

CHAPTER 880
Surface Mining

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CROSS REFERENCES

Noise - see GEN. OFF. 670.03

Nuisance abatement - see GEN. OFF. 678.05

Removal of top soil - see P. & Z. 1294.22

1. 880.0 LICENSE REQUIRED.

No person shall, directly or indirectly, either in person or by his or her agent, employee or lessee, conduct the mining or removal of more than 500 tons of a mineral material or disturb more than one acre of land a year in the regular operation of a business by removing the over-burden lying above a natural deposit thereby exposed or by mining directly from the deposit lying exposed, without first obtaining a license therefor from the City Council of the City of Perry.

(Ord. 216. Passed 12-17-91.)

2. 880.0 LICENSE APPLICATION AND FEE.

To secure a mining license, the owner/operator shall make application on a form supplied by the City Clerk. The application shall be accompanied by an application fee of five hundred dollars (\$500.00) and a general site plan. The plan shall include the following information:

1. Name and address of surface owner of land from which removal will take place.
2. Name, address and telephone number of operator who will be conducting the removal operation.

3. Location, size and legal description of the total site area to be mined. Include legend showing a north point, scale and date.
4. Location, width and grade of all easements or rights of way on or abutting the area subject to mining.
5. Proposed fencing, gates, parking areas and signs.
6. The progressive cell-unit extraction plan, for both the total area subject to mining and each cell-unit, including:
 1. The method and direction of extraction;
 2. Cross-sections showing the extent of over-burden, the extent of sand and gravel deposits and the depth to the watertable;
 3. Surface over-burden stripping plans;
 4. Provisions for grading, revegetation and stabilization that will minimize soil erosion;
 5. Provisions for buffer areas, landscaping and screening; and
 6. Physical descriptions of location of each cell, number of acres included in each cell and estimated length of time to complete each cell.
7. A map showing the proposed vehicle haul route that it is expected will be the predominant traffic pattern for vehicles to and from the mining area.
8. The ingress and egress route to and from the mining area to the public right of way to be used (Haul Road).
9. The approximate date of commencement of the operation and the estimated length of time to complete the entire operation.
10. Area from which excavation will take place in the year for which the permit will be effective.
(Ord. 216. Passed 12-17-91.)

3. 880.0 SITE DEVELOPMENT REQUIREMENTS.

1. Maximum depth of excavation shall remain two feet above the watertable.
2. No excavation shall be permitted closer than 100 yards from the boundary lines of the property.
3. No excavation shall be permitted closer than 150 yards from the boundary line adjacent to any property used for residential purposes.
4. The truck traffic "haul road" access to the property shall be connected to a "Class A - all weather" road.
5. All areas subject to current and/or active excavation operations shall be fenced. The fences shall be at least five and one-half feet in height and constructed of woven wire fabric and barbed wire on metal posts. Gates, the same height as the fence, shall be installed at all points of vehicular or pedestrian access and shall be kept locked when not in regular use.

6. Screening shall be provided along all setback lines (within forty to 150 feet from property lines or right-of-ways) of the site. Such screening shall consist of one or more of the following:

1. Earth berms constructed to a height of ten feet above the mean elevation of the general level of terrain along the adjacent property lines. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass and trees or shrubs.
2. Planting of trees and/or shrubs not less than ten feet apart in three staggered rows parallel to the boundaries of the property, which trees or shrubs shall be at least ten feet in height.
3. Earth berms planted with grass and trees or shrubbery as specified in paragraph (f)(2) hereof, provided that the total height of the berm and the trees is at least ten feet above the general level of the terrain along the adjacent property lines.

(Ord. 216. Passed 12-17-91.)

4. 880.0 TREATMENT OF AREAS OF OPERATION TO PREVENT NUISANCE; DIRT TRACKS.

Interior roads, parking lots and haul road loading and unloading areas shall be treated so as to limit the nuisance caused by wind-blown dust or dust from truck traffic. Preventive measures shall be taken to avoid dirt tracks on the adjacent hard-surface road left by trucks leaving the site. No permanent processing equipment shall be used on the site.

(Ord. 216. Passed 12-17-91.)

5. 880.0 HOURS OF OPERATION.

The maximum range of hours of operation is from 7:00 a.m. to 6:30 p.m. Monday through Saturday. Operations shall be prohibited on legal holidays and Sundays.

(Ord. 216. Passed 12-17-91.)

6. 880.0 LAKE DEVELOPMENT.

In the event the owner/operator desires to develop the land into residential or recreational property with excavation for a lake therein, he or she must make application therefor, as a part of the permit required hereunder, provided said owner/operator grades the borders of the excavation to a pitch of not more than one foot drop to each four feet of surface from the top of the bank to the high water mark into the water to a depth of eight feet below the low water stage, with a drop of not more than one foot to each eight feet of surface.

(Ord. 216. Passed 12-17-91.)

7. 880.0 RECLAMATION; GRADING; TOPSOIL; TERMINATION OF OPERATIONS.

1. All cell units shall be reclaimed as they are worked to the extent that they shall be reasonably natural and reasonably lacking in hazard.
2. All slopes and banks shall be graded to angles which do not exceed those found in the natural topography of surrounding areas except that in no instance shall slopes exceed three feet horizontal to one foot vertical.
3. All topsoil shall be stockpiled on the premises and promptly redistributed on abandoned areas or where extraction operations have been substantially discontinued for any period in excess of one year. Such areas shall than be seeded to lessen erosion.
4. An operator shall remove all worthless debris and rubbish from the mining area within six months of the date of termination of operations.
(Ord. 216. Passed 12-17-91.)

8. 880.0 CONDITIONS AND SAFEGUARDS.

The Perry City Council may impose such additional conditions and safeguards deemed necessary for the public health, safety or general welfare, for the protection of individual property rights, and for insuring the intent and purpose of this chapter. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.
(Ord. 216. Passed 12-17-91.)

9. 880.0 CONDITIONS FOR ISSUANCE OF LICENSE.

The Perry City Council shall grant or deny the application and set forth the reasons for its decision. Such decision shall be based upon the criteria set forth within this chapter and shall be based, in addition, on consideration of the following:

1. The most advantageous use of the land as determined by the City Land Use Plan.
2. The character of the area in question and its peculiar suitability, if any, for particular uses.
3. Conservation of natural resources and environmental factors, and the general appropriate trend and character of development in the subject area.

- (d) The protection and preservation of the general health, safety and welfare of the City.
- (e) The scarcity or value of minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operation.

In making any decision, the City Council shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residences and property owners.

(Ord. 216. Passed 12-17-91.)

880.10 INSPECTIONS OF OPERATIONS.

Surface mining operations authorized by the permit issued hereunder shall be inspected with reasonable frequency to determine compliance with this chapter and any additional conditions imposed pursuant to this chapter.

(Ord. 216. Passed 12-17-91.)

880.11 MODIFICATION OF GENERAL SITE PLAN.

The general site plan may be modified at any time by the mutual consent of the operator and the City Council to adjust to changed conditions or technology or to correct an oversight.

(Ord. 216. Passed 12-17-91.)

880.12 LICENSE EXPIRATION AND RENEWAL.

All licenses issued under this chapter shall be effective for one year unless sooner revoked. A license may be renewed at or after one year from the date of issuance on application and under conditions and requirements for an original license. (Ord. 216. Passed 12-17-91.)

880.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

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