

ORDINANCE 156

STILLWATER TOWNSHIP WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE REGULATING MINING

THE BOARD OF SUPERVISORS OF THE TOWN OF STILLWATER ORDAINS:

SECTION 1. *Adoption of County Mining Ordinance*

Ordinance 140 (Chapter 7) of the Washington County Development Code, Mining Regulations, as adopted by the Washington County Board of Commissioners on August 11, 1999, is hereby adopted in its entirety, including amendments thereto, with the following additional provisions as required by Stillwater Township. In the event of conflicting provisions in the text of County Ordinance 140 or the Township's Mining Ordinance, the more restrictive shall apply.

SECTION 2. *Scope*

This ordinance is intended to impose restrictions on the removal and processing of sand, gravel, and rock within designed gravel pits in the Township. It is the intent of the Town Board that the standards imposed by this Article apply equally to all entities, public and private.

SECTION 3. *Asphalt and Concrete Plants Prohibited*

Mining operations may include the excavation, removal, storage or processing of sand, gravel, rock, soil, clay, and other deposits, and recycling of asphalt and concrete. Gravel mining operations shall not include operation of asphalt plants or concrete plants, or recycling of yard waste materials.

SECTION 4. *Town Mining Permits Required*

An Interim Use Permit (IUP) and an Annual Operators Permit (AOP) issued by the Township are required for all mining operations, subject to the following:

- (1) The operation of a mining operation without a valid Interim Use Permit (IUP) and an Annual Operators Permit (AOP) is declared to be a violation of this Chapter and is declared to be a nuisance. It shall be unlawful for any person, partnership, company or corporation to engage in mining in violation of this section, or for any property owner to permit a person to mine their property in violation of this section.
- (2) No permit shall be required by the owner of land to take gravel or sand for the use only on the premises or to take products which are to be used on said premises.

SECTION 5. Application Requirements—Interim Use Permit

The application for an Interim Use Permit for a mining operation must be filed at the Township concurrently with the Conditional Use Permit application for mining operations filed with the Washington County Zoning Administrator, and as required by County Ordinance 140. The Application for a new IUP by an existing mining operation must be made 90 days prior to the termination of the previous CUP or IUP. The application must be made in the name(s) of the operator of the mine and owner of the land to be mined, and must be signed and dated.

- (1) The items submitted with the application shall be the same as those submitted for the Washington County Conditional Use Permit for mining, as identified in County Ordinance 140 and its amendments.
- (2) The applicant shall also submit an application fee and escrow as established by the Town Board.
- (3) The hearing notice for the Interim Use Permit shall be mailed to all landowners within one mile of the property proposed for mining, and to the addresses of land owners abutting the proposed haul roads.

SECTION 6. Application Requirements—Annual Operating Permit

The application for an Annual Operating Permit (AOP) for a mining operation must be filed with the Township. The application must be made in the name(s) of the operator of the mine and must be filed by January 31st of each year. The application shall contain the following:

- (1) The operator shall submit an Annual Report that summarizes the annual activity during the calendar year proceeding the January 31st date when the application is due, including the following: the amount of material removed from the site; the amount of add-rock or other materials brought onto the site; size and location of the area reclaimed and type of reclamation; average and peak numbers of trips hauling material to and from the site per day when hauling occurred during the previous year; the number of days that the mine was in operation; and a description of any changes made to the site.
- (2) The AOP application shall identify the proposed operations for the year for which the permit is requested, including: how the operating conditions for the coming year may vary from the previous year, if any variation is expected; including estimated amount of material to be removed from and brought to the site; the estimated average and peak number of hauling trips to and from the mine per day when hauling is expected to occur; and the approximate number of days that the mine is expected to operate.
- (3) The AOP application shall include a site plan and aerial photos that show the active mining area and the location of existing and planned stockpiles for the

coming year. The AOP application shall describe reclamation planned to occur and describe the operating conditions planned for coming year.

- (4) The operator shall provide proof that the operation meets the requirements for insurance and bonding required by County Ordinance 140 and its amendments.
- (5) The applicant shall also submit an application fee and escrow as established by the Town Board with the AOP Application. The fee and escrow shall cover the costs of staff for permit review, including site inspections.
- (6) If the Operator identifies that operations such as hauling may increase above those approved in the AOP, he/she shall notify the Township Clerk by letter and phone call. The Town Board shall consider and respond to the request for a change by the next scheduled Board meeting.
- (7) The Township shall inspect the site annually during normal operating times prior to the submittal of the permit application for the next mining year. The inspection shall determine if the operation during the previous year complied with the Interim Use Permit and Annual Operating Permit. The Town shall provide reasonable notice to the operator of the time of the annual inspection, and the operator may participate in the inspection.
- (8) If the operator's application conforms to the requirements of this ordinance, and the inspection report indicates compliance with the terms of the IUP and AOP, the Annual Operating Permit may be issued.
- (9) A notice of the Town Board review of the Annual Operating Permit shall be mailed to all landowners within one mile of the property proposed for mining, and to the addresses of land owners abutting the proposed haul roads and sent to the local newspaper at least 20 days prior to the Board meeting when the review will occur.

SECTION 7. Setbacks

No mining, stockpiling, or land disturbance shall take place within:

- (1) 100 feet of adjoining property lines;
- (2) 200 feet of any existing occupied structures not owned by the operator or owner;
- (3) 100 feet of any road right-of-way of any existing or platted street, except the amount of material stockpiled on the effective date of this Chapter may continue but not be expanded. Mining may be allowed within up to 50 feet of the road right-of-way so long as the property is restored to 100 feet within one mining season as set forth in the approved reclamation plan.

SECTION 8. Hours of Operation

Operations shall be limited to 7:00 a.m. to 7 p.m., Monday through Friday. No operations shall be allowed on Saturday, Sunday or legal holidays, unless approved by the Township. Operation shall be defined to include mineral extraction, crushing, processing, driving trucks or equipment into or out of a gravel pit, loading, road work, or engine start-up of any kind, except as needed for equipment or vehicle repairs. The following exceptions may be permitted, with approval by the Township:

- (1) In cases of public emergencies, such as road washouts, flooding, and similar emergency conditions, the hours of operation may be extended. The operator shall inform the Town Clerk by telephone call or email about the need for emergency operations before operations begin, or by 10 a.m. of the following day. The operator shall provide a specific description of the need for emergency operations, and expected or actual duration of the activity.
- (2) In cases of time constraints on completion of road construction before the end of the construction season caused by adverse weather conditions, and in cases of major road or highway construction projects which cause substantial inconvenience to the traveling public, hours of operation may be extended with the consent of the Town Board Chair and Vice Chair. Applications for extended hours shall be made at least two (2) days prior to the day or days on which extended hours are requested, and shall be sent to the Town Clerk and Town Board Chair. The operator shall furnish such information or documentation as may reasonably be requested to support the application. If extended hours are permitted, operations shall be strictly limited to those hours for which permission is granted.

SECTION 9. Hauling Operations

The Town Board may specify the following in the Interim Use Permit and/or Annual Operating Permit for the mine operation:

- (1) Permitted haul routes, and proportion or number of haul trips on each route;
- (2) The maximum number of truck trips hauling materials to and from the mine on a daily, weekly or annual basis.

SECTION 10. Inspections

The Township may inspect the mine operations as follows:

- (1) The Town Board or designated staff shall complete an annual inspection of each permitted mine operation. The Town shall provide reasonable notice to

the operator at the time of the annual inspection, and the operator may participate in the inspection.

- (2) Whenever necessary to enforce any of the provisions of this Ordinance, or whenever there is reasonable cause to believe that a violation of this Ordinance has occurred or is about to occur, an authorized agent of the Township may enter the premises at all reasonable times to inspect the same. The authorized agent shall first make a reasonable effort to locate the owner or other persons having charge or control of the mine site and request entry. If such entry is refused, the Township shall have recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

SECTION 11. Termination of Permit

- (1) Any Interim Use Permit or Annual Operators Permit granted pursuant to this Chapter may be revoked for a violation of any provisions of this Chapter or any conditions of the permit.
- (2) Revocation shall not occur earlier than ten (10) working days from the time written notice of revocation is served upon the permittee, or if a hearing is requested, until written notice of the Township action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred and a statement that if the permittee desires to appeal, the permittee must, within ten (10) working days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing, stating the grounds for appeal and served personally or by registered or certified mail on the Township Clerk by midnight of the tenth working day following service. Following the receipt of a request for hearing, the Township Clerk shall set a time and place for the hearing, and the hearing shall be conducted in accordance with the procedures set forth in the Ordinance.

SECTION 12. Repeal of Other Township Mining Ordinances

Any ordinance or provision of an ordinance heretofore existing pertaining to the subjects treated in this Ordinance shall be deemed repealed from and after the effective date of this Ordinance except as they are included and re-ordained in whole or in part in this Chapter; provided that this repeal shall not affect any right established prior to the effective date of this Chapter or the provisions of any valid permit issued prior to the effective date of this Chapter.

ADOPTED by the Board of Supervisors of Stillwater Township this 9th day of October 2014.

STILLWATER TOWNSHIP

BY: David Johnson
David Johnson, Its Chairperson

ATTEST:

Kathy Schmoeckel
Kathy Schmoeckel, Township Clerk