

CITY OF ST AUGUSTA

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE ST AUGUSTA ZONING ORDINANCE  
REGARDING MINING**

THE CITY COUNCIL OF THE CITY OF ST AUGUSTA, STEARNS COUNTY, MINNESOTA, DOES  
ORDAIN AS FOLLOWS:

**Section 1. New Definitions.** New definitions to Section 2.02 of the St Augusta Zoning Ordinance are adopted and enacted as follows:

*Blasting.* The practice or occupation of removing, by means of explosives, any mass, especially rocks, buildings, etc.

*Haul Road.* An internal private road used to transport material.

*Haul Route.* An external public road used to transport material.

*Mineral Extraction.* Extraction of inorganic materials such as ore, gravel or sand.

*Mining, accessory use.* Uses customarily incidental to mining located on the same site, such as stockpiling, sorting, screening, washing, crushing, batching, and related maintenance facilities.

*Reclamation/End Use.* The process of creating useful landscapes that meet a variety of goals. It includes all aspects of this work, including material placement, stabilizing, capping, regrading, and placing cover soils, revegetation, and maintenance.

*Stockpile.* A pile or storage location for bulk materials, forming part of the bulk material handling process. Stockpiles are normally created by a stacking conveyor.

*Topsoil.* The upper outermost layer of soil, usually in the top two (2) to eight (8) inches. It has the highest concentration of organic matter and is where most of the earth's biological soil activity occurs.

*Explosives.* Any chemical or other substance intended for the purpose of producing an explosion or that contains oxidizing or combustible units or other ingredients in such proportions or quantities that ignition by fire, by friction, by concussion, by percussion or by detonation may produce an explosion capable of causing injury to persons or damage to property. The term "explosive" includes, but is not limited to, the following: black powder (all varieties), dry gun cotton, nitroglycerine, dynamite, chlorates, fulminates, all sensitized ammonium nitrate compositions and any other of their compounds or mixtures, smokeless powder, wet gun cotton and wet nitrostarch.

**Section 2. Rescind and replace section.** Section 22.01 of the St. Augusta Zoning Ordinance is hereby rescinded and a new Section 22.01 is added as follows:

**22.01 PERMIT REQUIRED:**

- A. Except for City landfilling and land excavation/grading operations, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development plan approved by the City, or as may be otherwise stipulated by this Ordinance, any person who proposes to add landfill or extract sand, gravel, black dirt, or other natural material from the land or grade land in excess of fifty (50) cubic yards within the City limits, shall apply to the City for a permit as specified below:

Cubic Yards Of Landfill or Land to be Excavated/ Graded	Permit Requirement
Less than 50	No permit required
51 – 250	Administrative permit as provided in Section 6 of this Ordinance
Greater than 250	Interim use permit as provided in Section 5 of this Ordinance

- B. Notwithstanding the requirements of this section, no permit will be required for depositing landfill or excavation/grading on a lot for which a building permit has been issued for construction thereon provided that such activity is in accordance with an approved grading plan.
- C. Activities which qualify as mining and extractive uses are subject to Section 33.
- D. Except for mining activities, landfilling and land excavation/grading operations are an allowable activity within all zoning districts.

- <sup>1</sup> E. The use of any explosive or incendiary device shall be prohibited in mining operations in the City, provided however, that the use of explosive or incendiary devices may be used when necessary for the purpose of constructing roads or installing municipal sanitary sewer or municipal water service.

**Section 3. Rescind and replace section.** Section 45.03 paragraph B of the St. Augusta Zoning Ordinance is hereby rescinded and a new Section 45.03 paragraph B is added as follows:

- B. Mining and extractive uses as regulated by Section 33 of this Ordinance.

**Section 4. Rescind and replace section.** Section 46.03 paragraph B of the St. Augusta Zoning Ordinance is hereby rescinded and a new Section 46.03 paragraph B is added as follows:

- B. Mining and extractive uses as regulated by Section 33 of this Ordinance.

**Section 5. Rescind and replace section.** Section 64.11 paragraphs H(4) and H(5) of the St. Augusta Zoning Ordinance are hereby rescinded and a new Section 64.11 paragraph H(4) is added as follows:

4. Mining and extractive uses shall be in conformance with Section 33.

**Section 6. New Section.** A new section 33 is added as follows:

### **SECTION 33 MINING AND EXTRACTIVE USES**

#### **A. 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 Comprehensive Land Use Plan and completely restored at the completion of the mining operation.

#### **B. SCOPE**

1. 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.

2. For the purposes of this Section, 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, plats, utility or highway construction, agricultural improvements within the property, sod removal and minor wetland impacts under 20,000 square feet of cumulative impacts (previous and proposed) that have received an approved “no loss” or “exemption” determination from the local government unit administering the Wetland Conservation Act, excavations of less than 100 square feet in area or one foot in depth, and excavations of 5,000 cubic yards of material or less.
3. For mining operations which will last only one season, such as for road projects, the City may issue a temporary mining permit. Such permit may include the placement of a bituminous hot mix plant and other accessory equipment. Said permits shall only apply if the mining site is to be opened, closed and reclaimed within one year. The Zoning Administrator may waive some of the information required by division D. below in the case of a temporary mining permit. A temporary mining permit shall be administered as an interim use permit, and the Council may elect to not require certain performance standards required in this Section as conditions due to the temporary nature of the operations.

C. ADMINISTRATION

1. Permit Review. An interim use permit shall be required for all mining operations. All existing operations shall obtain a permit within five (5) years following adoption of this Ordinance. The City Council may also require a financial guarantee in a form acceptable to the City from the landowner to ensure that the conditions in this Section are met.
2. Portable asphalt and concrete mixing/batching plants are not allowed as an accessory use to a mining operation.
3. Asphalt and concrete recycling facilities may be allowed under a separate Interim Use Permit subject to conditions including, but not limited to, the following:
  - a. The Interim Use Permit for asphalt and concrete recycling facilities may only be issued as an accessory use to an Interim Use Permit for mining operations.
  - b. A financial surety in a form acceptable to the City is established to ensure the removal of stockpiled recycle material. The amount of

the financial surety shall be established by the City based on the volume of material approved in the IUP to be stored on-site.

- c. Processing of recycled material shall be done in compliance with paragraph D of this Section.
  - d. The maximum volume of material that either has been or will be recycled on the site shall not exceed 50,000 cubic yards at any one time.
  - e. I.No haul routes shall use City roads. The mine site must have direct access to a County road if an IUP for asphalt and concrete recycling is granted.
4. Annual Certificate of Permit Compliance. As a condition of any mining interim use permit, the property owner and/or applicant shall annually submit graphic and/or narrative information on the mining operation demonstrating compliance with the approved interim use permit, progress on reclamation plans, and related conditions. Said compliance information shall be submitted by February 28<sup>th</sup> of each year. The Zoning Administrator shall 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 the financial surety are 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 may be grounds for revocation of the interim use permit.

#### D. APPLICATION REQUIREMENTS

The following information shall be provided by the person or agency requesting the interim use permit. All plans shall be prepared and signed by a licensed professional engineer.

- 1. Name and address of all applicants, operators and landowners. All of these persons or entities must also sign the application form.
- 2. The legal property description and acreage of area to be mined.
- 3. The following plans of the entire site and including all areas within three hundred fifty (350) feet of the site. All plans shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below.

Plan A - Existing conditions to include:

- a. Contour map (two (2) foot intervals).

- b. Existing vegetation.
- c. Wetland delineation or no loss determination.
- d. Existing surface water drainage patterns.
- e. Existing structures.
- f. Existing wells.
- g. 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.
- h. Legal property boundary.

Plan B - Proposed Operations to include:

- a. Structures to be erected.
- b. Location of sites to be mined showing depth of proposed excavation.
- c. 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 and local routes to truck routes.
- f. Mine staging/sequencing plan to show progression of excavation.

Plan C - End Use Plan to include:

- 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.
- c. Reclamation staging plan.
- d. Proposed land use and development plan.

- 4. A plan for dust and noise control.
- 5. A narrative of the proposed mine operations including a complete description of the proposed operation to include the type of material to be excavated, mode of operation and processing, site dewatering, operational hours/days/months, estimate of the annual total volume of material to be removed, estimated site life or mine reserves in years, anticipated types of equipment to be used on site, mode of transportation of product, an estimate of the daily and peak daily number of vehicles accessing the facility, estimate of duration of the mining operation, phasing, and approximate acreage of each phase, a time schedule for reclamation and any other pertinent information to explain the request in detail.
- 6. A description of haul routes to be utilized in the operation of the facility including a map showing access routes between the property and the nearest arterial road.

7. Hydrology report, unless waived by the City.
8. A plan for groundwater quality protection shall be submitted with the application. The plan shall include a minimum of 3 borings showing depth to groundwater. If ground water is not encountered at a depth of 10 feet below the bottom of the pit floor, the applicant need not extend the boring any further.
9. A description of site screening, landscaping and security fencing.
10. 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.
11. Any other information requested by the City.

#### E. PERFORMANCE STANDARDS

For mining operations approved or amended after the date of adoption of this Ordinance:

1. 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.
2. Mining and extraction operations shall be constructed, maintained and operated in a manner to minimize, as far as practical, noise, dust, odor and vibrations adversely affecting the surrounding property.
3. The mining operation shall be conducted and ended in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation.
4. Safety fencing may be required around all or portions of the mining operation at the discretion of the City.
5. Access Roads. Access roads shall have direct access to public 10-ton roads. The location of the intersection of haul roads with any public roads shall be selected such that traffic on the access roads will have a

sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety as determined by the City Engineer.

All haul roads from mining operations to public highways, roads or streets shall be paved or otherwise maintained to control dust. 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.

6. Haul Routes. Haul routes on city collector roads shall be identified and shall be located in a manner that provides the closest proximity from a haul road to the nearest county or state road. The city collector road designated as the haul route must be constructed as 10-ton roads. In the event that a collector road does not meet these requirements, the project proposer shall upgrade the roads at their sole expense.
7. Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be required between the mining site and adjacent properties. A screening barrier shall also be required between the mining site and any public road located within five hundred (500) feet of any mining, stockpiling or processing operation. A viewshed analysis shall be submitted with the application including the development of a model of site specific conditions such as topography, vegetation, equipment, stockpiles and proposed site structures. Key view areas shall be represented through drawings, photos, cross-sections or other imaging methods. The screening barrier shall consist of berms of heights documented through the viewshed analysis to be sufficient to provide screening. In addition, vegetative screening may also be used to supplement the screening, which if used shall be planted with a species of fast-growing trees. The tree species must be approved by the Zoning Administrator.
8. Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the Minnesota Pollution Control Agency.
9. Setback.
  - a. Processing of minerals including recycle materials shall not be conducted closer than two hundred fifty (250) feet to the property line, nor closer than five hundred (500) feet to any residential or commercial structures on adjacent properties.

- b. Mining operations shall not be conducted closer than two hundred (200) feet to the property lines shared with any residence or residential zoning district boundary existing on the approval date of the mining interim use permit.
  - c. Mining operations shall not be conducted closer than one hundred (100) feet to any property line, or within one hundred feet (100) feet of the right-of-way line of any existing or platted street, road or highway, except that the City Council may permit excavating to be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway engineering plans. Side slopes of the mining operation shall be in conformance with the site plan.
  - d. The installation of berms and landscaping are permitted within these setbacks.
10. Appearance. All buildings, structures and equipment shall be maintained in such a manner as is practical and according to acceptable industrial practice to assure that such buildings, structures and equipment will not become dilapidated.
11. Hours of Operation. All mining operations shall only be conducted between the hours of 7:00 a.m. and 7:00 p.m. on weekdays or 7:00 a.m. and 2:00 p.m. on Saturdays, unless additional operating hours are granted by the City Council at their discretion in the IUP. Hours and days of operation may further be restricted via conditions of approval on an individual project basis.
12. Mining Operations Within the Shoreland District. Mining and processing operations shall not be located in the shoreland district.
13. Mining Operations Within the Floodplain or Floodway. Mining and processing operations shall not be located in the floodplain or floodway.
14. Mining Operations Near Water Table. Not less than ten (10) feet of separation shall be maintained between the lowest grade mining at which mining is permitted and the water table. The exception to this is that up to 20% of the site may be mined within the water table and at less than 10 feet separation provided that this is approved as part of the Interim Use Permit and is in compliance with the approved reclamation plan for the site.
15. Blasting/Explosives. Blasting is prohibited.

16. Noise. The operator shall exercise its best efforts to control noise to minimum practical levels. Backup horns, bells, strobe lights, and other warning devices shall be adjusted to the minimum level required by law. Operator shall use broadband or white noise backup alarms on all its mobile equipment.
17. Term of Permit. The IUP shall be issued for a term not to exceed 10 years. The operator may apply for a new IUP prior to the expiration of the original IUP and shall supply all information required for a new IUP for mining as required by the ordinances in effect at the time that the extension is requested.

#### F. LAND RECLAMATION

All mining sites shall be reclaimed immediately after mining operations cease. Reclamation shall be completed within one (1) year. The following standards shall apply:

1. Within a period of three (3) months after the final termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a mining permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants. An extension may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Security acceptable to the City shall be required. Such extension may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
2. No part of the reclamation area which is planned for utilization for uses other than open space shall be at an elevation lower than the minimum required for gravity connection to sanitary and storm sewer. Provision for surface water run-off shall be made. All property shall be graded to properly drain. The peaks and depressions of the area 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, and which will minimize erosion due to rainfall. No finished slope shall exceed twenty (20) percent grade.
3. Reclamation shall begin after the mining of twenty-five percent (25%) of the total area to be mined or twenty (20) acres, whichever is less. Alternatively, a different phasing to reclamation may be proposed in the application which if approved by the City Council will be incorporated

into the IUP. Once these areas have been depleted of the aggregate deposit they shall be sloped and seeded in compliance with the end use plan.

4. Reclaimed areas 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 six (6) inches. The topsoil shall be seeded, sodded, or planted. Such planting shall adequately retard soil erosion.
5. 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.

**Section 7. Effective Date.** This Ordinance shall be in force and effect upon adoption and publication in the official newspaper of the City in accordance with applicable law. The City may publish a summary of this Ordinance.

**Section 8. Codification.** City staff is directed to codify the revisions to the Zoning Ordinance as enacted in this Ordinance.

Passed and adopted by the City Council of the City of St Augusta on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Mike Zenzen, Mayor

ATTEST:

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William McCabe, City Administrator

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