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Aggregate Material Mining Regulations (Section XIII)

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 location, proposed access route, and all residences, and public facilities within one mile of the site and one mile of the access road.

2. Site map that shows:
    a. Site Boundary
    b. North Arrow
    c. Total Acreage
    d. Active Mining Area(s)
    e. Stockpile Area(s)
    f. Present and Planned Structures

3. Reclamation Plan.
    a. Written agreement between the applicant and the landowner.
    b. Reclamation of the site shall be completed within 12 months after the expiration of the Conditional Use Permit or no later than 24 months after mining operations have not been conducted on at least 4 days per month.
    c. There shall be compatibility with the adjoining property landform.
    d. Cannot diminish or restrict property outside the proposed boundary.
    e. 3:1 slope from mining boundary.

4. 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. Yearly Inspection by the County Weed Officer.
    b. 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.

5. Truck Hauling/Road Route Plan – a map shall be submitted showing the proposed route to be used for hauling from the proposed site to a State Highway.

    a. Written road agreement binding on the operator, applicant, surface owners of lands utilized to access the pit other than access by public easement or public right-of-way.

    b. Operations Plan including a timetable for the operation startup and the anticipated lifespan of the operation.

6. Approved haul route and road agreement between the, 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 proposed location.

7. Approved dust control plan.

8. Approved reclamation plan.

9. Approved weed management plan.

10. Provide bond or other financial assurance as required by the Mercer County Board of Commissioners.

11. Signage and contact information shall be placed at all road access points to the property which identifies:

    a. Pit operator emergency contact information.

    b. Name of Pit operator.

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

D. Standards and Setbacks.

1. Proposed location shall be operated so as to protect and preserve adjoining 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 and the applicant allowing a lessor distance.

    b. 33 feet away from centerline of a section line.

    c. 150 feet (plus any additional distance needed to allow for a slope) away from local, state, and federal road centerlines.

12. 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.