

CHAPTER XI

QUARRIES, GRAVEL PITS AND ASPHALT/CONCRETE PLANTS

SECTION 11.00. Definitions.

- a. "Quarry" as used herein shall mean any place where material consisting in whole or in part of rock or stone, are removed from their natural state by cutting, blasting, digging or pushing, or by any other method whether herein specified or not, and sold or held for sale or distribution.
- b. "Gravel pits" and "sand pits" as used herein shall mean any place where gravel or sand is removed from its natural state of deposit by digging, pushing, or any other method whether herein specified or not, and sold or held for sale or distribution.
- c. "Asphalt and tar paving mix plants" as used herein are defined as plants wherein asphalt, tar, or other petroleum products or by-products are prepared or mixed, either alone or with other ingredients, as a material for paving or surfacing.
- d. "Concrete ready mix plants" as used herein are defined as plants where water, gravel, sand, crushed stone, or other aggregate is mixed with cement and placed within a truck or trucks for the purpose of mixing such ingredients and to create and manufacture concrete thereby while such truck is in transit to its ultimate point of delivery.

SECTION 11.10. Permit Required. No person, persons, firm, corporation or municipality shall operate a quarry, gravel pit, sand pit, an asphalt or tar paving mix plant, or a concrete ready mix plant within the Town of Lyons, Walworth County, Wisconsin, without first obtaining a permit to do so from the Town Board as hereinafter provided.

SECTION 11.20. Applications; Fee. Application for permits required under Section 11.10 above shall be submitted in writing, in duplicate, to the Town Board and shall set forth the following:

- a. Name and address of the applicant.
- b. Name and address of owner of the site on which use is to take place.
- c. Description of site for use by lot, block and recorded subdivision or by metes and bounds.

- d. Address of site.
- e. List of equipment and machinery to be used to conduct operations.
- f. Zoning of the site to be used.
- g. Depth of proposed excavation.
- h. Statement of the nature of the proposed operation, including: a description of the machinery to be used; the type and amount of explosives to be used or stored, if any; the type and size of buildings to be constructed; the smoke and dust control devices to be utilized, if any; the highways to be used for the truck traffic to and from the location; proposed devices for muffling of noise, if any; the employment of safety devices to protect the public from dangers inherent to the proposed use; deodorants or odor control devices, if any; method of concealing unsightly deposits, if any; and any other pertinent data which the applicant deems material.
- i. A description of the surrounding property and its use.
- j. Hours of intended operation.
- k. The method and manner of draining surface water and accumulated water from the licensed premises.
- l. The method and manner of restoring the areas of the operation after the cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.

The application shall be accompanied by a fee of \$500.00 to defray cost of publication of notice of hearing on said application, investigation and public hearing, if any.

SECTION 11.30. Review; Hearing.

11.31. Upon receipt of an application submitted as provided in Section 11.20 above, the Town Board shall inspect the site for which a permit is requested and shall review the proposed structures, neighboring land and water uses, driveway locations, highway access, traffic generation and circulation drainage, waste disposal, water supply system, effect of the proposed use and operation upon use of surrounding lands, natural beauty, soil erosion, water quality, wildlife habitat and shoreland cover and method, manner and practicality of restoration of the area after cessation of use. The Town Board shall set a date for public hearing upon such application, which said date shall be not more than forty-five (45) days after the receipt of the application by the Town Board. A public hearing shall be held by the Town Board at its regular meeting place and a notice of said meeting shall be forwarded

by mail to the applicant and all persons owning property lying within 500 feet of the site designated in the application. In addition, the Town Clerk shall post a notice of such meeting shall be published at least ten (10) days before the date of said public hearing. As an alternative to publishing said notice, notice of said hearing may be posted in three public places within the said Town not less than five (5) days prior to the date of said hearing. At such public hearing, the Town Board shall hear all persons interested in granting or denying of said permit and may, if it deems fit, take testimony relative to the applications.

11.32. Where the permit applied for relates to the continuation of an existing business as enumerated herein, the Town Board shall have the option to require a public hearing, but in absence of such requirement, no public hearing shall be held.

SECTION 11.40. Determination by Town Board. Within ninety (90) days after the public hearing, the Town Board shall either grant or deny said permit. In making such determination, the Town Board shall consider whether the proposed use will be detrimental to the health, safety and/or welfare of the public; such determination shall be made on the basis of the information contained in the application, the inspection and review of the Town Board as provided aforesaid and information presented at the public hearing.

11.41. The Town Board, as a condition to the issuance of a permit, may require conditions as to type of construction, construction commencement and completion dates; landscaping; fencing; location, size and number of signs; water supply facilities; waste disposal systems; floodproofing; street dedication; operational control; hours of operation; parking areas; repair of public roads used; highway access restrictions; deed restrictions; traffic control; inspections and testing of area water wells where the permitted use includes excavation below the water table and sureties to insure performance of such conditions in form determined by the Town Board upon the Town Board finding that such condition or conditions are proper for protection of health, safety and/or welfare of the public.

11.42. The Town Board may also, as a condition precedent to the issuance of a permit, require an agreement with the applicant whereby the applicant agrees to restore the site to a condition of practical usefulness and reasonable physical attractiveness. The Town Board may demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement be furnished to the Town, in such amount as the Town may determine.

SECTION 11.50. Term of Permit.

11.51. Such permit shall be for a period not to exceed two (2) years and may be renewed upon application for successive periods of not

more than two (2) years each. Modifications or additional conditions may be imposed upon application for renewal and the procedure for renewal shall be the same as that in application for an original permit. In any event, such permit shall terminate:

- a. Upon change of ownership of the site for which the permit is issued; or upon change of ownership of the firm, company, corporation or municipality operating the licensed business.
- b. In the event the use for which the permit was issued is discontinued for more than one (1) year after the same is granted by the Town Board.
- c. In the event the use specified in the permit is not carried on in accordance with the representations contained in the application or conditions required by the Town Board as precedent to granting the permit.

11.52. In the event of the occurrence of a, b, or c above, another permit shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the permitted business, the operation of a new business, or the resumption of the discontinued business.

11.53. In the event of application for a permit pursuant to subsection 11.52 hereof, the Town Board may consider the same without the necessity of holding a public hearing.

11.54. Any permit issued pursuant to subsection 11.52 hereof shall be deemed an original permit and the permitted operator shall be bound by the terms thereof.

SECTION 11.60. Revocation. The following acts shall constitute grounds for revocation of permit:

- a. Failure to discharge or drain surface water or accumulated water from the permitted premises in such method and manner as will not interfere with the use of lands, drains, and ditches of other persons, firms or corporations, municipalities, owned or otherwise.
- b. Any change in the manner of operation specified in the application as approved by the Town Board in granting the original permit.
- c. Failure during and after excavation to provide adequate lateral support to roadways or to the lands abutting property owners.
- d. Failure to comply with conditions required by the Town Board as conditions precedent to issuance of the permit.

Any proceeding to revoke a permit shall be instituted by the Town Board by the mailing of a notice of hearing on revocation to the applicant. Such notice shall be mailed at least ten (10) days prior to the date of hearing. At such hearing, applicant may appear personally and by his attorney and present his defense to proposed revocation. The Town Board shall have three (3) days after such hearing to make a determination of whether grounds of revocation exist. If such Board shall find that any of the conditions specified in the ordinance as grounds for revocation exist, the Town Board shall forthwith revoke such permit and notify the permittee by mail addressed to the permittee at the address shown on the application. Permittee shall thereafter cease and desist forthwith from the operation of the permitted premises.

SECTION 11.70. Denial of Permit. In the event a permit is denied for the operation of any business enumerated herein with respect to any particular parcel of realty, no application for the same business on the same parcel of land, or any part thereof, may be filed within one (1) year from the date of such denial. In the event, however, that a new application shall reveal a material difference in any of the items specified in subsection 11.20 hereof, the Town Board may, upon a finding that the new application does include such material difference, proceed to hear and determine such application within said year.

SECTION 11.80. Penalties.

11.81. Any person, firm, or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter, shall forfeit not less than \$100.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment thereof, by imprisonment in the County Jail for a term of not more than thirty (30) days, or until such judgment is paid in the case of an individual, and every day of violation shall constitute a separate offense.

11.82. In case any premises are used in violation of this chapter, an action in the name of the Town may be instituted to enjoin such violation or intended violation, and this remedy shall be in addition to other remedies set forth in this Section.

CHAPTER XII

DUMPS

SECTION 12.00. Definitions. "Dump" as used herein means the use and maintenance of any land or lands for the placement or deposit of garbage, junk, refuse, or other waste materials and debris, including a sanitary landfill.

SECTION 12.10. Permit Required. No person, firm, corporation or municipality shall operate a dump within the Town without first obtaining a permit to do so from the Town Board as hereinafter provided.

SECTION 12.20. Application; Fee. Application for permit to operate dump within the Town shall be submitted in writing to the Town Board and shall set forth the following:

- a. Name, residence or office address of applicant.
- b. Description of the premises to be used.
- c. Zoning of the premises to be used.
- d. Statement of the nature of the proposed operation, including a description of the machinery to be used, if any; the type and size of buildings to be constructed, if any; the smoke and dust control devices to be utilized, if any; the highways to be used for the truck traffic to and from the location; the employment of safety devices to protect the public from dangers inherent to the proposed use; deodorants or odor control devices, if any; method of controlling unsightly deposits, if any; and other pertinent data which the applicant deems material.
- f. Hours of intended operation.
- g. The method and manner of draining surface water and accumulated water from the licensed premises.
- h. The method and manner of restoring the area of the operation after cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.

The application shall be accompanied by a fee of \$500.00 to defray the cost of publication, investigation and public hearing, if any.

SECTION 12.30. Public Hearing.

12.31. Upon receipt of an application submitted as provided in Section 12.20 of this Ordinance, the Town Board shall inspect the

premises for which a permit is requested and shall set a date for public hearing upon such application, which said date shall be not more than forty-five (45) days after the receipt of the application by the Town Board. A public hearing shall be held by the Town Board at its regular meeting place and a notice of said meeting shall be published in a newspaper of general circulation in the Town as least five (5) days before the date of said public hearing or in lieu thereof, notice of said hearing shall be posted in not less than three (3) public places within said Town at least five (5) days before the date of said hearing. At such public hearing, the board shall hear all persons interested in the granting or denying of said permit and may, if it sees fit, take testimony relative to the application.

12.32. Where the license applied for relates to the continuation of an existing use as defined herein, no public hearing shall be held nor shall any fee be charged.

SECTION 12.40. Determination by Town Board. Within ninety (90) days after the public hearing, the Town Board shall make determination as to whether the operation of the proposed use described in the application will be detrimental to the health, safety and welfare of the public of the Town of Lyons. Such determination shall be made on the basis of the information contained in the application, together with the evidence presented at the public hearing and the inspection of the premises by the Town Board.

12.41. The Town Board may, as a condition to the issuance of the permit, demand an agreement with the applicant to insure performance of the following restrictions:

- a. There shall be no burning or fire of any kind allowed on the premises for which the permit is issued. In the event a fire is started on the premises, whether or not through the fault of the permittee and the services of a fire department are used to extinguish said fire, the permittee shall pay any and all costs thereof to the Town of Lyons, upon demand.
- b. No raw garbage, dead animals, manure, animal or vegetable waste from any source whatsoever, oil, paint, solvents or other liquid chemicals, or any similar material shall be dumped on the premises for which the permit is issued.
- c. The proposed operation shall not be detrimental to the sources of water supply at the residences in the area.
- d. All wastes disposed of at the site shall be covered with at least six (6) inches of compact earth after each day of operation.
- e. The working force of the operation shall be confined to as small an area as possible and surrounded with a snow fence

or other appropriate facilities to confine possible wind-blown materials to the area. All wind-blown material resulting from the operation shall be properly picked up and the site so maintained.

- f. The entrance to the premises for which the permit is issued shall be fenced and shall contain a gate which shall be capable of being securely locked. The premises shall be kept locked at all times except when immediate supervision is provided to insure compliance with the provisions of the ordinance and agreement.
- g. The operation and access roads to the site shall be maintained in a manner to eliminate the possibility of causing a dust problem in the area.
- h. The premises shall be restored to the satisfaction of the Town Board; said restoration to progress as the area is filled, and the Town Board may demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement, be furnished to the Town.
- i. The disposal shall be conducted in a sanitary manner by use of the sanitary landfill method in accordance with the requirements established by the State of Wisconsin, which are incorporated herein by reference.

The Town Board shall thereupon grant or deny the permit in accordance with such determination.

SECTION 12.50. Term of Permit.

12.51. Such permit shall have a term of two (2) years and may be renewed upon application for successive periods of not more than two (2) years each upon application as set forth herein, provided such permit shall terminate:

- a. Upon the change of ownership of the land affected by such permit; or upon the change of ownership of the firm, company, corporation or municipality operating the premises.
- b. In the event the use specified in the permit is not carried on in accordance with the representations contained in the application, or in the event such use is changed to another use or in the event the permit use has been discontinued for more than one (1) year.

12.52. In the event that the occurrence of a or b above, another permit shall be applied for and obtained by the proposed operator as a

condition precedent to the continued operation or the resumption of the discontinued operation.

12.53. In the event of application for a permit pursuant to 12.52 above, the Town Board may consider the same without the necessity of holding a public hearing.

SECTION 12.60. Revocation. The following acts shall constitute grounds for revocation of permit:

- a. Failure to discharge or drain surface water or accumulated water from the premises in such manner and method as will not interfere with the use of lands, drains and ditches or other persons, firms, or corporations, municipality owned or otherwise.
- b. Any change in the manner of operations specified in the application as approved by the Town Board in granting the original permit.
- c. Failure to comply with conditions required by the Town Board as conditions precedent to issuance of the permit.

Any proceedings to revoke a permit shall be instituted by the Town Board by mailing of a notice of hearing on revocation to the applicant. Such notice shall be mailed at least ten (10) days prior to the date of hearing. At such hearing, applicant may appear personally and by his attorney and present his defense to the proposed revocation. The Town Board shall have three (3) days after such hearing to make a determination of whether grounds for revocation exist. If such Board shall find that any of the conditions specified in the Ordinance as grounds for revocation exists, the Town Board shall forthwith revoke such permit and notify the permittee by mail addressed to him at the address shown on the application. Permittee shall thereafter cease forthwith from the operation of the licensed premises.

SECTION 12.70. Denial of License. In the event a permit is denied for the operation of any use enumerated herein, with respect to any particular parcel of realty, no application for said use on the same parcel of land or any part thereof, may be filed within one (1) year from the date of such denial. In the event, however, that a new application shall reveal a material difference in any of the items specified in Section 12.20 hereof, the Town Board, may upon a finding that the new application does include such material differences, proceed to hear and determine such new application within said year.

SECTION 12.80. Penalty.

12.81. Any person, firm, corporation or municipality who violates, disobeys, neglects, omits or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance, shall forfeit

not less than \$100.00 nor more than \$500.00, together with the cost of prosecution, and in default of payment thereof, by imprisonment in the County Jail for a term of not more than thirty (30) days, or until such judgment is paid in the case of an individual, and every day of violation shall constitute a separate offense.

12.82. In case any premises are used in violation of this chapter, an action in the name of the Town may be instituted to enjoin such violation or intended violation and this remedy shall be in addition to other remedies set forth in this chapter.

