

CHAPTER 120.400

SAND AND GRAVEL RESOURCE SITES

- 120.410. Statement of Purpose and Intent
- 120.412. Definition
- 120.415. Permitted Uses
- 120.420. Minimum Standards
- 120.425. Procedures
- 120.430. Application for Permit
- 120.435. Issuance of Permit
- 120.440. Suspension of Permit
- 120.445. Standards for Rehabilitation and Restoration
- 120.450. Failure to Maintain Site or Conditions
- 120.455. Administration and Enforcement
- 120.460. Required Agreements and Liens

120.410 STATEMENT OF PURPOSE AND INTENT. The intent and purpose of this section is to permit the development and utilization of mineral resources without the necessity of changing zoning districts, to provide reasonable guidelines for conditions to be applied to reasonably protect neighboring properties and minimize undesirable effects and to provide for the ultimate rehabilitation and restoration of the premises to land uses compatible with the surrounding neighborhood and community.

120.412. DEFINITION. As used in Sections 120.410 to 120.460, unless the context requires otherwise, QUARRY means premises from which any rock, sand, gravel, stone, topsoil, clay, mud, peat, or mineral is removed or excavated for sale, as an industrial or commercial operation, and exclusive of excavating and grading for streets and roads, and the process of grading a lot preparatory to the construction of a building for which a permit has been issued by a public agency.

120.415. PERMITTED USES. The Hearings Officer may permit the following uses within all zoning districts without a showing of hardship, after public hearing and subject to the conditions hereinafter set forth:

- (A) Sand, gravel, and rock pits and quarries;
- (B) Stock piling;
- (C) Rock crushing;
- (D) Processing and washing, sizing;
- (E) Residence for a caretaker;
- (F) Building structure, apparatus or appurtenances necessary for these uses to be carried on;
- (G) Concrete batching or hot mix batching plants;
- (H) Other incidental related activities using materials found primarily on the site, such as preformed steps, fences, vaults, etc. [Adopted by Ordinance #119, dated May 7, 1974; Amended by Ordinance #88-21, dated November 30, 1988.]

120.420. MINIMUM STANDARDS. The following minimum standards shall apply to the establishment, maintenance, and operation of sand and gravel resource sites within Polk County:

- (A) Screening. The site shall be reasonably screened from adjoining properties and public streets, by placement of landscaped yard areas adjacent to every property line within which will be placed an ornamental fence, wall, or hedge or landscaped berm, in addition to such natural desirable vegetation in the landscaped area. This landscaping shall obscure view of the site whenever possible, and shall be maintained by the permit holder.
- (B) Water Pollution. Contamination or impairment of the ground water table, streams, rivers, or tributary bodies thereto shall not be permitted as a result of the extraction and/or processing activities. All operations and related activities shall be subject to the applicable laws, rules, and regulations of the Environmental Quality Commission.
- (C) Air Pollution Control. Control of air, dust, odors, and other pollutants shall be subject to the existing laws, rules, and regulations of the Mid-Willamette Valley Air Pollution Authority.

- (D) Excavation. Excavation made to a water producing depth creating lakes and ponds shall be deep enough to prevent stagnation and development of an insect breeding area or backfilled with a material that will not impair the ground water quality.
- (E) Access Roads. All access to the site shall be by a route approved by the Hearings Officer in coordination with the Director of Public Works.
- (F) Control of Operation Time. A limit shall be placed on operating time, from 4:30 a.m. to 9:30 p.m., but such activities as office, machinery repair, and equipment upkeep shall be excluded; however, in time of public emergency or private emergency, as determined by the Director of Public Works, the operating time limits shall be waived. Activities conducted outside the allowable time limit may be carried on only if they fall within the following noise standards.
- (G) Noise Standards:
 - (1) Noise shall not exceed the following intensity in relation to sound frequency as adjusted below when applicable.

<u>OCTAVE BAND</u>	<u>MAXIMUM PERMITTED SOUND LEVEL DECIBELS</u>
<u>Frequency in cycles per second</u>	<u>Hours 10:00 p.m. to 7:00 a.m.</u>
0 to 74	69
75 to 149	54
150 to 299	47
300 to 599	41
600 to 1,199	37
1,200 to 2,399	34
2,400 to 4,499	31
4,800 and above	28

- (2) If the noise is not smooth and continuous, the following corrections shall be added to or subtracted from the above items:

TYPE OF OPERATIONS OR CHARACTER OF NOISE	CORRECTION IN DECIBELS
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- (a) When in each one hour period, the noise source operated less than a total of (use only one factor):

12 minutes	Add 5
3 minutes	Add 10
20 minutes	Add 15
- (b) Noise of an impulsive character
(such as hammering, etc.) Less 5
- (c) Noise of periodic character
(such as humming, screech, etc.) Less 5
- (3) Noise made by devices which are maintained and utilized solely to serve as warning devices is excluded from these regulations.

- (4) Noise created by highway vehicles, trains, watercraft and aircraft is excluded from these regulations.
- (5) Measurements:
 - (a) Sound levels shall be measured with a sound level meter and octave band analyzer approved by the Director of Public Works, based on the specifications of the American Standards.
 - (b) Sound measurements, using instruments described in this section, shall be taken by a qualified person standing at three separate points on the property line describing the property under permit.
 - (c) Measurements for alleged violations shall be made on at least three non-consecutive days.

120.425. PROCEDURES

- (A) Notice and public hearing upon an application for a conditional use permit under Section 120.430 shall be provided as required by Chapter 111.
- (B) Notice of the decision of the Hearings Officer shall be given as provided in Section 111.270.
- (C) Decisions of the Hearings Officer on conditional use applications under Section 120.430 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290. [Amended by Ordinance 88-21, dated November 30, 1988.]

120.430. APPLICATION FOR PERMIT. Application by the landowner or the operator, acting as agent, with the written consent of the landowner, shall be made to the Hearings Officer on forms furnished by the Planning Director. Each application shall set forth the specific uses intended for the site and shall be accompanied by:

- (A) An accurate plot plan showing the exterior boundaries of the property on which the quarry is or is proposed to be excavated, and the location of any existing or proposed structures, roads, or other improvements, topography, and the abutting property owners with their names and addresses.
- (B) A plan for the rehabilitation and use of the site after the resources have been removed which plan shall be consistent with land use planning policies of Polk County. Such a plan shall be prepared at a scale of not less than one inch to 400 feet, with topographic contours, intervals of not less than 25 feet.
- (C) The agreement required by Section 120.460 of this ordinance.
- (D) The current fee as prescribed by ordinance. [Amended by Ordinance 88-21, dated November 30, 1988.]

120.435. ISSUANCE OF PERMITS.

- (A) The Hearings Officer shall make such investigations as are necessary to determine whether the proposed site conforms fully to the regulations set forth herein.
- (B) In addition to the requirements of Section 120.410 to 120.460, the Hearings Officer may prescribe additional restrictions or limitations when granting a conditional use permit for a proposed site. The Hearings Officer may prescribe such additional conditions as it deems necessary to fulfill the purpose and intent of this ordinance after finding that such conditions are necessary for the public health, safety or general welfare or to protect persons working or residing in the area, or to protect property or

improvements in the area, or to protect the aesthetic qualities of the area, or to protect the environmental quality of the area.

- (C) The Hearings Officer may not reduce or change the requirements specified in Sections 120.410 to 120.460, except when proceedings have been held for variance of these requirements by the Hearings Officer pursuant to Chapter 122, provided that an application for variance may be filed with and considered concurrently with the conditional use application, except that the notice of hearing shall separately state the variance applied for. [Amended by Ordinance #88-21, dated November 30, 1988.]

120.440. SUSPENSION OF PERMIT. Any permit granted hereunder shall be subject to suspension by the Hearings Officer if it is ascertained that the application contains any false statement, or if it develops that the minimum requirements and conditions set forth by the Hearings Officer are not being complied with. Upon approval of the Hearings Officer, the permit holder may be served notice stating that one, or more, of the conditions or requirements set forth in the permit has not been met and requiring the permit holder to appear before the Hearings Officer either at a regular Hearings Officer meeting or at a special hearing set by the Hearings Officer. Such notice shall also set forth the time and place at which time the permit holder may present material and evidence, and show cause why the permit should not be suspended.

The Hearings Officer shall decide whether or not the conditions have been met as prescribed in the permit. If the Hearings Officer decides the conditions have not been met, the Hearing Officer may allow a reasonable time for the necessary correction. If the corrections are not made within the time allowed by the Hearings Officer, an automatic suspension of the permit shall become effective upon expiration of the time allowed.

Any suspension of permit under this Section shall be removed upon evidence submitted to and accepted by the Hearings Officer that any unmet conditions have been corrected. [Amended by Ordinance #88-21, dated November 30, 1988.]

120.445. STANDARDS FOR REHABILITATION AND RESTORATION. The purpose of this section is to ensure the future use of quarry sites after removal of the mineral resources have been completed. The restoration plan shall be consistent with the land use planning policies of Polk County.

- (A) The landowner shall be responsible for the eventual restoration of the quarry site as described in the plan submitted with the permit application.
- (B) Upon exhaustion or economic abandonment of the mineral resources contained at the site under permit, the landowner shall have a reasonable time to rehabilitate and restore the site in accordance with the plan submitted with the permit application. In the event the landowner does not comply with the restoration plan, the Board of Commissioners has the power to order the appropriate County agencies to make the required rehabilitations and restorations, and the chargeable cost of this work, if not paid by the landowner, shall become a prior lien on the property as described in the permit application.
- (C) Except for buildings or structures which are permitted uses in the zone in which the site is located, upon exhaustion of the mineral resources contained at the site under permit, all buildings, equipment, apparatus and appurtenances accessory to the mining operations shall be removed from the site unless an extension is granted by the Hearings Officer. However, such grant of additional time shall not authorize a delay in the restoration of those portions of the property under permit and not affected by such extension.
- (D) All excavations not to water-production depth shall be backfilled, contoured or a use shown on the restoration plan compatible with final depth and slope of the

excavation site. Those excavations made to water-producing depth shall be of sufficient depth to prevent occurrence of stagnation and insect breeding grounds.

- (E) Topsoil shall be replaced to the depth that occurred on the site at the time of original excavation or to a sufficient depth to allow landscaping material to be installed.
- (F) When appropriate, the Hearings Officer may specify a schedule of rehabilitation for portions of the property as their use for sand and gravel resource operations is completed or terminated. The schedule shall be considered part of the rehabilitation or restoration plan and shall be included in the agreements required by Section 120.460. [Amended by Ordinance #88-21, dated November 30, 1988.]

120.450. FAILURE TO MAINTAIN SITE OR CONDITIONS. The landowners, as the holder of a conditional use permit, shall establish, operate, and maintain the site within the terms and conditions set forth in Sections 120.410 to 120.460 and in the conditional use permit. Compliance with this section shall be a condition to a conditional use permit and shall be enforceable by the agreement required in Section 120.460.

120.455. ADMINISTRATION AND ENFORCEMENT. It shall be the duty of the County Building Official, County Health Officer and County Engineer to enforce Sections 120.410 to 120.460. Prior to issuance of a conditional use permit, prior to establishment of any site and during the operation, maintenance or restoration or rehabilitation of such site pursuant to Sections 120.410 to 120.460, it shall be the duty of said officials to determine compliance with those sections and with any condition imposed by the Hearings Officer. For this purpose, the County Engineer, County Health Officer, or County Building Official, or their duly authorized representatives may enter upon public or private property to perform any such duty. In addition to the right of entry specified by this Section, the landowner as holder of the conditional use permit shall agree to the right of entry as provided in Section 120.460.

120.460. REQUIRED AGREEMENTS AND LIENS.

- (A) The Board of Commissioners finds and declares that properly established, maintained, operated, and rehabilitated sand and gravel resource sites are necessary and valuable assets in the County. The Board of Commissioners further finds and declares that improperly established, operated, maintained or rehabilitated sites may become public or private nuisances, produce a condition of unsightliness, establish a health hazard or otherwise create a condition detrimental to the environmental quality of the area and of the County. To implement these findings, the Board of Commissioners further finds and declares that it is necessary and appropriate to require from the landowners who apply for a conditional use permit the agreements required by this section and further finds and declares that the appropriate remedy to reimburse costs of the County incurred in enforcement of Sections 120.410 to 120.460 is, upon failure of the landowner to pay such costs, the imposition of a lien against the premises.
- (B) On forms, issued by the Planning Director, the landowner who is applying for a conditional use permit for a site pursuant to Sections 120.410 to 120.460 shall agree to accept, to be responsible for, or to be liable for:
 - (1) The entry upon subject premises by named officials pursuant to Section 120.455.
 - (2) Proper establishment, maintenance, and operation of the site as required by Section 120.450.
 - (3) Rehabilitation and restoration of the site upon termination for use as a disposal site pursuant to Section 120.440.

- (C) In the event the landowner does not comply with the agreements executed pursuant to subsection (B) of this section and within a reasonable time after written notice to comply, the governing body may institute proceedings under subsection (D) of the section to enforce compliance. "Reasonable time" within this subsection shall be determined by the Hearings Officer upon the basis of the health, safety and welfare of the people of Polk County and of the area; in determining what is a reasonable time, the Hearings Officer may give consideration to, but shall not be limited by the following:
- (1) The nature of the deficiency;
 - (2) Conditions created by the deficiency;
 - (3) Hazard to health or safety;
 - (4) The creation of a condition of unsightliness;
 - (5) The creation of a public or private nuisance;
 - (6) Whether there is a satisfactory alternative practice, procedure or operation.
- (D) In the event that the landowner fails to comply with the order of the Hearings Officer within the time specified, the Hearings Officer shall notify the Board of Commissioners. The Board of Commissioners may institute proceedings for enforcement by giving 30 days written notice to the landowner at his last known address. The Board of Commissioners may shorten the notice period to not less than 24 hours notice if the Board of Commissioners finds an immediate or serious danger to the public by the creation of a health hazard or a public or private nuisance. After required notice, the Board of Commissioners may hold a public hearing at which all interested persons shall have the power to order appropriate county agencies to correct the deficiencies in the establishment, maintenance or operation of the site, or to make the required rehabilitation and restoration.
- (E) The costs incurred by the County in carrying out subsection (D) of this section shall be paid by the landowner. If not paid, the Board of Commissioners may order appropriate action to be taken to impose a lien upon the subject premises.
- (F) The Hearings Officer may order the filing in the County Deed Records of the conditional use permit, including the agreements executed pursuant to this section, as a recorded encumbrance upon the real property to assure compliance with the conditions and agreement. [Amended by Ordinance #88-21, dated November 30, 1988.]