the City's choosing and at City's initial expense, with all costs to be reimbursed to the City by the project.

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owner/operator. Failure to reimburse per City's terms shall be considered a violation of Interim Use Permit.

O. An annual report shall be provided for each approved project which details total tonnage of materials removed, number of blasts (if any), specific areas of work and reclamation (if any), details of any amount and kinds of fill material utilized as part of any reclamation activities, anticipated remaining material reserves to be mined/quarried, and general updates of operations and planned activities for the next year which demonstrate compliance with terms of Interim Use Permit approval.

P. Failure to meet performance standards as outlined above or failure to adhere to terms of approval of Interim Use Permit may result in revocation of Interim Use Permit.

### **Subd. 7. Land Reclamation.**

A. All mining sites shall be reclaimed immediately after mining operations cease. Reclamation shall be completed within one (1) year. The City may require a performance bond or other financial guarantee be maintained to assure the reclamation is completed as planned and within requirements. The City may draw down said financial guarantee to implement reclamation plans in the event the applicant fails to comply with approved standards.

B. Performance bond shall be based upon an assessment of the project and proposed impacted areas by the City Engineer or designee, based upon an amount per acre sufficient to achieve reclamation per plans and per this ordinance. Such bond shall be written with an insurance company having a minimum Best's Key Rating Guide of A-VII, or as approved by the City's insurance agent and/or Finance Director.

~~B.C.~~ Within a period of three (3) months after the final termination of a mining operation, or within three (3) months after abandonment of a mining operation for a period of six (6) months, or within three (3) months after the expiration of a mining interim use permit: all buildings, structures, machinery and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating said buildings, structures, machinery and plants. A maximum one-year, non-renewable extension may be

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granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. The City may require a performance bond or other financial guarantee that said dismantling/removal is accomplished-which may be drawn upon if work is not performed per approved plans or agreements.

- ~~C.~~D. All peaks and depressions within the subject property shall be graded and back-filled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding the subject property and which will minimize erosion due to rainfall. Finished grades shall not exceed a twenty (20) percent grade. Reclamation shall be performed, and fill materials utilized in such a way as to prepare property for use in accordance with applicable Comprehensive Plan designation for the property.
- ~~D.~~E. The permittee shall be responsible for providing the City with materials drafted by a licensed engineer depicting depressions not suitable for grading/filling which are proposed to be utilized for surface and/or ground water collection/retention. Said materials shall include detailed information on the affect the proposed collection, re-filling and/or retention of surface/ground water on adjacent properties, the general public and the functioning of the municipal water, sanitary sewer and storm sewer systems. The permittee shall be responsible for any/all remediation costs associated with the proposed refilling of depressions.
- ~~E.~~F. Reclamation shall begin after the mining of twenty-five (25) percent of the total area to be mined or twenty (20) acres whichever is less. Once these areas have been depleted of the mine deposits they shall be sloped and seeded in compliance with the end use plan.
- ~~F.~~G. Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately adjacent to the subject property at a continuous depth of at least six (6) inches. The exposed topsoil shall be immediately and at all times seeded, sodded or planted to minimize erosion.
- H. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site and shall be consistent with the end use plan.

Updated 7/15/13 Amended 02/21/23