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Aggregate Material Mining Regulations (Section within Chapter 4)

A. Definitions

Aggregate Material Mining: Processes for the removal of aggregate materials, including sand, gravel, scoria, and rock, from the surface of the earth. Includes crushing, handling, and bulk storage of extracted materials. This definition does not include Borrow Pits.

Borrow Pit: The temporary use of a site to excavate material for fill at a single County or State road or bridge construction project taking place in Mercer County.

B. Applicability and Covered Activities.

1. No excavation of sand, gravel, rock, scoria, or clay shall be allowed except as provided by this section and in compliance with North Dakota Century Code Chapter 38-16 (Surface Mining Reports).
2. The provisions of this section shall not apply to any excavation for agricultural purposes or for uses requiring less than 5,000 cubic yards of excavation.
3. The provisions of this section shall not apply to any Borrow Pit as defined in this ordinance.
4. Except as allowed by paragraphs 2 and 3 of this section, a conditional use permit shall be required before beginning any excavation of sand, gravel, rock, scoria, or clay within Mercer County.

C. Application Requirements.

The applicant for a permit for excavating sand, gravel, rock, scoria, and clay shall submit the following:

1. Vicinity map showing site, proposed haul route, and all residences, and public facilities within one mile of the site and one mile of the haul route.
2. Site map that shows surveyed site boundary and identifies the total acreage to be excavated.
3. Reclamation Plan.
4. Written evidence of a reclamation agreement binding on the pit operator, applicant and owner of the materials to be mined that authorizes the County and the surface owner to enforce the same.
5. Weed Management Plan - Provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection and the applicant shall submit such documentation with the conditional use permit application. If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer. The plan shall at a minimum include the following components:
 - a. Pit opening Plan, which would include an inspection prior to opening of the pit;
 - b. Overburden Material Stockpile Plan;
 - c. Active Pit Mining Plan;
 - d. Buffer Zone Area Plan;
 - e. Mine Area Reclamation Plan; and,
 - f. Yearly Inspection Proposal Plan which would include annual inspection by the County Weed Officer.
 - g. The Plan shall be submitted as part of the conditional use permit application. Weed control treatments shall be completed and a reinspection by the Weed Officer shall be completed prior to the commencement of mining operations. A written reinspection report shall be filed with the Mercer County Zoning Administrator prior to the commencement of mining operations.

6. Truck Hauling/Road Route Plan – a map shall be submitted showing all routes within the County proposed to be used for hauling the excavated material from the excavation site to the final destination(s).
7. Written road agreement binding on the pit operator, applicant, surface owners of lands utilized to access the pit other than access by public easement or public right-of-way, and owner of the materials to be mined.
8. Operations Plan including a timetable for the operation of the mining activity, and scaled maps showing property lines, site boundaries, existing contours, proposed contours after reclamation, depth of excavation, storage location of mined materials on site, storage location of topsoil and overburden, access roads and points of access to the site, staging plan, stormwater management plan, location of structures, location of vehicle parking, and other site features.

D. Conditions for Approval.

A conditional use permit may not be approved unless the following requirements are met:

1. No application shall be for a site of more than 80 surface acres.
2. Approved haul route and road agreement between the pit operator, applicant, and owner of the materials to be mined and the owners of all easements, rights-of-way, and lands utilized to haul mined materials from the pit, whether such easements, rights-of-way, or lands are in Mercer County or not.
3. Approved dust control plan.
4. Approved reclamation plan.
5. Approved weed management plan.
6. Provide bond or other financial assurance as required by the Mercer County Board of Commissioners.
7. Signage and contact information shall be placed at all road access points to the property which identifies:
 - a. Operator emergency contact information.
 - b. County emergency contact information.
 - c. Legal owners of the property.
 - d. Pit operator.

- e. Legal description of the real property upon which development is occurring.

E. Standards and Setbacks.

1. All mining and excavation sites shall be located so as to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and disruption of known water sources.
2. The perimeter of the approved excavation site shall be at least:
 - a. 1,000 feet away from any residence unless there is an agreement binding the owner of the residence, the applicant, and the pit operator allowing a lessor distance.
 - b. 100 feet away from any property line.
 - c. 100 feet (plus any additional distance needed to allow for a 3:1 slope) away from any undeveloped section line.
 - d. 150 feet (plus any additional distance needed to allow for a 4:1 slope) away from local, state, and federal road centerlines and developed section lines.
3. Archeological Resource Survey and Consultation. The applicant shall consult with the State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota at the beginning of the planning process for the proposed operation.
 - a. If SHPO staff determine that an archaeological survey is recommended for any part of the proposed project, the applicant shall contract with a qualified archaeologist to complete such surveys, and shall submit the results to the Zoning Administrator and the SHPO no less than 60 days prior to the start of construction. The SHPO will make recommendations for the treatment of any significant archaeological sites which are identified. Any issues in the implementation of these recommendations will be resolved by Mercer County Board of Commissioners in consultation with the SHPO. All information submitted under this provision is subject to NDCC Section 55-02-07.1.
 - b. If any archaeological sites or human remains are found during construction, the applicant shall follow standard operating procedures as established by the SHPO and in accordance with NDCC Section 23-06-27 and associated North Dakota Administrative Code 40-02-03.

F. Reclamation Requirements.

1. Reclamation of the site shall be completed within one year of the resource being exhausted, the site being abandoned, or the last calendar month in which mining operations were conducted on at least four days.

2. Reclamation of the site shall be consistent with the reclamation plan approved by the County during the conditional use permit approval process.
3. All top soil shall be replaced.
4. Natural protective vegetation shall be planted and replanted as necessary until the site vegetation is firmly established.
5. There shall be compatibility with the existing surrounding landform with respect to vegetation, slope, surface materials and ground water resources.