

Chapter 12

Nonmetallic Mining and Processing

12.01 Definitions

The following terms shall have the meanings indicated in this chapter.

- (1) Nonmetallic mining. Operations or activities for the extraction from the earth of mineral aggregates and nonmetallic minerals, and related operations or activities, including but not limited to excavation, grading, or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes, including but not limited to stockpiling, crushing, screening, scalping, dewatering, and blending.
- (2) Nonmetallic mineral. A product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.
- (3) Nonmetallic mineral processing. Any combination of crushing, grinding, mixing, loading, transferring, stockpiling, or washing of a nonmetallic mineral at a stand alone facility or as part of a facility which may include but not be limited to the following: lime plant, hot mix asphalt plant, portland cement plant, washing facility, screening facility, rail loading facility or any other facility that processes nonmetallic minerals.
- (4) Nonmetallic Mining Site, Project Site, or Site. The location where a nonmetallic mining operation is proposed or conducted including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation and by activities including, but not limited to, the construction or improvement of roads or haulage ways.

12.02 Exemptions

- (1) Excavations or grading by a person solely for domestic use at their residence or farm.
- (2) Excavation or grading conducted for highway construction purposes within the highway or railroad right-of-way, excavation or grading done for highway safety.
- (3) Preparing a construction site for a project which has been issued a building or zoning permit and/or is consistent with applicable zoning ordinances or restoring land following a flood or natural disaster.
- (5) Excavations for building construction purposes on the construction site for a project which has been issued a building and/or zoning permit.

- (6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility.
- (7) Temporary (<120 consecutive days) hot-mix asphalt plants and temporary (<120 consecutive days) concrete ready-mix batch plants.

12.03 Permits. No new nonmetallic mine and/or processing facility, the expansion of a previously permitted nonmetallic mine and/or processing facility, or the expansion of a nonconforming nonmetallic mine and/or processing facility shall commence prior to obtaining a conditional use permit as per this chapter.

- (1) Application. Each application shall be judged on its own merits. Wabasha County reserves the right to deny any application to engage in non-metallic mining or processing. An application for a conditional use permit to operate a nonmetallic mine or processing facility shall include the information as follows:
 - (a) The name and address of the operator and landowner.
 - (b) Legal description of the parcel(s) upon which the nonmetallic mine or processing facility is to be located and the total acreage.
 - (c) An operational plan which describes the material to be mined or processed (include list of chemicals used in any processing), mode of operation, the types of activities that will occur at the site, estimated amount of material to be mined or processed, blasting cycles, estimated duration of the operation including phases, hours of operation and other pertinent information to explain the request in detail.
 - (d) A water usage plan which shall include the estimated amount of groundwater used on a daily basis.
 - (e) A plan that includes fencing, screening, and/or sloping necessary to minimize noise, dust, erosion, and other adverse effects of the activity.
 - (f) A reclamation plan that adheres to the provisions of chapter 24 and has prior approval by the Wabasha County Board of Commissioners. (An application for a nonmetallic mine will not be considered complete until the reclamation plan has first been approved by the Wabasha County Board of Commissioners.)
 - (g) A map of the existing conditions that includes a topography map with contour lines at ten (10) foot intervals, drainage features, structures within 1500 feet, and all wells within 1500 feet.
 - (h) A map of the proposed operation that includes structures to be erected, locations to be excavated, stockpiles of overburden and aggregate, erosion control structures, and a permanent site reference point.
 - (i) The owner/applicant shall submit an analysis prepared by an engineer licensed in the State of Minnesota for the existing geological conditions both in the extraction area and the subterranean extraction area and the impacts of the mining operation, including the applicability of the reclamation plan, on area hydrology, springs, or karst formations. The County reserves the right to have this information reviewed by any geologist or hydrologist, an employee of the Soil and Water Conservation District, or employee of the

USDA Natural Resources Conservation Service, or any professional at the discretion of the County.

- (j) A Transportation Impact Study that adheres to the provisions of section 6.08 and has been reviewed by Wabasha County and determined to be complete and adequate. The Study shall be performed at the expense of the applicant. A nonmetallic mine or processing facilities may be exempt from a Transportation Impact Study if one or more of the following criteria applies.
 - 1. The mine or processing facility is a temporary use (< 120 total calendar days) to be used for construction projects in Wabasha County or an adjacent County.
 - 2. The mine or processing facility generates less than 30 heavy vehicle trips per day and will not cause a cumulative impact of more than 30 heavy vehicle trips per day on any public road from similar operations.
 - 3. The aggregate from the nonmetallic mine will be primarily for road projects or for the agriculture industry in Wabasha County or an adjacent County.
- (k) An Environmental Assessment Worksheet (EAW) completed by the applicant. An Environmental Impact Statement may be required in lieu of an EAW when initiated by the Planning Commission or County Board as a discretionary authority.
- (l) Proof of a current MNG49 Permit issued by the Minnesota Pollution Control Agency (MPCA) or a copy of the complete MNG49 Permit application submitted to MPCA (if required).
- (m) In addition to the information to be submitted as outlined above, underground resource extraction facilities shall also include the following:
 - 1. A description of the stability of lands overlaying the underground workings.
 - 2. Locations of adits, ventilation shafts, and other surface openings.
 - 3. Detailed description of water handling procedures, including dewatering and processing water.
 - 4. Detailed description of the fate and transport of groundwater into and out of the mine workings.

12.04 Performance standards

The County Board and/or Planning Commission reserves the right to review site specific details and impose additional restrictions or conditions to the issuance of a Conditional Use Permit as it deems necessary to protect the health, safety and general welfare of the public. All conditions of the Conditional Use Permit and all performance standards apply to all heirs, successors, and assigns and shall run with the land until such time as the CUP is modified, amended, or terminated. Conditions may include, but are not limited to, performance characteristics, enhanced setbacks, and matters relating to appearance in order to mitigate potential nuisances and land use conflicts. Minimum performance standards are as follows:

- (1) No stockpiles, excavation activity, or mining activity shall occur within fifty (50) linear feet of neighboring property boundaries unless the adjacent parcel is under common ownership with the mine landowner and the land is within the permitted mine boundary.

- (2) No excavation activity or mining activity shall occur within one hundred (100) linear feet of any public road right-of-way unless the local road authority consents to a lesser setback. Stockpiles may be located within this area, but shall be at least fifty (50) linear feet from the right-of-way.
- (3) Each nonmetallic mine and/or processing site (regardless of size declared on a CUP application) shall be limited to a total of fifty acres for the use of nonmetallic mining and/or nonmetallic mineral processing at any given point in time. To adhere to this requirement and to allow for the continuation of mining at a site, reclamation of land altered by mining or processing shall first be conducted so as not to exceed this threshold.
- (4) Stockpiles of overburden shall have a vegetative cover established on them so as to prevent sediment from leaving the site and being deposited onto neighboring property.
- (5) Mineral washing that utilizes chemical additives shall have all sediment ponds/basins constructed according to plans designed by a MN Licensed Professional Engineer and shall be lined with an impervious liner or shall be constructed of concrete. Sediment from a settling pond/basin shall be disposed of in a manner approved by the Minnesota Pollution Control Agency.
- (6) Nonmetallic mines located within three hundred (300) feet of two (2) or more residential structures shall have safety fencing at least four (4) feet high at the top of any slope greater than 100% with a vertical rise equal to or greater than thirty (30) feet present for more than two weeks.
- (7) Notification must be provided to the Wabasha County Zoning Department, the Wabasha County Sheriff's Department, and all residents within one thousand (1000) feet of the mine at least twenty-four (24) hours in advance of any blasting.
- (8) Nonmetallic mining and processing must at all times remain at least fifteen (15) feet above the established groundwater table of the surrounding area (elevation of groundwater table to be verified by the DNR Area Hydrologist).
- (9) Lighting at any nonmetallic mine or processing facility shall utilize downlight fixtures.
- (10) A minimum of two air samples shall be collected and analyzed by an independent licensed environmental consultant at the expense of the owner/operator to screen for airborne silica at the edge of the property prior to starting a mine or processing facility. Air samples shall also be taken by an independent licensed environmental consultant at the expense of the landowner at an interval determined by the Wabasha County Planning Commission or County Board and submitted within 30 calendar days to the Wabasha County Planning and Zoning Department. Sampling shall be conducted during a period of normal operation at a location and time established by the Zoning Administrator in accordance to the schedule

adopted by the Planning Commission or County Board. Air quality shall adhere to MPCA standards for air quality.

- (11) The owner/applicant of any nonmetallic mine or processing facility shall enter into a road use agreement with Wabasha County for costs of any road impact identified by the Wabasha County Engineer or identified in the Transportation Impact Study. The road use agreement shall be drafted by the applicant, but will require approval as to its format and terms from the Wabasha County Engineer and Attorney's Office. The County reserves the right to deny permits for mining sites having inadequate infrastructure, as determined by the County, to support anticipated traffic characteristics of the proposed operation unless the road use agreements accommodates infrastructure improvements supporting the intended use.
- (12) Nonmetallic mines and/or processing facilities shall adhere to a setback of 1500 feet as measured from the property line of the parcel(s) on which the site has been designated to any existing residential dwelling or well, however, a lesser setback is allowed if a consent letter signed by the owner of a well or residential dwelling located within this setback is submitted with the application for a Conditional Use Permit. In no way shall the setback be reduced to be less than 300 feet unless the dwelling or well is under the same ownership as the mine or processing facility.
- (13) A monitoring well located hydrogeologically down gradient of any wet processing facility shall be installed at the expense of the owner/operator and prior to the start of operation. Water quality samples shall be collected and analyzed by an independent licensed environmental consultant at the expense of the landowner prior to the start of operation and on an annual basis. Water samples shall screen for contaminants identified for regulation in the federal Safe Water Drinking Act.
- (14) Nonmetallic mines and/or processing facilities shall not be located on a bluff (defined in the Zoning Ordinance) or within 300 feet of the toe or top of a bluff.
- (15) Underground resource extraction shall adhere also to the following:
 - (a) No resource extraction activities shall occur within a 1500 ft. horizontal radius of any residential or farm well.
 - (b) Designs for mining under public roads shall require approval of the road authority.
 - (c) Mining or tunneling must maintain a 200 ft. vertical extension setback from permanent surface structures.
- (16) Any other standard the County Board of Commissioners or the County Planning Commission deem appropriate.

12.05 Reclamation

All nonmetallic mines that obtain a permit as required under section 12.03 shall reclaim the mine as per the reclamation plan as required by this Ordinance once all mining activity on the property has ceased.

12.06 Transportation Impact Study

- (1) The applicant of a nonmetallic mine or nonmetallic mineral processing facility that is required to complete a Transportation Impact Study, as per this chapter, shall be responsible for all costs of an independent study for the proposed operation. The applicant shall be responsible for obtaining the services of a qualified professional traffic engineer licensed in the State of Minnesota to prepare the Transportation Impact Study.
- (2) Wabasha County will review the Transportation Impact Study and has the sole authority to determine the completeness and adequacy of any Transportation Impact Study. The County reserves the right to hire any qualified professional as part of an independent review for any or all of the Transportation Impact Study. All costs associated with any independent review shall be the responsibility of the applicant.
- (3) The Transportation Impact Study shall identify the proposed operation's impacts on the transportation system and the potential improvements necessary to mitigate level of service, operational impacts, structural impacts, safety impacts, or any other impacts of the proposed operation. Potential improvements shall be identified as location/road specific and shall include an estimated cost for each potential improvement.
- (4) The Transportation Impact Study shall be comprehensive and encompass all existing and proposed accesses, all intersections, and all public roads within a geographic range of significant impact as determined by the Wabasha County Engineer for the proposed nonmetallic mineral mine or processing facility. The Transportation Impact Study shall include, but not be limited to, the information as follows:
 - (a) Preparer's name and all contributing persons and their qualifications.
 - (b) Project description.
 - (c) Identification on a detailed road map the desired haul route.
 - (d) Map of all access points.
 - (e) Existing traffic and road conditions including road structure and condition information; bridge structure and condition information; geometry, features and traffic control on routes; ADTs and (if requested) vehicle classification distribution; operational conditions of intersections; peak hours, turning movements and levels of service; gap or que length information (when requested).
 - (f) Projected traffic without proposed mining or processing facility which includes future projected ADTs, peak hour movements and level of service; existing and known proposed traffic generators affecting impacts; gap or que length information (if requested); and map of adjacent land uses and accesses (if requested).

- (g) Proposed mining operation traffic which includes traffic generation at peak hours and other operating times; figures showing traffic movements and volumes on route(s); assumptions, calculations and other information used in analysis.
- (h) Figures showing ADTs and HCADTs, peak hour movements, level of service, and (where requested) gap or que lengths for present and future conditions with proposed mining; access review for adequacy; and identification of level of service, operational, structural and safety impacts.
- (i) All costs expected to be incurred to maintain safe and desirable roadway surface conditions attributable to the proposed mining operations including but not limited to surface repair, street cleaning/sweeping, and shoulder repair shall be paid for by the applicant.
- (j) Summary of all impacts and potential improvements including estimated costs for all potential improvements (including estimated costs of right of way and engineering) itemized by improvement.
- (k) All costs associated with any recommendations or requirements of the Traffic Impact Study shall be paid for by the applicant.

12.07 Indemnification.

The Operator of any nonmetallic mine shall hold the County, its officers, employees, and agents harmless against all claims by third parties for damages or costs arising out of, resulting from, or related to mineral extraction, processing, property damage, and reclamation on the subject property or incurred in the development of the subject property. The Operator shall indemnify the County for all costs, damages, or expenses incurred by the County arising from such claims, including attorney's fees.