

92-5

#9119

ORDINANCE  
AMENDING KENDALL COUNTY ZONING ORDINANCE AS AMENDED

WHEREAS, Kendall County Board did petition the Zoning Board of Appeals of Kendall County for a public hearing in the manner required by law and ordinance of Kendall County, Illinois for a proposed amendment to the Kendall County Zoning Ordinance adopted January 16, 1840; and

WHEREAS, said Zoning Board of Appeals did thereupon publish notice of a hearing on said proposed amendment to said Zoning Ordinance as provided by the Statutes of the State of Illinois, and did then hold a public hearing on said proposed amendment on the 18th day of October, 1991, A.D., in the Kendall County Board Room and at the conclusion of said hearing said Zoning Board of Appeals voted in favor of recommending to the County Board of Kendall County, Illinois that petition be granted and the ordinance be amended in the manner required by law; and

NOW THEREFORE, BE IT ORDAINED by the County Board of Kendall County, Illinois that the following amendments to the Kendall County Zoning Ordinance be approved and that the County Clerk be and he is hereby ordered and directed to change the zoning ordinance to show the change in the Zoning Ordinance:

Delete:

- Section 10.03 M-3 Gravel Mining District
  - A-1, A-2, C-1, and D-1
- Section 10.04 M-4 Stone Quarry District
  - A-1,2 & 3; B-1 & 2; C-1 and D-1

Changes:

- Section 10.03 M-3 Earth Materials Extraction, Processing and Site Reclamation
  - A-1 Permitted Uses
  - B-1-3 Special Uses
  - C-1&2 Setback Requirements
  - D-1 Side and Rear Yards
  - E-1 Prohibited Activity
  - F-1 Fencing
  - G-1&2 Request for Location Protection
- Section 10.03-1 Permitting
  - A-1-8 Permit for Mining
  - B-1-10 Reclamation
  - C-1-21 Mining Operation Requirements
  - D-1-5 Reclamation Bond
  - E-1&2 Rules and Regulations
  - F Severability
  - G. Exemptions

Passed this 14th day of April, 1992.

ATTEST:

*Paul Anderson*  
County Clerk

*James Bean*  
Chairman, County Board of  
Kendall County, Illinois

U-561

# APPROVED

## SECTION 10.00 MANUFACTURING DISTRICTS

### 10.03 M-3 EARTH MATERIALS EXTRACTION, PROCESSING AND SITE RECLAMATION

#### INTENT

It is the purpose of this section to establish regulations and standards for surface mining operations and to provide for conservation and reclamation of lands affected by surface mining in order to restore them to optimum future productive use. Earth materials extraction, processing and site reclamation shall be determined and permitted in compliance with standards as set forth herein.

#### A. PERMITTED USES.

1. Extraction and/or processing of earth materials, e.g., gravel, limestone, subject to the issuance of a permit as provided herein.

#### B. SPECIAL USES.

1. Ready-mix cement plants.
2. Asphalt and asphalt products.
3. Recycling of asphalt and concrete products.

#### C. SETBACK REQUIREMENTS

1. Unless otherwise specifically provided in an applicable special use permit; production, processing and excavation shall not be conducted closer than two hundred (200) feet to the boundary of any zoning district where such operations are not permitted, nor closer than one hundred (100) feet from the boundaries of an adjoining property line, nor closer than one hundred fifty (150) feet to the right-of-way of any existing or platted street, road or highway.
2. Building and structures. Every building and structure hereafter erected or enlarged shall provide and maintain a setback from a public or private street as established by the Zoning Board of Appeals and approved by the County Board.

#### D. SIDE AND REAR YARDS.

1. Building and structures. Every building and structure hereafter erected or enlarged shall have a side and rear yard as established by the Zoning Board of Appeals and approved by the County Board.

#### E. PROHIBITED ACTIVITY.

1. No person, firm or corporation shall hereafter engage in the extraction of earth materials on any land within the County of Kendall, located outside the boundaries of any

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city, village or incorporated town without first obtaining from the County a mining operations permit in such form and in such a manner as shall hereinafter be provided. The inadvertent extraction of earth materials while in the process of land beautification, pond construction or such other activity unrelated to mining and processing uses are hereby excluded.

### F. FENCING.

1. Where required by the Board in granting a M-3 zoning to promote safety, a minimum 7 foot chain link fence shall be erected at the site of the operation and facilities which shall be of a nature and character to reasonable protect the general public from danger. Location as determined by the County Board.

### G. REQUEST FOR LOCATION PROTECTION.

1. Within seven days of filing any application for M-3 zoning or M-3 Special Use, the applicant shall give notice of such filing, and at applicant's expense, send by registered mail through the Building and Zoning Office, a copy of such application as well as a copy of this complete paragraph, to each owner/agent of any residence located within one mile of any boundary of the property sought to be permitted. If, within fifteen days of receipt of such notice, any owner or occupant of such residence files with the Building and Zoning Administrator a "Request for Location Protection," substantially in the form provided in paragraph 2 below, then the following shall occur:
  - a. Subject to different provision being made by the County Board as provided in subparagraph c below, any minerals processing, ready-mix concrete, asphalt, and/or recycling equipment or plants on the subject property shall be located so as to provide maximum distance between the residence of any such owner or occupant and any such equipment or plant; if more than one owner or occupant files a "Request for Location Protection," then any such equipment or plant shall be located on the property so as to provide as much distance as possible between such residences and such equipment or plant; provided, in any event, that setbacks otherwise required by this Ordinance shall be maintained.
  - b. Any owner or occupant filing for location protection, and/or his agents shall be invited to participate in County staff discussions with the applicants regarding the most effective and appropriate measures required to protect the residence site(s) from adverse impacts. The discussions shall include, but

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not be limited to: location of processing, ready-mix concrete, asphalt, and/or recycling equipment and plants, material storage and mining operations; size and shape of screening berms as they may interface with the residences; noise and dust abatement; site specific landscaping for both short term and long term visual effect, and data reflecting the quality of minerals to be excavated. The advice of a technically trained person selected by the County board shall be utilized at the applicant's reasonable expense to review and make recommendations concerning the most effective and appropriate measures to protect the residence site(s) from adverse impact.

- c. The County Board may approve a location for mineral processing, ready-mix concrete, asphalt, and/or recycling equipment and plants, other than a location at a maximum distance from the residence(s) of the owner(s) or Occupant(s) filing for location protection, if the County Board determines, that, because of berming, landscaping, and/or other protections proposed for the property sought to be rezoned, such an alternate location, when compared to the location providing maximum distance, provides the residence site(s) as much or greater protection from adverse effects of such equipment and/or plants. No such alternate location may be approved by the County Board prior to the residence owner(s)/occupant(s) having at least a sixty day period within which to review such alternative location, have it reviewed by the technically trained person provided for in subparagraph (b) above, and make recommendations to the County Board concerning it.
2. The form hereinabove referred to is the following:

The undersigned, being an owner or occupant of a residence at (mailing address)

\_\_\_\_\_ hereby requests location protection pursuant the provisions of the Kendall County Zoning Ordinance on Earth Materials Extraction, Processing and Site Reclamation."

\_\_\_\_\_ (Owner/Occupant)

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10.03-1 PERMITTING

A. PERMIT FOR MINING

1. All operators extracting and/or processing earth materials shall apply for a permit jointly with the owner and any person who is entitled to legal possession of the property to be affected and shall comply with the operation and reclamation regulations in this Ordinance. Application for permit shall be made upon a form furnished by the Department. Such application shall be accompanied by a fee of \$50 plus \$25 for every acre and fraction of an acre of land to be affected during the life of the permit.
2. An operator desiring to have his permit amended to cover additional land may file an amended application with the Department with such additional fee and bond or security as may be required under the provisions of this Act. Such amendment shall comply with all requirements of this Ordinance.
3. An operator may withdraw any land covered by a permit and upon which no extraction has taken place, excepting affected land, by notifying the Department thereof, in which case the amount, of the bond or security filed by such operator pursuant to the provisions of this Ordinance shall be reduced proportionately.
4. Every application, and every amendment to an application, submitted under this ordinance shall contain the following, except that the Administrator may waive the requirements of this subsection for amendments if the affected acreage is similar in nature to the acreage stated in the permit to be amended:
  - a. Ownership of land.
  - b. Minerals to be mined.
  - c. Character and composition of vegetation and wildlife on land to be affected.
  - d. The proposed equipment to be used.
  - e. The current assessed valuation of the lands to be affected and the assessed valuation shown by two quadrennial assessments next preceding the currently effective assessment.
  - f. The nature, depth and proposed disposition of the overburden.

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- h. The location of the existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting surface mining.
- i. The technique to be used in surface mining.
- j. Drainage on and away from the lands to be affected including directional flow of water, natural and artificial drainways and waterways, and streams or tributaries receiving the discharge.
- k. The current location of existing buildings and utility lines and easements within the lands to be affected.
- l. Practices and methods proposed to be used to minimize noise, dust, air contaminants and vibration and to prevent pollution of surface or underground water.
- m. The recycling of water used for washing and grading.
- n. The simultaneous reclamation plan including methods of accomplishment, phasing and timing.
- o. A detailed map of the land drawn at a scale of one inch equals (=) one hundred (100) feet showing at least the following specifics:
  - 1) Existing topographical features at two (2) foot contour intervals, up to and including seven (7) percent grade. Greater than seven (7) percent grade would require five (5) foot contours.
  - 2) Location and names of all streams, creeks, bodies of water, underground water resources, (which are readily ascertainable from sources such as Illinois State Geological Survey well drilling logs) and drainage systems within the lands to be affected.
  - 3) Outline of area to be excavated.
  - 4) The proposed location of sorting, grading, crushing and similar equipment necessary to the operation and initial distribution of the excavated products.
  - 5) The proposed location of any buildings, scale house, equipment storage areas, and equipment repair sheds or areas.
  - 6) The current location of buildings, utility lines and easements within the lands to be affected.

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- p. "Affected Lands" or "Affected Land" shall be defined as real property described within the application filed herein whenever said terms are used in this Ordinance.
5. Prior to the issuance of a permit, the applicant must obtain the approval by the Department of the reclamation plan and map as provided.
  6. All permits issued hereunder shall expire ten (10) years from the date of issuance, unless the County Board extends such expiration date.
  7. Annual Inspections  
An examination of the premises shall be made by the Administrator at least annually during the term of the permit. The administrator shall subsequently complete a Mining Inspection Report, mailing to the operator one copy by certified mail return receipt requested and retaining one copy in the permanent files at the County.
  8. A permit issued hereunder may be revoked by the County Board in the event the permittee violates any provision of 10.03-1-C.

B. RECLAMATION

1. At the County's discretion, the advice of technically trained experts will be utilized at a reasonable cost to the owner/operator(s) to review the reclamation plan for its appropriateness on the affected land.
2. The Department shall consider the short and long term impact of the proposed mining on vegetation, wildlife, fish land use, land values, local tax base, the economy of the county, employment opportunities, air pollution, water pollution, soil contamination, noise pollution and drainage.
3. The operator shall provide with the application for permit a detailed reclamation plan and map drawn at a scale of one inch equals (=) one hundred (100) feet designation which parts of the land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial, or other uses including food, shelter and ground cover for wildlife. The reclamation plan and map shall specify progress and completion dates of the reclamation plan; provided, however, the reclamation is to be completed prior to the expiration of three (3) years after the termination of the mining operation on the land. In the event the operator and the County shall mutually determine that characteristics of the area concerned have been found to be present during the conduct of mining, changes may be made in the original reclamation plan by mutual consent of the

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operator and the Building and Zoning Committee of the County Board, which change shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables. X Contours shall conform to requirements of development proposed, but not less than required for existing original topography.

4. The reclamation plan shall contain a written statement containing an explanation of the character of the site to be mined and of the character of the surrounding territory, and an explanation of the schedule of development.
5. All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of three years after the termination of the mining operation, except that no other reclamation of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes, capable of supporting aquatic life, may be formed by rainfall or drainage runoff from adjoining land or where the Administrator determines that a road, dry pit bottom or ditch is consistent with and necessary to the conservation and reclamation plan. All mined areas which in the reclamation plan call for vegetation, shall be covered with whatever topsoils and other materials from the case overburden which will support acceptable plant growth in accordance with standards adopted by the Department. The Department shall have authority to require darkened surface soil be segregated from other overburden in the stripping process so as to accomplish the requirements of this subparagraph.
6. Extension of the reclamation period may be granted by the Administrator is necessary to accomplish acceptable reclamation. Such extension shall be made at the discretion of the Department, however, the Department shall not deny a reasonable extension when the operator shows that acts of God, strikes, inability to receive ordered equipment or extended periods of unseasonable weather have made completion within time limits impossible.
7. The County shall declare forfeiture of the surety, bond or security on such land not satisfactorily reclaimed, and shall use such funds to complete the reclamation. Any excess funds shall be remitted to the permittee.
8. Any reclamation plan must require that viable ground cover or similar vegetation will be placed on the site within one year of final production.



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9. Disposal areas shall be reclaimed within one year from final production.
10. The reclamation plan shall protect persons against hazards remaining on the property.

C. MINING OPERATION REQUIREMENTS.

Duties of Operator. Every operator to whom a permit is issued Pursuant to the provisions of this ordinance may engage in surface mining upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

1. All land affected by surface mining except as otherwise provided in this ordinance shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes have no more than 15% (or 8 degrees and 32 minutes) grade, except that in the case of those lands to be reclaimed in accordance with filed plan for forest, plantation, recreational or wildlife, the outside slope of the box cut spoil, the slopes of all perimeter berms, all unconsolidated material in the pit sidewalls, and the outside slopes of all overburden deposition areas the grade shall not exceed 30% (or 16 degrees and 42 minutes); the final cut spoil and the side slopes of haulage road includes can remain at a slope equal to the angle of repose of the material in order to retain or provide as much row crop of 15% slope land as possible; but, such slopes need not be reduced to less than the original grade of the overburden of that area prior to mining; vertical highwalls can be left in competent material upon conclusion of the mining or pits formed by the aggregate mining industry.
2. All storm runoff water shall be detained, impounded, drained or treated in accordance with the Kendall County Stormwater Runoff Ordinance in effect at the time the permit is issued so as to reduce soil erosion, damage to unmined lands, construct earth dams, where lakes may be formed, in accordance with south engineering practices if necessary to impound water, provided the formation of lakes or ponds will not interfere with underground or other mining operations, other subsequent uses of the area approved by the Department, or damage adjoining property. Such water impoundments must be approved by the Department based on the expected ability of the lakes or ponds to support desirable uses such as water for livestock or wildlife; and if to be used for fish life, shall have minimum depths in accordance with standards for fish stocking in the various areas of the State recommended by the Department;

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3. Acid forming materials present in the exposed face of the mined mineral seam or seams in the final cut shall be covered at all times with not less than four feet of water, or other materials which shall be placed with slopes having no more than 30% grade, capable of supporting plant and animal life. Final cuts or other\* depressed affected areas, no longer in use in mining operations, which accumulate toxic waters will not meet reclamation requirements;
4. Slurry must be confined in depressed or mined areas bounded by levees or dams constructed from material capable of supporting acceptable vegetation built in accordance with sound engineering practices.
5. All abandoned haulage roads and all mine drainage ditches must be removed and graded, except where the Administrator determines that a road or ditch is consistent with and necessary to the conservation and reclamation plan.
6. The soil shall be prepared and planted with trees, shrubs, grasses and legumes to provide suitable vegetative cover, in accordance with the approved reclamation.
7. Clearing of the mine site may include the moving of existing trees and shrubs to such location as will provide screening as hereinafter provided when cost effective to do so, or as will conform to the reclamation plan for ultimate use of the property as shown on such a plan.
8. Maximum depth of excavation shall not be below existing groundwater, except in such cases where the reclamation plan indicates that a lake or lakes will be part of the final use of the land or where such plan indicates that adequate fill from overburden is to be used to refill such excavation for conformance to the approved reclamation plan.
9. Adequate planting, berming and/or fencing shall be provided along all public roads adjacent to the property involved, sufficient to screen the operation from public view, as reasonable as possible and as approved by the County Board in granting the zoning.
10. No more than one entrance and one exit from a highway or road shall be provided to the area of operation. Such entrance shall be subject to approval by the Department of Highways having jurisdiction and shall, preferably, be located along a secondary road, and shall be located as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development. If required by the Highway

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Department having jurisdiction, acceleration and deceleration strips shall be provided on either side (of such entrance and exit,) of not less than one hundred (100) feet in length each, and shall be paved of such material as shall be required by the Highway Department having jurisdiction. Furthermore, a paved road from the entrance and exit, distance of not less than three hundred (300) feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks into the public highway. Such pavement shall be in accordance with the specifications of the County Highway Department. Entrances and exits shall be provided with the gates to be securely locked during hours of inoperation.

11. Trucks used in hauling materials from the site of excavation shall be loaded in such a manner as to prevent spillage onto the public highway. Any spillage on said highways resulting from overloading or from material adhering to truck tires shall be removed periodically from said public highways at intervals of not more than twenty-four (24) hours and all safety precautions shall be observed during such process of removal.
12. Except in the areas needed for plant and equipment, stock piles, maintenance facilities, scale houses and roads, overburden shall not be removed in excess of the area to be mined within one year. Development toward final plan shall be carried on as excavation progresses. Where ground cover or other planting shall be made in areas where excavation is completed and land is not being used for material storage before further overburden is removed in order to ensure development as operations proceed.
13. Hours of arrival and departure of transport vehicles shall be from six o'clock (6:00) a.m. to seven o'clock (7:00) p.m. from April 1st until November 1st. The rest of the year the arrival and departure of transport vehicles shall be restricted to six o'clock (6:00) a.m. to six o'clock (6:00) p.m. Hours may be extended during a public emergency during which sand, gravel or limestone is needed and upon the order of the County Superintendent of Highways.
14. The holder of a permit hereunder shall ensure the safe and continued use of all wells on surrounding properties.
15. Weeds and other unsightly or noxious vegetation shall be cut or trimmed at least twice a year or as may be necessary to present a reasonably neat appearance and to prevent seeding on adjoining property.
16. Existing trees and ground cover along public road frontage shall be preserved and maintained in such a manner to preserve sight requirements.

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17. Upon the completion of operations, the land shall be left in a condition so that sufficient drainage is provided in order to prevent water pockets or undue erosion; all final grading and drainage ways shall exist such that natural storm water leaves the entire property at the original and natural drainage points and without an excessive load on a particular drainage point. In the event the reclamation plan shall provide for the permanent establishment of a lake, the grading and drainage may be altered, but not in such a manner as to cause damage or inconvenience to surrounding or abutting properties.
18. Trees, shrubs, legumes, grasses, or ground cover shall be planted upon such area in order to avoid erosion, in accordance with the approved reclamation plan.
19. Within six months after final production, all buildings, structures (except fences), and equipment shall be removed unless same are to be used in connection with the reclamation project.
20. Noise, Dust and Odor.
  - a. The noise level originating from a mining operation shall comply with the performance standards set forth in the standards adopted by the Illinois Pollution Control Board, as from time to time amended; provided, however, that day time hours be defined as six o'clock (6:00) a.m. to seven o'clock (7:00) p.m. from April 1st until November 1st and from six o'clock (6:00) a.m. to six (6:00) p.m. during the rest of the year. Any variation from these regulations will constitute a violation of this ordinance.
  - b. The release of particulate emissions shall also comply with the performance standards set forth in the standards adopted by the Illinois Pollution Control Board, as from time to time amended.
21. BLASTING.
  - a. The owner/operator shall use qualified blasting personal as currently licensed or permitted by the State of Illinois.
  - b. The owner/operator shall be responsible for the regular monitoring of blasts by qualified companies or individuals approved by the County Board. Seismometer readings shall be reported to the Administrator by the private company maintained for each mining operation.

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- c. Notice of intent to blast shall be given by each operator not less than two hours nor more than 24 hours before blasting to all residents located within one and one-half (1 1/2) miles of the boundaries of the mining operation who have registered with owner/operator by leaving their name, address and telephone number.
- d. No person shall cause or permit as the result of such controlled and earth confined explosions as are employed in quarrying, earthmoving, tunneling, road-building, excavating and the like the propagation of earth tremors and impulsive vibrations of the closest structure beyond the emitter's property line which result in a particle velocity in/sec based on frequency HZ in any of three components, longitudinal, vertical or transverse components in excess of the graph shown in Appendix 1.

D. RECLAMATION BOND.

1. In order to ensure that the approved reclamation plan is completed the owner/operator shall file a bond with the Department prior to the issuance of a permit. The bond shall be made payable to the People of Kendall County and conditioned that the principal shall faithfully perform and complete the approved reclamation plan. Such bond shall be approved by the Department and signed by the operator and/or owner as principal, and by a corporate surety licensed to do business in Illinois. The amount of such bond shall be a reasonable amount per acre as determined of such bond shall be a reasonable amount per acre as determined by the County Board taking into consideration the lands to be affected by surface mining during the permit and reclamation period. At the County Board's discretion, the advice of a technically trained person will be utilized at the owner/operator's expense to review the amount of the bond.
2. In lieu of such bonds, the County, may require that the operator either:
  - a. deposit any combination of cash, government securities or irrevocable letters of credit with the County Clerk in an amount equal to that of the required surety bond as prescribed in Section D-1.  
OR
  - b. deliver a properly executed lien upon the property subject to the mining operation, including all contiguous property in control of/or owned by the owner/operator. Such lien shall authorize the Board to foreclose on the premises subject thereto for reimbursement of actual costs for reclamation.

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3. Surety bond requirements may also be fulfilled by using existing reclaimed acres, in excess of cumulative permit or mined acres, that have been completed under the jurisdiction of this Ordinance and approved by the Department.
4. Such bond or security shall remain in effect until the affected lands have been reclaimed, approved and released by the Department, providing the Department may authorize such reductions as are consistent with the reclamation progress.
5. When an anticipated water impoundment has been approved by the Department in the reclamation plan, and the Department determines the impoundment will be satisfactorily completed upon completion of the operation, the bond covering such anticipated water impoundment area shall be released.

E. RULES AND REGULATIONS.

1. The County may adopt and promulgate reasonable rules and regulations respecting the administration of the Ordinance and conformity therewith.
2. Any act authorized to be done by the Administrator may be performed by any employee of the Department of Building and Zoning when designated by the Administrator.

F. SEVERABILITY

If any Section, subdivision, clause sentence or paragraph in this Ordinance shall be held to be unconstitutional, the unconstitutionality thereof shall not affect the remaining parts of this Ordinance.

G. EXEMPTIONS

Any mining operation legally commenced prior to the adoption of this Section shall be exempt from the requirements hereof, except that said operations shall not be exempt from the requirements hereof pertaining to the hours of operation, the operation of motor vehicles, safety and noise regulations as defined in Sections C-13 and C-20.

APPENDIX 1

