

CITY OF SCANDIA

ORDINANCE NO. 103

AN ORDINANCE ADOPTING A NEW CHAPTER 4 OF THE DEVELOPMENT CODE OF THE CITY OF SCANDIA AND PERTAINING TO THE REGULATION OF MINING AND RELATED ACTIVITIES

The City Council of the City of Scandia hereby ordains as follows:

Section 1. A new Chapter 4 entitled Mining and Related Activities Regulations is hereby adopted and added to the Development Code of the City of Scandia as hereinafter stated.

CITY OF SCANDIA DEVELOPMENT CODE

CHAPTER 4

MINING AND RELATED ACTIVITIES REGULATIONS

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MINING AND RELATED ACTIVITIES

Gravel and other mineral deposits are a valuable resource, available in generous quantities in the City of Scandia. This Chapter was developed to establish conditions whereby these mineral deposits, primarily gravel, will be made available for general use. This Chapter also provides guidelines protecting natural resources and adjacent areas from adverse impacts and for restoring the land to a usable, attractive condition after the mining operation is finished.

This mining regulation is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 394.

SECTION 1. INTENT AND PURPOSE

1.1 Purpose. This Chapter is adopted for the purposes of:

- (1.) Providing for the health, welfare, and safety of the community by regulating the removal of sand, rock, soil, and other natural deposits in the City of Scandia.
- (2) Providing for the economic availability, removal and processing of sand, gravel, rock, soil, and other materials vital to the economic well-being of the region.
- (3) Establishing regulations, safeguards and controls regarding noise, dust, odors, traffic, drainage, groundwater quality and other factors which will minimize the environmental and aesthetic impacts on mined or other property.
- (4) Establishing regulations, policies and processes to protect the quality and quantity of groundwater in Scandia and its environs.
- (5) Reducing the potential for pollution caused by wind, soil erosion and sedimentation.
- (6) Establishing locations, orderly approval processes and operating conditions under which mining operations will be allowed and establishing conditions which ensure the restoration of mined areas consistent with the existing and planned land use patterns.
- (7) Ensuring compliance with the regulations established in this ordinance on those mining operations presently operating in Scandia.
- (8) Meeting the goals and policies of the Scandia Comprehensive Plan.

SECTION 2. APPLICATION OF CHAPTER

2.1 Application.

- (1) This Chapter applies to land uses within the City of Scandia. Where this Chapter imposes a greater restriction upon the land than is imposed or required by other existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control.

SECTION 3. GENERAL PROVISIONS

3.1 A Conditional Use Permit (CUP) and an Annual Operators Permit (AOP) are required for all mining operations and are subject to the following:

- (1) The operation of a mining operation without a valid Conditional Use Permit (CUP) or an Annual Operators Permit (AOP) is declared to be a nuisance, and 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 mining of the property owner's property in violation of this section.
- (2) Existing operators holding a Conditional Use Permit from Washington County may operate under the terms and conditions of the Washington County CUP until its expiration date or until 90 days after this Chapter is adopted, whichever occurs later. If a complete permit application is not submitted within 90 days after this Chapter is adopted, all mining operations shall cease and the property restored in accordance with the provisions of the approved reclamation plan.
- (3) For new mining operations, the Applicant must apply for a Conditional Use Permit pursuant to Section 5 of this Chapter. In cases where a mandatory or discretionary EAW is required, or an EIS is required, those documents shall be prepared and accepted by the City before application for a CUP.
- (4) In order for the City to grant a Conditional Use Permit for a new mining operation or the expansion or change in use of an existing operation, all of the following criteria must be met:
 - (A) The property, which may consist of more than one parcel with more than one owner, is at least 40 contiguous acres in size.
 - (B) The standards for approval of a conditional use permit as contained in Chapter One, Section 7, of the Scandia Development Code are met;
 - (C) The operation is consistent with the Scandia Comprehensive Plan; and
 - (D) All provisions of this Chapter are met.

- (5) Asphalt operations or concrete ready-mix plants, either portable or permanent, and any new operations or existing operations that are substantially expanding or changing must have a Conditional Use Permit from the City of Scandia.
- (6) The standards which apply to these permits may be varied by the City according to the structure and size of the operation, and to factors presented by the mine operator and other interested parties.
- (7) Prior to the issuance of the Annual Operators Permit, an annual report and application shall be submitted to the City for determination if the operation complies with the requirements of this Chapter. The City will then make an inspection and deliver an inspection report to the operator. If the operator's application conforms to the requirements of this Chapter, and the inspection report indicates compliance with the terms of the CUP and AOP, the Annual Operators Permit may be issued.

SECTION 4. DEFINITIONS

4.1 For the purpose of these regulations, certain terms and words are hereby defined as follows: (other terms are defined in the Zoning and Subdivision Chapters)

- (1) Add: Rock. Rock or rock material imported to a gravel site to blend with quarried rock to obtain a desired rock product.
- (2) Asphalt Plant.: Machinery, either temporary or permanent, used for blending and making aggregate materials with oil based materials to create hot or cold asphalt products.
- (3) Berm. An earthen structure not less than 6 feet in height designed to provide screening of mining operations from public roads and neighboring properties.
- (4) Bond. Any form of security including a cash deposit, surety bond, collateral, or instrument of credit in an amount and form satisfactory to the City of Scandia. All bonds shall be approved by the City of Scandia wherever a bond is required by these regulations.
- (5) Concrete Ready-Mix Plant. Machinery used to mix materials (usually cement, sand, or aggregate) and water to create concrete for commercial sales.
- (6) Confined Aquifer. An aquifer that is overlain and underlain by relatively impermeable layers or beds of rock or unconsolidated material (clay/silt) and contains water under pressure.
- (7) Dewatering. The pumping, extraction or removal of subsurface water.

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- (8) Grading. The removal, depositing, or moving of more than 50 cubic yards of sand, gravel, rock, soil, clay or other deposits in less than a one (1) year period on any parcel.
- (9) Groundwater. Water contained below the ground surface in the saturated zone.
- (10) Holiday. New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- (11) Mining. The excavation, removal, storage or processing of sand, gravel, rock, soil, clay, or other deposits. Mining shall not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:
 - (A) Excavation for the foundation, cellar, or basement of some pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal or storage.
 - (B) On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities.
 - (C) Landscaping purposes on a lot used or to be used as a building site.
 - (D) Grading/excavation of less than one (1) acre of land in conjunction with improvement of a site for lot development, providing activities will be completed in one year.
- (12) Mining Season. The period, not to exceed one year, contained within any calendar year.
- (13) Operator. A person, partnership, company, corporation or other business entity engaged in or proposing to conduct a mining operation. In the event the operator is not the fee owner of the land to be mined, then the fee owner's consent shall be required for the Conditional Use Permit (CUP).
- (14) Organic Soil. Soil that sustains and facilitates healthy plant growth.
- (15) Overburden. Those materials which lie above the mineral deposit to be mined.
- (16) Processing. Any activity which may include the crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravels, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, concrete, asphalt, and other similar products.
- (17) Reclamation, Restoration, Rehabilitation. To renew land to a self-sustaining, long term use which is compatible with contiguous land uses and which process shall include the reestablishment of vegetation, soil stability and establishment of safe

conditions appropriate to the intended use of the land in accordance with the City's Comprehensive Plan and the Conditional Use Permit conditions allowing for excavation and/or processing on the site.

- (18) Stockpiling. Storage of processed or raw materials on the site of the sand, gravel or rock operation.
- (19) Topsoil. That portion of the overburden which lies within the "A" and "B" horizon of soil closest to the surface and which supports the growth of vegetation.
- (20) Unconfined Aquifer. An aquifer that is not naturally protected by an overlying confining bed or layer and the water level is at atmospheric pressure.

SECTION 5. APPLICATION FOR A CONDITIONAL USE PERMIT (CUP)

5.1 The application for a Conditional Use Permit for a mining operation must be filed with the City. The City shall follow procedures prescribed in Chapter One, Section 7, Conditional Uses, of the City Development Code. The application must be made in the name(s) of the operator of the mine and owner of the land to be mined.

5.2 The application shall contain the following:

- (1) The name and address of the operator and owner of the land.
- (2) An accurate legal description of the property where the mining shall occur.
- (3) Names and addresses of the adjacent landowners including all those within a one-half (1/2) mile of the perimeter of the property being or to be mined.
- (4) A narrative outlining the type of material to be excavated, mode of operation, estimate of amount of material to be removed, plans for blasting, estimated time to complete the removal, and other pertinent information to explain the request in detail.
- (5) All fees and escrow amounts as established by the City Council.
- (6) Survey indicating property boundaries.
- (7) A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation with operating setbacks described in Section 7, topographic data, including contours at 2 foot vertical intervals. Water courses, wetlands, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. U.S.G.S. datum shall be used for all topographic mapping. Interpolated contour data from U.S.G.S. Quadrangle maps is not permitted.

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- (8) A general location map and aerial photo showing the proposed mining site in relation to the community.
- (9) Maps and Plans showing the following for the site and within 300 feet of the perimeter of the mine:
 - (A) Roads or streets showing all access routes between the property and the nearest arterial road, identifying name, right-of-way width and traveled portion width.
 - (B) Easements Plan with widths and purpose.
 - (C) Natural land features showing locations of watercourses and drainageways, flood elevation, wetlands, sinks, basins, and wooded areas.
 - (D) Natural Resources including other surface water, groundwater depth, flora, fauna, and any other natural features in the rural environment.
 - (E) Man-made features such as buildings and other structures, dams, dikes, and impoundments of water.
 - (F) Adjacent land features with all of the requirements included above within 300 feet of the perimeter of the mine, and all platted subdivision lots, metes and bounds parcels, and homes within 1/4 mile of the property boundaries. Wells should include private/agriculture, industrial, municipal wells within a 1/2 mile radius of the mine.
 - (G) A minimum of 1 cross-section for every 1000 feet running north/south and east/west, showing the extent of overburden, extent of sand and gravel deposits, the groundwater level (even if they are below the base of the proposed mine floor), and any evidence of the groundwater level in the past. Additional cross sections may be required at the discretion of the City.
 - (H) All processing areas and boundaries shown to scale.
 - (I) All access roads within the site to processing and mining areas shown to scale.
 - (J) Sequences or phases of operation showing approximate areas involved shown to scale and serially numbered with a description of each.
 - (K) Location of screening berms shown to scale, and notes provided indicating when they will be used as reclamation material. In the same manner overburden storage areas must be identified and noted.
 - (L) Fences and gates-, and their type or construction described and illustrated.

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- (M) Proposed location of principal service or processing buildings or enclosures, as well as location of settling basins and process water ponds.
- (N) Existing site drainage features and flow directions indicated. A plan for handling surface drainage during operation and after final reclamation, consistent with local surface water management plans.
- (O) A plan for groundwater quality protection to include a minimum of 3 borings showing depth to groundwater. The City may require additional borings if necessary.
- (P) All mining operations must install one monitoring well. If the proposed mining operation will appropriate ground water for use in mining operations, the operator shall install not less than one monitoring well down-gradient of the mining operation. If the proposed mining operation will include mining into the water table, not less than two monitoring wells shall be installed one up-gradient and one down-gradient of the mine.
- (Q) If lighting is proposed, a plan for lighting of the area must be provided. The plan must comply with all City ordinances pertaining to lighting.
- (R) Reclamation plan in conformance with Section 8.
- (S) If blasting is proposed as part of the mining operation, the operator must indicate frequency, timing, size, duration and develop a blasting plan.
- (T) A description of any processing operations including, washing, crushing, recycling and bituminous plants and concrete ready mix plants.
- (U) Any other information, reports, or studies the City deems necessary for purposes of evaluating environmental or aesthetic impacts.

5.3 The applicant (application) must comply with all rules of the Minnesota Environmental Quality Board Environmental Review Program.

5.4 A mandatory Environmental Assessment Worksheet shall be required for development of a facility for the extraction or mining of sand, gravel, stone or other nonmetallic minerals which will excavate 40 or more acres of land to a mean depth of 10 feet or more during its existence. An Environmental Assessment Worksheet shall be required for any operation in which mining is proposed below the groundwater level. The City shall be the responsible governmental unit for the preparation of an Environmental Assessment Worksheet. (Chapter M.S. 4410.4300 Subpart 12.)

The City may require an Environmental Assessment Worksheet if available evidence indicates that the proposed operation may have the potential for significant environmental effects.

5.5 A mandatory Environmental Impact Statement shall be required for the development of a facility for the extraction or mining of sand, gravel, stone or other nonmetallic minerals, which will excavate 160 acres of land or more to a mean depth of 10 feet or more during its existence. The City shall be the responsible governmental unit for the preparation of an Environmental Impact Statement. (Chapter M.S. 4410.4400 Subpart 9.)

5.6 Protection of Groundwater. The maximum depth of excavation shall be established so that groundwater quality and quantity are protected. This depth of excavation shall be established by the City and will be based, in part, upon soil characteristics, depth to groundwater, nature of mining proposed, and local use of the aquifer. Mining shall not be allowed in confined aquifers. Excavation into unconfined aquifers must be closely monitored and conducted according to the conditions of the permit. Dewatering for the purposes of mining shall not be allowed. If it is determined in the course of mining that the mining operation has negatively impacted a well by lowering yields or water quality, the operator of the mine shall be responsible for providing a new well for the property.

No extraction operations shall be conducted in such a manner as to permanently lower the water table of surrounding properties or any other water body, wetland, or groundwater dependent natural resources.

5.7 Permits from the Minnesota Pollution Control Agency will be required for a mining operation in relation to air, noise, and water quality where applicable. An air quality permit may be necessary for smoke stack discharges from processing plants or fugitive dust from operating areas. If the mining operation discharges water from gravel washing, a State Disposal System permit or a National Pollution Discharge Elimination (NPDES) permit may be necessary from the Minnesota Pollution Control Agency. As a condition of any permit issued pursuant to this Chapter, no mining will be allowed until evidence is shown the operator has obtained these permits or none are necessary.

5.8 Permits from the Minnesota Department of Natural Resources may be required in the event any type of work is proposed that affects public waters. A permit may also be needed for a well in connection with a washing facility. As a condition of any permit issued pursuant to this Chapter, no mining will be allowed until evidence is shown the operator has obtained these permits or none are necessary.

5.9 A surface water protection plan to address on-going monitoring; accident response and remediation shall be required. Surface water protection plans must include subwatershed maps delineating all drainage areas that drain to or through the property as well as for the property itself.

5.10 Any mining operation having access from a State, County, or local highway or street must obtain an access permit from the respective agency or the City. Turn lanes and/or bypass lanes may be required by the respective agency or the City to reduce the risk of traffic safety hazards. The cost of construction of turn or bypass lanes shall be the sole expense of the operator.

5.11 Abandoned wells must be sealed in accordance with State and County requirements.

SECTION 6. APPLICATION FOR AN ANNUAL OPERATORS PERMIT (AOP)

- 6.1** The application for an Annual Operators Permit (AOP) for a mining operation must be filed with the City. 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.:-
- 6.2** The application shall contain the following:
- (1) The operator shall submit an Annual Report that summarizes the operating conditions regulated by Section 7. The Annual Report shall summarize the annual activity for the amount of material removed from the site, amount of add-rock brought onto the site, area reclaimed and type of reclamation, average number of trips hauling material to and from the site per day for the season, any changes made to the site, and other conditions specific to the Conditional Use Permit.
 - (2) The AOP Application shall identify how the operating conditions for the coming year will vary from the previous year, if any variation is expected. 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 to occur and describe the operating conditions planned for the coming year.
 - (3) The City shall inspect the site annually during normal operating times. The inspection shall determine if the operation complies with the Conditional Use Permit. If the operator's application conforms to the requirements of this Chapter, and the inspection report indicates compliance with the terms of the CUP and AOP, the Annual Operators Permit may be issued.

SECTION 7. OPERATING CONDITIONS

7.1 Operating Conditions. The following operating conditions and standards must be met for all mining operations.

- (1) Setbacks. No mining, stockpiling or land disturbance with the exception of screening, shall take place within:
 - (A) 50 feet of adjoining property lines;
 - (B) 200 feet of any existing occupied structures not owned by the operator or owner;
 - (C) 100 feet of any contiguous property subdivided into residential lots of five (5) acres or less,
 - (D) 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 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 plans, and;
 - (E) If two or more mining operations are contiguous to one another, the common boundary may be mined if the City approves the respective restoration plans.
- (2) Fencing. Where deemed necessary by the City for the protection of the general public, a fence shall be constructed prior to the commencement of the operation enclosing the area authorized by the permit to be mined. Where fencing is required by the City, said fence shall be, at a minimum, a three strand wire fence and the fence shall be posted with warning signs. The City may require alternative fencing standards if conditions warrant. The fence shall be maintained and shall remain until reclamation is determined to be complete.
- (3) Hours of Operation. Those portions of the mining operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless other hours or days of operation are specifically authorized by the City. Mining operations shall not take place on holidays. Blasting shall only take place between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Blasting is only permitted with a Certificate of Compliance and with three days notice to the City.

In cases of public emergencies, such as road washouts or blockages caused by flooding, adverse weather or other conditions, hours of operation may be extended with the consent of the Mayor, Acting Mayor, or in their absence, the City Administrator.

In cases of time constraints on completion of road construction before the end of

the construction season caused by adverse weather conditions and in the 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 Mayor or Acting Mayor, or in the absence of the Mayor or Acting Mayor, the City Administrator. Application for extended hours shall be made at least two (2) days prior to the day or days on which extended hours are requested. The applicant 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.

- (4) Screening. Where deemed necessary by the City, extracting and processing operations shall be screened or located in such a manner as to minimize the impacts on surrounding properties. To minimize noise, dust, odors, erosion and visual impacts on surrounding properties, a continuous screen shall be installed and maintained, either along the street or along the perimeter of the visible portion of the area being operated.

The following shall serve as the minimum performance standards for screening and may be varied as determined by the City:

- (A) The screen shall have a total height of not less than six feet and shall consist of one or more of the following types:
- (1) Walls. A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of four inches thick.
 - (2) Berms. A berm shall be constructed of earthen materials, and it shall be seeded and mulched as shown on the landscape plan. Plans for berms must be provided that avoid impacts, especially surface water, onto neighboring properties. If berms are constructed of topsoil, they must remain until final reclamation. Berms must have a minimum slope of 3:1 and have a silt fence at the base closest to the public road or neighboring property. The silt fence shall be maintained until vegetation is established, at which time it shall be removed. No haul roads, either temporary or permanent, material stockpiles or other mining-related activities shall occur on the berm.
 - (3) Fences, Solid. A solid fence shall be constructed of wood and shall form a continuous screen.
 - (4) Fences, Open. An open weave or mesh-type fence, when not used in combination with a berm, shall be combined with plant materials to form a continuous screen.
 - (5) Planting. Plant materials, when used as a screen, shall consist of dense evergreen plants or a majority of dense evergreen plant

materials combined with deciduous plants provided a continuous screen is established. They shall be of a kind or used in such a manner so as to provide a continuous screen within 24 months after commencement of operations in the area to be screened. Plant materials shall not be limited to a maximum height. The Screening Plan shall be prepared by a licensed landscape architect. Required screening shall be installed prior to commencement of operations.

The City may require that either (1), (2), or (3) above shall be installed if, 24 months after commencement of operations in the area to be screened, plant materials have not formed an opaque screen, or if an opaque screen is not maintained.

- (B) Required screening shall be setback at least 20 feet from:
 - (1) The point of intersection of a vehicular accessway or driveway and a street;
 - (2) The point of intersection of a vehicular accessway or driveway and a sidewalk or trail, and
 - (3) The point of intersection of two or more vehicular accessways, driveways, or streets.
 - (4) An adjoining property line. If a berm is the selected method of screening, the base of the berm shall not be closer than 20 feet of the adjoining property line.

- (5) Dust Control. The owner must construct, maintain and operate all equipment in such a manner as to minimize on-site and off-site dust conditions. All operations shall meet the standards of the Minnesota Pollution Control Agency.
 - (A) Access Roads. The driveway access to the sand and gravel operation must be setback at least 50 feet from neighboring property lines. The owner, as part of the Conditional Use Permit, must prepare a dust control plan. The operator shall maintain all ways and roads within the site to minimize dust conditions by providing such surfacing or other treatment as may be deemed necessary by the City. The treatment shall produce no potential pollution hazards to the ground and surface waters of the area. All gravel pit access roads shall be provided and maintained with a dustless, non-oiled surface not less than twenty-two (22) feet wide from the connection to a public road to a point within one hundred (100) feet of the loading area. The City may require a blacktopped access road if deemed necessary.
 - (B) Public Roads. Access roads shall also be constructed and maintained in such a manner that the deposit of earth materials on public roads is minimized. In the event that earth materials are deposited on the public road, the mine operator shall be responsible for clean-up. If the mining

operation does not access onto a paved road, the operator shall be responsible for dust control, including application of calcium chloride or other dust retardant.

- (6) Noise. All equipment and other sources of noise must operate so as to be in accordance with Federal, State and City noise standards. A noise mitigation plan shall be prepared by the mine operator and provided to the City.
- (7) Depth of Excavation. The maximum depth of excavation will be regulated based on groundwater protection and/or the ability to restore the property. Dewatering for the purposes of mining shall not be allowed.
- (8) Site Clearance. All stumps and other debris resulting from the excavation or related activities shall be disposed of by approved methods. The mine plan must address the disposal of stumps, trees, or other debris.
- (9) Appearance/Condition. The operator must maintain buildings, processing plants and equipment in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area. Existing trees and topsoil along existing public rights-of-way shall be preserved, maintained and supplemented for the depth of the setback or as stipulated in the Conditional Use Permit.
- (10) Sanitary Facilities. Sanitary facilities through an approved septic system or portable facilities shall be provided.
- (11) Waste Disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with Federal, State and City requirements.
- (12) Water Quality Monitoring. Water quality monitoring when required shall conform to the following standards:

Water from monitoring wells and water collected or discharged from the mining area shall be analyzed until one year after reclamation is completed. Samples from monitoring wells shall be taken and testing results submitted prior to the granting of an Annual Operators Permit (AOP). More frequent monitoring and sampling may be required by the City. Sampling and testing shall be done by an independent testing laboratory or an agency chosen by the City. Monitoring wells shall be sealed one year after reclamation efforts are complete if the site is determined to be uncontaminated. Water samples shall be required to be analyzed to determine the level of petroleum products and hydrocarbons. Testing for other contaminants directly related to the mining operation may be required by the City.

- (13) Fuel and Chemical Storage. Any mining operation and related activities must meet Federal, State and City requirements for storage of fuels. The mining operator must prepare a Pollution Prevention Plan and submit it to the City.

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- (14) Contingency Response Plan. The operator shall prepare a Contingency Response Plan (CRP) and employee training to facilitate immediate and remedial response should any accident, release of containment, or other spills occur. The CRP must be on file with the City and its fire department.
- (15) Added Provisions. The operator must comply with such other requirements that the City, from time to time, may find necessary to adopt for protection of the health, safety, welfare and prevention of nuisances in the area.
- (16) Processing. Any mining operation in which processing is proposed must meet the following performance standards:
 - (A) A Conditional Use Permit or an amendment to an existing Conditional Use Permit is required for any new or existing mining operation which desires to add processing equipment on-site, except as provided in (C) below.
 - (B) The application must include the nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
 - (C) Operators who wish to have processing equipment on a temporary basis (processing to be done no more than fifteen (15) working days a calendar year, excluding time for assembly and disassembly) shall apply for a Certificate of Compliance and meet the following criteria:
 - (1) Only materials removed on site are allowed to be processed except recycled material and add rock materials. No materials may be hauled onto the property for processing, unless all material can be processed during the fifteen (15) day time period. No more than 50% of the material shall be recycled material or add rock on an annual basis.
 - (2) Setbacks as outlined in Section 7.1 (1) must be met.
 - (3) All Federal, State and City air, water and noise standards must be met.
 - (4) Processing shall not take place more than fifteen (15) working days per year.
 - (5) Crushing equipment must be placed in the bottom of the pit area if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
 - (D) Operators desiring to have permanent processing equipment (more than fifteen {15} days per year) on site must meet the following standards:

- (1) All Federal, State and City air and water quality, and noise standards must be met.
 - (2) Processing equipment must be screened from view from other property and from public roads.
 - (3) Crushing equipment must be placed in the bottom of the pit if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
 - (4) Setback requirements as set forth in Section 7.1 (1) of this Chapter must be met.
- (E) A temporary processing plant in conjunction with a specific road project, located in the right-of-way or in proximity to the subject road, will be allowed subject to the following conditions:
- (1) All Federal, State and City air, water and noise quality standards must be met.
 - (2) A Certificate of Compliance must be obtained from the City.
 - (3) The processing equipment must be located so as to minimize its effect on surrounding property owners.
 - (4) The processing plant shall not be on the property for more than 120 calendar days.
 - (5) No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining.
 - (6) A bond or other financial guarantee, in an amount determined by the City, must be posted to assure restoration of the site.
- (17) Recycling. The crushing/processing of used aggregate, concrete and asphalt will be permitted subject to the following conditions:
- (A) Recycling in conjunction with a specific road project and within the right-of-way or proximity to the subject road, shall be permitted for a maximum of 120 days subject to obtaining a Certificate of Compliance and to the following standards:
- (1) The processing equipment must be located so as to minimize the effect on surrounding property owners.
 - (2) Site selection shall be made as to minimize the effect on the public health, safety and welfare.

- (3) All Federal, State and City air, water and noise quality standards must be met.
- (B) Recycling in conjunction with an approved mining permit shall be allowed as part of an original or amended Conditional Use Permit subject to the following conditions:
 - (1) Applicable Standards contained in Section 7.1 (1) must be met.
 - (2) An estimate of the amount of material to be processed must be submitted. The stockpile of material to be recycled shall be limited to the amount that can reasonably be processed in two consecutive mining seasons.
- (18) Trucking Operations. All new mining operations must have access to the pit area from a nine (9) ton blacktop, concrete, or gravel road. The operator shall ensure all loads leaving any pit regulated by this Chapter are loaded so as to comply with state law. Trucks shall clean any loose material from the truck including the tires before leaving the operation.
- (19) Asphalt Plants and Concrete Ready Mix Plants. A Conditional Use Permit shall be required for any new or existing mining operation that wishes to have a permanent asphalt plant and/or a concrete ready mix plant. Temporary asphalt plants and concrete ready mix plants may be allowed if the following conditions are met:
 - (A) Operators desiring to have a temporary asphalt plant and/or a concrete ready mix plant must meet the following standards:
 - (1) Asphalt plants and concrete ready mix plants must not be on the property for more than fifteen (15) days per year.
 - (2) All setbacks as set forth in Section 7.1 (1) of this Chapter must be met.
 - (3) All Federal, State and City air, water, noise and odor quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
 - (4) Equipment must be located in such a manner as to have the least environmental and aesthetic impact.
 - (B) Operators desiring to have a permanent asphalt plant and/or a concrete ready mix plant (more than 15 days per year) must meet the following standards:

- (1) Asphalt operations and concrete ready mix plants established after the effective date of this Chapter must be located on permitted mining sites and maintain a setback of 1,000 feet from the property line.
 - (2) If the asphalt operation was in operation on the effective date of this ordinance, it may expand subject to the setbacks set forth in Section 7.1(1) of this Chapter.
 - (3) All Federal, State, and City air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
 - (4) Equipment must be screened and located in such a manner so as to have the least environmental and aesthetic impact.
- (C) A temporary asphalt plant in conjunction with a specific road project will be allowed subject to the following conditions:
- (1) All Federal, State and City air, water and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
 - (2) A Certificate of Compliance must be obtained from the City.
 - (3) The processing equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
 - (4) Site selection shall be made as to minimize the effect on the public health, safety, and welfare.
 - (5) The asphalt plant shall not be on the property for more than one hundred twenty (120) days.
 - (6) No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining.
 - (7) A bond or other financial guarantee, in an amount determined by the City, must be posted to assure restoration of the site.

SECTION 8. RECLAMATION

- 8.1** The applicant must submit a reclamation plan consisting of graphic representation as required in Section 5 along with the written text. The plan must contain the following elements:

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- (1) Intent of reclamation.
- (2) Methods and processes of reclamation.
- (3) Initial condition of mining site.
- (4) Limits of various operational areas.
- (5) Phasing and timing of operations and reclamation including areas to be stripped of overburden.
- (6) Final condition of site, including proposed contours and landscaping.
- (7) Relation of final site condition to adjoining land forms and drainage features within 1/4 mile.
- (8) Relation of reclaimed site to planned or established uses of surrounding land.
- (9) A plan for maintenance of reclaimed area.
- (10) A detailed cost estimate of reclamation and maintenance.

8.2 Timing. Restoration shall proceed concurrently and proportional to actual mining operations and will be subject to review and approval at each annual inspection and at the end of the permit period.

8.3 Excavations resulting in the accumulation of substantial water areas after reclamation must meet the following requirements:

- (1) The water depth must not be less than three feet (3') measured from the low water mark, unless a plan for creation of a wetland or marsh has been approved.
- (2) All banks shall be sloped to the water line at a slope which shall not be steeper than four (4) feet horizontal to one (1) foot vertical.
- (3) All banks shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four (4) inches. Sodding or seeding and mulching are also required. Mulch must be properly anchored.
- (4) Such topsoil as required by Subsection three (3) above shall be planted with trees, shrubs, legumes or grasses;
- (5) Slopes on reclaimed areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical, except in cases where non-erodible conditions are present and the City approves the reclamation plan.

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- (6) In man-made groundwater lakes, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body with a maximum slope of 6 feet horizontal to 1 foot vertical for at least 100 feet from the proposed shoreline toward the center of the water body. Beyond 100 feet in horizontal distance, the slope of the bottom contours may be no steeper than 3 feet horizontal to 1 foot vertical.

8.4 Excavations not resulting in water areas after rehabilitation but which must be graded or backfilled, shall meet the following requirements:

- (1) Fill shall be inspected and certified as being clean (free of volatile organic compounds, heavy metals, or other contaminants) before being used for reclamation. Organic soil shall be used only for topsoil.
- (2) Such grading or back-filling shall be made with non-noxious, nonflammable, noncombustible solids;
- (3) The graded or backfilled area shall not collect or permit stagnant water to remain therein;
- (4) The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area surrounding and which will minimize erosion due to rainfall;
- (5) Such graded or backfilled area shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth at least four (4) inches;
- (6) Such topsoil as required by 7.4 (5) above shall be planted with trees, shrubs, legumes or grasses.
- (7) Slopes on reclaimed areas shall not be steeper than four (4) feet horizontal to one (1) foot vertical, except in cases where non-erodible conditions are present and the City approves the reclamation plan.
- (8) All rehabilitation areas which are planned for building purposes shall have a final elevation at least 10 feet above the normal ordinary groundwater level. Plans for on-site septic systems must be considered. If area is backfilled for purposes of future development, the soil must be compacted, and subsequently tested by a registered soils engineer and approved.

8.5 Drainage. Reclamation shall proceed in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of natural and storm drainage shall not adversely affect public roads or neighboring uses.

8.6 Cover and Planting. The reclamation area shall be planted with grass, trees, shrubs, crops, or other vegetation to prevent erosion and provide for screening and natural beauty.

Technical assistance and soils data should be obtained from the appropriate county and state officials, conservation districts, and the nearest soil conservation service office.

- 8.7** Topsoil. When topsoil is stripped or removed, it must be set aside on the site for re-spreading over the excavated area. These overburden stockpiles must be used to minimize the effects of erosion of wind or water upon public roads, streams, or adjacent land uses and shall not be sold or removed from the property.
- 8.8** Removal of Structures. Within a period of six (6) months after the termination of a mining operation, or within six (6) months after abandonment of such operation for a period of six (6) months, or within six (6) months after expiration of a sand and gravel permit, all buildings and other structures not otherwise allowed under the Zoning Ordinance must be removed from the property and the property restored in conformance with the reclamation plan.

SECTION 9. INSURANCE, FINANCIAL GUARANTEES AND FEES

- 9.1** Insurance. The operator shall provide proof of bodily injury, property damage, and public liability insurance in the amount of \$1,000,000 for any occurrence, including blasting insurance if blasting is allowed as part of the permit.
- 9.2** Escrow. The Applicant for a CUP shall establish a non interest bearing account with the City in the minimum amount of \$10,000.00 to secure the payment of administrative, engineering and legal costs incurred by the City in connection with the application.

If the escrow is insufficient, the Applicant shall make such additional deposits as may be required by the City. The City shall have the right to reimburse itself from the escrow. Any excess amounts remaining in the escrow shall be reimbursed to the Applicant within sixty (60) days after the approval of the application provided that all City expense invoices have been received. If for any reason, escrow funds are insufficient to cover City costs, the Applicant shall reimburse the City for all of such costs upon receipt of an invoice therefore. Upon the failure of the Applicant to make payment of such invoice within 30 days of receipt of the invoice, the City may reimburse itself from the escrow account. The Applicant shall be responsible for the payment of all administrative, engineering and legal costs incurred by the City in connection with the application. The applicant for an AOP shall establish an escrow of \$5,000. Additionally, the applicant shall, upon receipt of an invoice, reimburse the City for inspection costs and any required dust control and nuisance abatement costs incurred by the City in approving the AOP or administering the permitted mining operation.-

- 9.3** Financial Guaranty. To assure compliance with the provisions in this Chapter, the completion of reclamation and restoration of the site, and the performance of the operator's obligations set forth in the CUP, the operator shall provide to the City an Irrevocable Letter of Credit or other security satisfactory to the City in the amount to be determined by the City. The operator shall be entitled to a reduction in the security amount on a dollar for dollar basis as reclamation is completed and approved by the City

engineer, except that the security shall not be reduced below an amount equal to 125% of the cost of the work to be completed as determined by the City Engineer nor below 5% of the security, unless the reclamation has been accepted by the City.

To obtain a reduction in the security the operator will give notice to the City of completion of a portion of the reclamation or fulfillment of its requirements. The City Engineer will inspect the completed improvements within ten (10) working days of the operator's notice, and, provided the engineer approves the completed reclamation or fulfillment of requirements, the reduction in the security will occur on a dollar for dollar basis within five (5) working days after the City Engineer's approval subject to the limitations stated above.

If the security does not automatically renew, then at least thirty (30) days prior to the expiration of the security, the operator shall provide the City with a new security for a period of at least one (1) year beyond the expiration date of and for the same amount as the security then in effect or the operator shall be in default hereunder with no opportunity to cure, and the City may immediately demand from the surety the amount of the security then in effect.

Any security provided under this section shall permit the City to draw upon the security immediately following any operator default hereunder that is not cured within any applicable notice period and for such portion thereof as is certified by the City Engineer to be reasonably necessary to cure such default.

Any request for a security reduction shall be accompanied by mechanics lien waivers covering completed work.

- 9.4** A permit fee of \$500 shall be paid with the application for a CUP. A permit fee of \$500 shall be paid with the application for an AOP. An AOP will not be issued unless all outstanding fees and taxes are paid.

SECTION 10. VIOLATIONS, PENALTIES AND INSPECTION

- 10.1*** Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
- 10.2*** In the event of a violation or threatened violation of any of the terms of this Chapter, the City may take appropriate action to enforce these provisions, including application for injunctive relief, action to compel performance or other appropriate action in court if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.
- 10.3*** Whenever necessary to enforce any of the provisions of this Chapter or whenever there is reasonable cause to believe that a violation of this Chapter has occurred or is about to occur, an authorized agent of the City may enter any building or upon any premises at all reasonable times to inspect the same or to perform any duties imposed by this Chapter, provided that if such building or premises be occupied, the authorized agent shall first present proper credentials and demand entry and if such building or premises be unoccupied, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the City shall have recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

SECTION 11. TERMINATION OF PERMIT

- 11.1*** Any Conditional 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.
- 11.2*** 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 City 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 City Clerk by midnight of the tenth working day following service. Following the receipt of a request for hearing, the City Clerk shall set a

time and place for the hearing, and the hearing shall be conducted in accordance with the procedures set forth in Chapter 1, Section 7.8, of the Scandia Development Code.

- 11.3** A mining operation shall not be permitted to continue solely for the purpose of maintaining a bituminous or ready mix concrete plant or for crushing, washing, recycling or other processing operations. Upon removal of all commercially reasonable quantities of material from the mining site, the mining operation shall cease, all equipment and structures shall be removed and reclamation of the site shall be promptly completed. Failure to remove commercially reasonable quantities of material from the site for a period of two consecutive years shall constitute a presumption that the mining on the site has been completed, unless the operator has renewed the AOP yearly.

SECTION 12. EFFECTUATION

- 12.1** It is hereby declared to be the intention that the several provisions of this Chapter are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

SECTION 13. REPEALER

- 13.1** Any ordinance or provision of an ordinance heretofore existing pertaining to the subjects treated in the Chapter shall be deemed repealed from and after the effective date of this Chapter except as they are included and reordained 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.

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Section 2. Section 9.9 Mining of Chapter Two of the Development Code of the City of Scandia is hereby amended as follows:

9.9 Mining. Mining within the City is regulated by Chapter Four of this Development Code.

Adopted this 28th day of August, 2007.

Dennis D. Seefeldt, Mayor

Anne Hurlburt, Administrator