

0703513

TOWN OF LE SAUK

ORDINANCE NO. 91-

AN ORDINANCE AMENDING THE TOWN OF LE SAUK ZONING ORDINANCE, MODIFYING PENALTY PROVISIONS, AND PROVIDING FOR THE REGULATION OF GRAVEL AND OTHER AGGREGATE PITS AND COMMERCIAL MINING AND PROCESSING OPERATIONS

The Town Board of Supervisors of the Town of Le Sauk ordains:

Section 1. Section 16-010 of the Town of Le Sauk Zoning Ordinance is amended to read as follows:

16-010 ENFORCEMENT AND PENALTIES.

This Ordinance shall be administered by the Building Inspector. The Building Inspector shall require that the application for a building or commercial mining or processing permit and the accompanying plot plan shall contain all of the information necessary to enable him/her to determine whether the proposed building complies with the provisions of this Ordinance. No building permit shall be issued until the Building Inspector has certified that the proposed building or alteration complies with all provisions of this Ordinance.

A violation of any provision of this Ordinance or a permit issued pursuant to this Ordinance is a misdemeanor and upon conviction thereof shall be punished by a fine and costs of prosecution, or by imprisonment, or both, up to the maximum allowed under state law.

Any violation of this Ordinance or a permit issued under this Ordinance may also be enforced by a civil action, injunction, action to compel performance, restoration, abatement, or other appropriate action or remedy as determined by the Town Board and allowed by state law.

Section 2. The Town of Le Sauk Zoning Ordinance is amended by adding a new Chapter 18 to read as follows:

18-010 - DEFINITIONS

Unless the context clearly indicates otherwise, the following words, as used in this Ordinance, shall have the meaning set forth herein:

- a. Commercial Mining - The extraction or mining for sale or resale of 500 cubic yards or more of aggregate materials, rock, sand, gravel, clay, silt, soil or any other like minerals or combination thereof. The term "500 cubic yards or more" as used above means a

cumulative total for a single mining operation and not an annual total.

- b. Excavation - The digging, removal, filling with, or storage of any naturally occurring rock, sand, gravel, clay, silt, soil, or other like mineral(s) being conducted within the Town of Le Sauk. See Section 18-030 for exceptions.
- c. Gravel - Non-metallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, building stone, crushed rock, limestone, and granite.
- d. Minerals - The non-metallic materials found naturally in the earth including, but not limited to rock, sand, gravel, clay, silt, and soil which may be covered by overburden.
- e. Mining - Operations involving the excavation of rock, sand, gravel, clay, silt, soil, and other like minerals. "Mining operations" does not include hot mix bituminous or ready mix concrete operations which require a separate operating permit or conditional use permit consistent with this Ordinance.
- f. Overburden - Those materials which lie between the surface of the earth and the minerals to be excavated.
- g. Permittee - The recipient of the Le Sauk Town Board's conditional use permit or a permit to conduct a mining/processing operation at a specific site.
- h. Processing - Operations involving the crushing, screening, washing, compounding or treatment of rock, sand, gravel, clay, silt, soil, and other like minerals being conducted within the Town of Le Sauk, including the production of asphalt compositions for pavement, ready mix concrete, and the recycling of previously used concrete and asphalt.
- i. Rehabilitation - To renew the land with the purpose of returning it to a self-sustaining, long-term use which is compatible with contiguous land uses in accordance with the standards set forth in this Ordinance.
- j. Topsoil - That portion of the overburden which lies closest to the surface of the earth and which supports the growth of vegetation.

18-020 - PERMITS REQUIRED

- a. An owner of land on which commercial mining or processing operations will take place shall first apply for a conditional use permit under Section 11 of this Ordinance. The conditional use permit shall contain such provisions, conditions, and limitations as the Town Board finds are required to protect the public health, safety, and general welfare. The conditional use permit shall be valid for a period to be determined by the Town Board.
- b. Any person or entity intending to conduct commercial processing operations on property where such operations are permitted as a conditional use, shall apply for a commercial processing operation permit.
 - (1) A commercial processing operation permit shall be valid for a two (2)-year period, unless it is revoked, expires, or is otherwise terminated earlier.
 - (2) The holder of a validly issued and current conditional use permit issued under paragraph (a) above, may apply for a commercial processing operation permit without any additional fee.
 - (3) A commercial processing operation permit is not transferable or assignable without the prior written consent of the Town Board.
- c. Any person or entity conducting commercial mining or processing operations as of the effective date of this Ordinance and for which the Ordinance requires a permit may temporarily continue such operations, but within thirty (30) days of the effective date hereof, shall make the required application for a conditional use permit and/or a commercial processing operation permit. Additionally, within said thirty (30) day time period, the owner of the underlying land shall apply for a conditional use permit from the Town Board authorizing the commercial or processing operations on the owner's land.
- d. Upon request and for cause, the Town Board may extend the time for initial application for the commercial processing operation permit and for the underlying conditional use permit to sixty (60) days of the effective date hereof.
- e. The fee for a conditional use permit or a commercial processing operation permit issued under this Ordinance shall be as established from time to time by the Town

Board. Any person or entity requesting a permit shall submit the prescribed fee to the Town Clerk together with all the information required in Section 18-050 below. The applicant shall provide three (3) copies of the required information.

- f. The Town Board, in determining whether to grant the applicant(s) a conditional use or a commercial processing operation permit, shall apply the criteria for granting conditional use permits set forth in Town ordinances and policies.
- g. If the request for a permit is denied, no reapplication shall be effective for a period of six (6) months.

18-030 - EXCEPTIONS

A permit as described in Section 18-020 shall not be required for any of the following:

- a. Excavation for the purpose of the foundation, cellar, or basement of a structure to be erected, built, or placed thereon contemporaneously with or immediately following such excavation, provided that a building permit for that structure has first been issued.
- b. Excavation less than one (1) foot in depth.
- c. Excavation required for completion of a septic system and drain field(s), provided that a building permit for the septic system and/or drain field(s) has first been issued.
- d. Watering pits for livestock.
- e. Mining or processing that does not fall within the definition of "commercial mining" and "processing" found in Section 18-010.

18-040 - EXPIRATION/REVOCATION OF PERMIT

- a. A commercial processing operation permit shall expire automatically two (2) years after issuance; however, if no excavation or processing is conducted at the site by the permittee within a twelve (12)-month period, the operation permit shall terminate automatically at the end of the twelve (12)-month period.
- b. The Town Board may revoke a commercial processing operation permit and/or a conditional use permit for violation of any section of this Ordinance or violation of any condition of the permit.

- c. To revoke a permit, the Town Clerk shall give notice by U.S. Mail (certified mail addressed to the permittee at the address of the permittee on file with the Town Clerk) of the violation or other cause for revocation, along with the directive of the Town Board that the condition be remedied. If the condition has not been corrected or otherwise remedied within the time set forth by the Town Board, but not less than ten (10) days, the Town Board shall determine, at a regular or special Town Board meeting, whether the commercial processing operation permit and/or conditional use permit should be revoked.
- d. If a permit is revoked or expires pursuant to this Section, the operation shall be discontinued immediately. However, such revocation or expiration shall not nullify the obligation of the permittee to undertake rehabilitation of the land as defined under this Ordinance.

18-050 - INFORMATION REQUIRED

The following information shall be provided by a permit applicant. If an owner is applying for a conditional use permit at the same time as an applicant wishing to conduct a commercial or processing operation on the owner's land, the owner may refer the Town Board to the information supplied by the applicant for the commercial processing operations permit. If said applications are not being processed concurrently, such as where a commercial processing operation will be conducted by a separate person or entity, the applicant must provide all of the information required under this section.

- a. The name and address of the applicant requesting a commercial processing operation permit and/or the name and address of the owner of the land applying separately to receive a conditional use permit authorizing commercial mining and/or processing operations on the owner's land.
- b. The legal description and acreage of the proposed commercial mining and/or processing operation site, together with proof of the applicant's ownership or leasehold interest.
- c. The specific purpose of the proposed operation.
- d. The estimated duration of the operation.
- e. Specifications, using appropriate maps, photographs, and surveys revealing:

- (1) The physical relationship of the proposed operation site to the neighborhood and existing development in the area; including photographs depicting adjacent and on-site buildings and land uses.
 - (2) Site analysis information such as vegetation and depth of topsoil; photographs depicting the existing condition, vegetation, and screening, etc., of the site; a topographical map showing detailed site elevations; and other site analysis information as requested by the Town Board.
- f. A detailed soil erosion and sediment control plan.
- g. A full and adequate description of all phases of the proposed operation, including an approximation of the amount of excavation to take place as well as the plan of operation (including processing, if any), the nature of the processing and equipment, location of the processing plant, source of water; disposal of water, reuse of water, and the use of explosives.
- h. A comprehensive rehabilitation plan showing suitable provisions for rehabilitation of the site to a condition compatible with the adjacent land, such that it will not create a health or safety hazard or nuisance.
- (1) Where the Town Board deems practical and necessary, such plans shall also include adjoining related areas where excavations have previously been made which remain under the control of the applicant or the owner of the land on which the mining or processing is proposed.
- i. Any other information requested by the Town Clerk or the Town Board.

18-060 - USE RESTRICTIONS

Commercial mining and processing operations shall be allowed as a conditional use only in areas zoned as agricultural districts ("A-1") and/or industrial districts ("I-1").

18-070 - PERFORMANCE STANDARDS

The following performance standards shall be required of all permit holders:

- a. Weeds. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance, to prevent seeding

on adjoining property, and to comply with the requirements of the Minnesota Statutes.

- b. Equipment. All equipment used for commercial mining and processing operations shall be kept operational and shall be maintained and operated in such a manner as to minimize as far as practicable noises and vibrations which are annoying to persons living in the vicinity.
- c. Debris and Refuse. Abandoned machinery, rubbish, and other debris and refuse shall be removed from the site regularly and shall not be allowed to accumulate.
- d. Water Resources. The operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the site.
- e. Surface Water. Surface water originating outside and passing through the site shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site. The permittee shall perform any water treatment necessary to comply with this provision, and shall, at a minimum, meet the requirements specified in paragraph "o" hereinafter.
- f. Safety Fencing. Any commercial mining or processing operation within three hundred (300) feet of two (2) or more residential structures or a residential district shall be bound by the following standards:
 - (1) Collections of water that are one and one-half (1½) feet or more in depth, existing for any period of at least one (1) week, and which occupy an area of seven hundred (700) square feet or more, shall be barred from outside access by a fence or similarly effective visual barrier, such as a snow fence of at least four (4) feet in height with support posts spaced no farther apart than ten (10) feet.
- g. Mining Access Roads. 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 length of the public road in view so that any turns onto the public road can be completed safely.
- h. Screening Barrier. The permittee shall not cause trees and ground cover existing at the time of issuance of the initial permit and present within the depth of the roadside setback to be harmed or destroyed, except where traffic safety requires that said trees and/or ground cover be cut and/or trimmed, or except where alteration or destruction of the trees and/or ground cover is

necessary for a rehabilitation plan approved by the Town Board.

i. Setback. All commercial mining or processing operations shall be conducted within the confines of the site described in the permit(s) issued for such operations, and as follows:

(1) Processing shall not be conducted closer than one hundred (100) feet to the property line, nor closer than five hundred (500) feet to any residential or commercial structures existing prior to the commencement of the operation(s) without the written consent of the owner or residents of said structure(s). Said consent(s) or a copy thereof, shall be filed by the permittee with the Town Clerk.

(2) Excavation shall not be conducted closer than thirty (30) feet to the boundary line of any zone where commercial mining or processing operation(s) are not allowed, nor shall such excavation be conducted closer than thirty (30) feet to the boundary of an adjoining property line, unless the written consent of each of the owners in fee simple of each of such adjoining property is first secured in writing and filed by the permittee with the Town Clerk.

(3) Commercial mining operations shall not be conducted closer than thirty (30) feet from the right-of-way line of any existing or platted street, road or highway, or any other right-of-way, except that commercial mining, if not otherwise prohibited, may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road, highway or other right-of-way.

(4) Commercial mining operations shall not be conducted on shoreland, as defined in the Stearns County Shoreland Management Ordinance, as amended.

j. Appearance. All buildings, structures, plants, equipment, and machinery used for commercial mining or processing operations shall be maintained in such a manner as is practicable, and according to acceptable commercial and industrial practices, so as to assure that such buildings, structures, plants, equipment, and machinery will not become unsafe or dangerously dilapidated.

- k. Dust and Dirt. Permittees shall use all practicable means to reduce the amount of fugitive dust generated by the commercial mining or processing operation. In any event, the amount of dust or other particulate matter generated by the commercial mining or processing operation shall not exceed air pollution control standards established by the Minnesota Pollution Control Agency, including those set forth in Minnesota Rules, Chapter 7005, or any amendments thereto.
- l. Roads. All access roads from the operation to public highways, roads or streets, or to adjoining property, shall be maintained to minimize dust conditions.
- m. Noise. Maximum noise levels at the site shall comply with the limits or standards established by the Minnesota Pollution Control Agency, including those set forth in Minnesota Rules, Chapter 7010, or any amendments thereto.
- n. Hours. No commercial mining or processing operation shall be conducted during restricted hours specified in the applicable permit.
- o. Water Pollution.
- (1) Permittees shall comply with all applicable Minnesota Pollution Control Agency regulations, including those set forth in Minnesota Rules, Chapters 7001, 7050, and 7060; Department of Natural Resources regulations, including those set forth in Minnesota Statutes Sections 103G.221 and 103G.245, et seq.; Minnesota Rules 6115.0600, et seq.; all applicable United States Environmental Protection Agency regulations for the protection of water quality; and any amendments to said sections or any additional applicable statutes and regulations of the state and federal governments.
 - (2) In addition, no material shall be deposited in any public (i.e. protected) waters or wetlands of Le Sauk Township (as designated by the Minnesota Department of Natural Resources pursuant to Minnesota Statutes Section 103G.210, subd. 1 or as amended thereto), without a permit from the proper agency or agencies.
- p. Topsoil Preservation. Sufficient topsoil shall be retained at the site to ensure completion of rehabilitation in accordance with the rehabilitation plan.

- q. Slopes During Mining/Processing Operations. During the entire period of operation, all excavation other than the working face shall be sloped on all sides to a maximum ratio of one (1) foot horizontal to one (1) foot vertical, unless a steeper slope is approved by the Town; or, in the alternative, the permittee shall install an effective barrier enclosing the site. The barrier shall be no less than a snow fence four (4) feet in height with support posts spaced no farther than ten (10) feet apart. In any event, where operations are adjacent to a public roadway or other right-of-way, the terrain shall have a maximum slope of four (4) feet horizontal to one (1) foot vertical. Slopes adjacent to waterways shall not exceed six (6) feet horizontal to one (1) foot vertical.
- r. Reports. The permittee shall comply with the reporting requirements, if applicable, mandated in Minnesota Statutes Section 298.75, subd. 3, as the statute shall prescribe at the time of reporting.
- s. Investigations. In order to ensure compliance with the performance standards set forth above, the Town Board, after being presented with information alleging the permittee's violation of this Section of the ordinance, may require the permittee to have completed such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the Town Board. All investigations and tests as required by the Town Board shall be at the sole expense of the permittee.
- t. Surety Bond or Security Deposit. The permittee shall post a surety bond executed by a corporate surety company acceptable to the Town and authorized to do business in the State of Minnesota, or cash escrow, letter of credit, or other security acceptable to the Town Board, in whatever sum the Town Board in its discretion deems necessary to protect the public health, safety, or welfare. Said bond or other security deposit shall run in favor of the Town, and shall remain in full force and effect for a minimum period of one (1) year after the expiration or revocation of the permit, which bond or other security deposit shall guarantee the required rehabilitation as well as all other requirements of this Ordinance, and pay, up to its face value, all expenses the Town may incur by reason of having to do anything required of the permittee which the permittee has failed to do.
- u. Insurance. The permittee shall also furnish to the Town

Board certificates of insurance evidencing insurance coverage as follows:

- (1) A single limit or combined limit or excess umbrella motor vehicle liability insurance policy, if applicable, covering all owned, agency-owned, non-owned, or hired vehicles used regularly in the course of the mining/processing operation in an amount of not less than \$600,000 per accident for property damage, \$600,000 for bodily injury and/or damages to any one person, and \$600,000 for total bodily injuries and/or damages arising from any one accident.
 - (2) A single limit or combined limit or excess umbrella general liability insurance policy of an amount of not less than \$600,000 for property damage arising from one occurrence, \$600,000 for total bodily injury and/or damages arising from one occurrence, and \$600,000 for total personal injury and/or damages arising from one occurrence.
 - (3) Workers' Compensation insurance, if applicable, in such amounts as may be required by Minnesota law.
 - (4) If any policy obtained and/or maintained under this clause is canceled, materially changed, or not renewed, such cancellations or changes may be grounds for provoking or not renewing the conditional use or operating permit.
- v. Non-Assignment. Any person or entity issued a permit under this Ordinance shall not allow any other person or entity to conduct commercial mining or processing operations at the site, other than hauling to or from the pit, without: (1) obtaining the prior written consent of the Town Board, (2) receiving written acknowledgement of said other person or entity's agreement to be bound by the requirements of the operating permit(s) in effect, and (3) has obtained a surety bond or other security and certificate of insurance guaranteeing the other person's or entity's performance as a permittee.
- w. Additional Requirements. The Town Board may impose additional performance standards as part of the owner's conditional use permit and/or the permittee's commercial processing operation permit.

18-080 - VARIANCE

When the owner or operator believes that strict compliance with any of the provisions of this Ordinance will cause undue hardship, either the owner or operator may apply for a variance

under the procedures set forth in Section 11 of the Town Zoning Ordinance.

18-090 - LAND REHABILITATION

- a. The permittee shall reslope the site annually at the end of the operating season, or, in the alternative, install an effective barrier enclosing the site. The barrier shall be no less than a snow fence four (4) feet in height with support posts spaced no farther than ten (10) feet apart. In addition, all sites must be rehabilitated by the permittee immediately after commercial mining or processing operations cease pursuant to Section 18-040. Unless otherwise allowed in this Section, no resloped surface or rehabilitation slope shall be steeper than four (4) feet horizontal to one (1) foot vertical. If the commercial mining or processing operation is not conducted for a period of twelve (12) consecutive months, the operation shall be deemed to have ceased and rehabilitation shall be immediately undertaken by the permittees, or a new permit application shall be brought therefor.
- b. Within a period of three (3) months after the termination of commercial mining or processing operations, or immediately after abandonment of such operations for a period of twelve (12) months, or within three (3) months after expiration or revocation of a permit, all buildings, structures, plants, equipment, and machinery incidental to such operations shall be dismantled and removed by and at the expense of the permittees.
- c. The peaks and depressions of the site shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity with the land area immediately surrounding, and which will minimize erosion due to rainfall. Overall, the finished grade shall be such that it will not adversely affect the adjacent land.
- d. Reclaimed areas shall be surfaced with soil of quality at least equal to the topsoils of adjacent land prior to commencement of the operation and to a depth of at least three (3) inches. The finished reclaimed areas shall be planted with legumes and grass upon all parts where revegetation is possible. Trees and shrubs may also be planted, but not as a substitute for legumes and grass. Such ground cover shall be sufficient to hold the topsoil in place and shall be tended to by the permittee(s) as necessary until ground cover is self-sustaining.

- e. Excavation completed to a water-producing depth need not be back-filled; however, banks shall be sloped to a grade of no steeper than four (4) feet horizontal and one (1) foot vertical.

Section 3. SEVERABILITY, REPEALER, AND EFFECTIVE DATE

All ordinances or portions or ordinances conflicting herewith are hereby repealed. Should any section of this Ordinance be held unconstitutional or void, the remaining provisions shall remain in full force and effect.

This ordinance shall take effect and be enforced from and after its passage and publication in accordance with law.

ENACTED BY THE TOWN BOARD OF SUPERVISORS OF THE TOWN OF LE SAUK, STEARNS COUNTY, MINNESOTA, THIS 10th DAY OF September, 1991.

TOWN OF LE SAUK

By Arnold P. Backlund
Chairman, Town Board of Supervisors

ATTEST:

Marlyce R. Plante
Town Clerk

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Marlyce R. Plante
Town Clerk

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

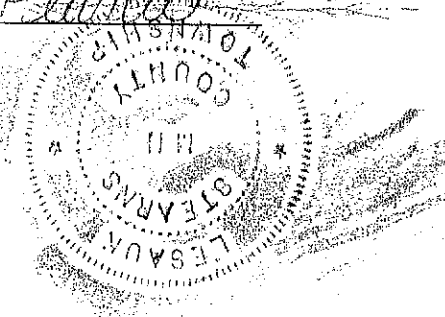
CERTIFIED, FILED AND/OR
RECORDED

9/19/91 AM 9:45

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AS DOC. #
PATRICIA M. OVERMAN
COUNTY RECORDER

BY P. Overman DEPUTY



✓ Township of Permeo
c/o Marlyce Plante
36469 55th Ave
Excelsior, MN 55323