

**Chapter 25**  
**LAND EXCAVATION AND MINING**

SECTION

XX-25-1: Purpose

XX-25-2: Application

XX-25-3: Grading, Filling, Excavating; Temporary

XX-25-4: Mining

**XX-25-1: PURPOSE:** The purpose of this chapter is to provide for regulation of grading, filling, and excavating activities within the town to protect water resources and wetlands, manage storm water and prevent erosion, and to regulate more intensive long-term mining uses to protect infrastructure and public health, safety, and welfare of the town. (Ord. 900, 18 Apr 22)

**XX-25-2: APPLICATION:**

- A. Land disturbing activities involving the grading, filling, or excavation of an amount of soil or other material greater than 500 cubic yards and less than 10,000 cubic yards shall require an administrative permit issued by the town engineer in accordance with provisions of chapter 8 of this ordinance and the requirements of section XX-25-3 of this chapter.
- B. Projects involving grading, filling or excavating more than 10,000 cubic yard shall require approval of an interim use permit in accordance with the provisions of chapter 5 of this ordinance and the requirements of section XX-25-4 of this chapter.
- C. Projects that are located in S district, WS district, or FP district, or that meet the thresholds for a mandated environmental assessment worksheet or environmental impact statement shall require approval of an interim use permit in accordance with the provisions of chapter 5 of this ordinance and the requirements of section XX-25-4 of this chapter. (Ord. 900, 18 Apr 22)

**XX-25-3: GRADING FILLING, EXCAVATING; TEMPORARY:** Projects involving grading, filling, or excavating of more than 500 cubic yards but less than 10,000 cubic yards of soil or other material shall comply with the following:

- A. Information: An application for an administrative permit shall include the following additional information;

1. A copy of the storm water pollution prevention plan prepared for the Minnesota pollution control agency NPDES phase II permit program for activity associated with the project.
2. Copies of permits or permit applications or approvals relating to the project that may be required by any other governmental entity.
3. A proposed timetable and schedule for completion and installation of all elements of approved erosion control and stormwater management plans and a proposed schedule for completion of construction.

B. Performance Standards:

1. Not more than 10,000 cubic yards may be graded, filled and/or excavated pursuant to the permit.
2. The project, including any restoration and remediation activity shall be completed no later than one year after the date the permit is issued.
3. The stormwater pollution prevention plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Permanent stormwater components of the plan shall be maintained in perpetuity.
4. The permittee(s) is responsible for successful completion of the stormwater pollution prevention plan.
5. The permit shall contain restoration and remediation standards so that the property is left in a nuisance-free condition.
6. Hours of Operation shall be limited to 7:00 AM – 7:00 PM Monday through Saturday.
7. The town engineer shall designate a specific haul road/access road for the project and may be conditioned on the permittee entering into a road restoration agreement with the applicable road authority before any work may commence.
8. Processing machinery and excavation shall comply setback standards for structures from ordinary high water levels of public waters and from bluffs.

9. Filling or excavation shall not take place within 40 feet of a property line and/or no closer than to accomplish a 2.5:1 slope.
10. The permittee(s) shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.
11. The zoning administrator may condition the approval of any permit on the provision of performance security as provided for by section XX-10-2 of this ordinance.
12. Application for a permit shall constitute express permission by the permittee(s) for the town engineer to enter the property for purposes of inspection or enforcement. The application form will contain a prominent provision advising the applicant and landowner of this requirement.

C. Inspections:

1. Prior to any excavation, all perimeter controls shall be inspected and approved by the town engineer.
2. The town engineer shall inspect the property to verify compliance with the submitted stormwater pollution prevention plan within 10 days of notification of soil stabilization.
3. Inspections and maintenance of the permitted site is the responsibility of the owner and the permittee(s) inspection records shall be made available to the town engineer. (Ord. 900, 18 Apr 22)

**XX-25-4: MINING:** Projects involving grading, filling, or excavating of 10,000 cubic yards or greater of soil or other material shall comply with the following:

- A. Criteria. An interim use permit shall be issued only upon findings that there is no substantial environmental impact or that such impact will be alleviated through a restoration program and other condition of the permit and that the activity will have no substantial adverse impact on surrounding property or that such impact will be alleviated through the conditions of the permit.
- B. Information: The following information shall be provided by the person or agency requesting the permit:
  - a. Name and address of person or agency requesting the mining permit.

- b. The legal property description and acreage of area to be mined.
- c. A description of general operations that address operating hours, dust control, housekeeping, and safety.
- d. The following maps of the entire site and including all areas within 350 feet of the site. All maps shall be drawn at a scale of one inch to 100 feet unless otherwise stated below. A digital drawing in a format compatible with the CAD software used by the town of the plat on county coordinates with all the information contained in Maps A, B, and C listed below.
  - (1) Map A - Existing Conditions to include:
    - (a) Contour map, with two foot intervals.
    - (b) Existing vegetation.
    - (c) Wetlands and existing surface water drainage patterns.
    - (d) Existing structures.
    - (e) Existing wells.
  - (2) Map B - Proposed Operations to include:
    - (a) Structures to be erected.
    - (b) Location of a permit, accessible and visible bench mark elevation in the vicinity of the mining boundary.
    - (c) Location of sites to be mined showing depth of proposed excavation.
    - (d) Location of any open water.
    - (e) Setback line for property lines and ordinary high water levels of public waters.
    - (f) Location of storage of mined materials, showing maximum height of storage deposits.
    - (g) Location of vehicle parking, access roads and local routes to truck routes.

(h) Staging of mining activity.

(i) Resource management plan.

(3) Map C - End Use Plan to include:

(a) Final grade of proposed site showing elevations and contour lines at two foot intervals.

(b) Location and species of vegetation to be replanted.

(c) Reclamation staging plan.

(d) Proposed land use and development plan.

e. A plan shall be submitted for approval showing the public roads on which trucks will carry material from the site along with a schedule and means of cleaning the public roads of lost material.

f. A restoration plan shall be submitted providing for the reuse of the land after resource exhaustion.

g. The permittee is responsible for completion of the site restoration.

C. Performance Standards:

1. No non-granular material shall be removed unless the permit is specifically for such an operation.

2. Vertical faces shall be kept to a minimum except during active mining.

3. Mining shall not take place within 40 feet of a property line and/or no closer than to accomplish a 2.5:1 slope.

4. The permit shall specify what operations are to occur in the permitted area and what general types of equipment may be used in the operation.

5. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

6. Excavation or grading that disturbs an area greater than one acre in area shall comply with section XX-16-5 of this ordinance.

7. Restoration:

- (a) All areas where the resource is exhausted and not needed for other operations shall be restored at the completion of mining.
  - (b) All restoration shall include the application of a minimum of four inches of topsoil or similar material that will support plant growth.
  - (c) Grading standards:
    - (1) Final grades shall be in conformity with the topography of the surrounding land.
    - (2) If the land is to be restored to crop production, no slope shall exceed 20 percent (5:1 slope).
    - (3) If the restoration is not for crop production, no grade shall exceed 33 percent (3:1 slope).
  - (d) All restored areas shall be seeded with a mixture recommended by the town engineer or returned to crop production. The permit may require a reforestation plan. Reforestation requirements shall be based on the recommendation of the soil and water conservation district and/or the zoning administrator.
11. Approval of an interim use permit in accordance with this section shall be conditioned upon the provision of performance security as provided for by section XX-10-2 of this ordinance. (Ord. 900, 18 Apr 22)