

CHAPTER 118: MINING AND/OR QUARRYING

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§ 118.01 PURPOSE.

The purpose of this is to allow the mining and/or quarrying of nonmetallic minerals, excluding coal, within the county and to permit these operations where they are consistent with and/or appropriate to other existing land uses, and to promulgate rules and regulations establishing performance requirements and standards for the protection of people and property, land, water, and other natural resources in areas where mining and quarrying are permitted.
(Ord. 2011-17, passed 9-6-11)

§ 118.02 DEFINITIONS.

The following words and phrases shall have the meaning respectively ascribed to them except where the context clearly requires a different meaning:

"ABANDONED WORKINGS." Excavations, either caved, sealed or reclaimed, or open workings which are ventilated but not inspected regularly that are deserted and in which further mining or quarrying is not intended.

"ACCESS ROADS." All approaches or entrances whether public or private which enter the mine and/or quarry site.

"ACTIVE WORKINGS." All places in a mine or quarry where a product is being removed, which is being ventilated or is exposed to the open air, where mine or regulatory personnel should or do visit and all areas which have not been formally abandoned through concurrence of local, state and federal regulatory agencies.

"APPLICANT." The person(s) with the decision-making authority over the operation and facilities who applies for a permit(s).

"BOARD." The Board of Adjustment.

"BOND(S)." Those moneys, letters of credit insurance bonds, or other instruments acceptable to the FLUCG to guarantee a specific written obligation(s) or requirements(s).

"BUFFER." A strip of land which is used to lessen the possibility of conflict(s) between the mine and/or quarry and the surrounding land uses.

"DRAINAGE COURSE." A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Drainage course thus is that water which is flowing within the limits of the defined channel.

"DRAINAGE." The Williamstown's and/or its Engineering Representative Engineer's Drainage Design Criteria and Procedures.

"DRIFT." Opening in or through the strata, with a grade such as to permit hauling, and capable of being used for the purpose of ventilations, drainage, ingress, egress and other purposes in connection with the mine.

"EXCAVATIONS AND WORKINGS." All the excavated portions of a mine, whether abandoned or being worked, all underground workings, shafts, drifts, slopes, tunnels, ways and openings. Whether completed or in the course of being sunk or driven, and all roads, appliances, machinery and material connected therewith beneath the surface.

"FREQUENCY." Measured in Hertz, means the number of vibrations or cycles per seconds.

"HAZARDOUS MATERIALS." As defined in the hazardous materials ordinance [Chapter 16A], means any chemical, biological or radiological compound, gas, oil, gasoline, lubricant, or other petroleum products, substances, solution or mixture, which, because of its quality, quantity, concentration, physical or infectious characteristics, or any combination thereof, when released into the environment, presents or may present harmful or potentially harmful effects to human health or welfare or the environment.

"HIGH WALL." The vertical or near-vertical surface wall created by mining/quarrying operations.

"INACTIVE OPERATIONS." All portions of a mine or quarry in which operations have been suspended for an indefinite period, but have not been abandoned.

"KENTUCKY." The Commonwealth of Kentucky.

"MINE." Any underground excavation made in the earth from which to extract materials produced for sale, exchange or commercial use, and

all shafts, slopes, drifts or inclines thereto. Workings that are adjacent to each other but not interconnected, under the same management but having a separate shaft, slop, drift or incline shall be considered a separate mine.

"MINERAL(S)." Any solid homogeneous crystalline chemical element or compound which includes, but is not limited to, limestone, dolomite, sand, grave, rock, stone, earth, slag, ore, vermiculite, clay and other mineral resources.

"MINING/QUARRYING." Any mine, surface mine, pit, or quarry operation.

"OPERATION(S)." All activities above or below the ground surface associated with mining/quarrying, including but not limited to all of the premises, facilities, roads, processing plants, stockpiles, and equipment used in the process of mining/quarrying from a designated area.

"OVERBURDEN." All the earth and other material in the strata overlying the mineral deposit to be mined.

"OWNER/OPERATOR." The owner(s), lessee(s) or any entity who has the ultimate decision-making authority over the mining/quarrying facility.

"PILLAR." A vertical structure used as a support in a mine as a column.

"PORTAL." The horizontal or inclined opening(s) from the surface through which access is made to the underground workings.

"PROCESSING PLANT." The crusher(s), screen(s), conveyor(s), and other equipment utilized to reduce and separate the run of mine/quarry material into salable product.

"PRODUCT." The mineral after it has been extracted from the mine/quarry and has been processor for sale, exchange, or commercial use.

"QUARRY." A surface excavation for the extraction of any nonmetallic mineral, excluding coal, which is produced for sale, exchange or commercial use.

"RECLAMATION." The restoration or conversion of disturbed land to a stable condition which minimizes or prevents adverse disruption and the injurious effects thereof and presents an opportunity for further productive use.

"SHAFT." A vertical opening through the strata that is or may be used in connection with mining for the purpose of ventilation, drainage, and/or transportation of men, machinery, materials or product(s).

"SLOPE." An inclined opening used for the same purpose as a shaft.

"SPOIL." That portion of the mined or quarried product which has no commercial value.

"STOCKPILE/STORAGE PILES." A reserve supply of mined or quarried material(s) which have been processed and accumulated for use when needed.

"SUBSIDENCE." Any surface deflection above the mined zone or within the zone of influence caused by the mining operation, whether directly or indirectly.

"SURFACE MINE" or "QUARRY" or "OPEN PIT MINE." Any open excavations, prospect openings, and open cut workings for the extraction of any material which is produced for sale, exchange or commercial use.

"TOPSOIL." The surface layer and its underlying materials that have properties capable of producing desirable reclamation and vegetation.

"VALID EXISTING RIGHTS." For areas other than haul roads; a legally binding conveyance, lease, deed, contract or other document which establishes a right to the minerals (or to conduct a mining/quarrying operation) as of the date of enactment of this ordinance. In addition, this entity asserting a valid existing right shall demonstrate that one of the following standards is met:

(1) The minerals are both needed for and immediately adjacent to a validly authorized mining/quarrying operation existing as of the date of enactment of this chapter; or

(2) The entity had obtained or had made a good-faith effort to obtain all necessary state and federal permits as of the date of enactment of this chapter (application for permits being deemed to constitute good faith efforts to obtain the permits), or as of the date the prohibitions became effective, would effect a taking of the entity's property that would entitle an entity to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution.

(3) For haul roads, "valid existing rights" means a recorded right-of-way, recorded easement, or a permit for haul road recorded as of the date of enactment of this chapter, or any other road in existence as of the date of enactment of this chapter.

"VELOCITY." A measure of particle motion caused by the passage of a blast wave and is characterized in terms of inches per second.

"WILLIAMSTOWN." means the Williamstown Government.
(Ord. 2011-17, passed 9-6-11)

§ 118.03 APPLICABILITY.

(A) Application. Application for a permit and/or renewal permit shall occur if an owner/operator proposes to commence or continue mining/quarrying. This chapter is not intended in any way to regulate the mining of coal. Auxiliary and/or accessory uses for mines/quarries shall apply for separate permits as required by the Zoning Ordinance. These could include but are not limited to overnight truck storage, storage of explosives, asphalt batch plant, concrete batch plant, storage of materials, night watchman quarters, and transmission towers.

(B) Minimum area and location. Area and location shall be limited as follows:

(1) Except for operations with valid existing rights, no new quarry processing plant, or stockpiles shall be conducted closer than one thousand (1,000) feet to any existing residence unless the residence is located on the subject property.

(2) Portals, stockpiles, processing facilities, and/or other uses associated with mining/quarrying shall be located in a zone(s) which permit such uses as defined in the Zoning Ordinance.

(C) Reapplication. Reapplication shall occur if the owner/operator proposes to alter the activity(s) set forth in the conditional use permit(s) by any of the following:

(1) Increase of greater than twenty (20) percent of projected monthly production or ten (10) percent of an annual basis as set forth in the mining plan except that the owner/operator shall be permitted to operate during the period of review of this reapplication for a change in production.

(2) Relocation, modification or alteration of any permanent structures, roads, stockpile areas, or ingress/egress or any part of the surface site plan.

(3) Any significant modification or alteration of any aspect of the underground mine or quarry plan.

(4) Expansion beyond the defined mining boundary.

(5) Change in the type of mining.

(6) Change in the ownership of the owner/operator whether by sale of greater than ten (10) percent of its stock, assignment, lease, merger or otherwise, except that the owner/operator shall be permitted to operate during the period of review of his reapplication for a change in ownership.

(7) Blasting frequency or velocity exceeding the standards set forth herein.

(8) Any changes or significant modifications to the ultimate land use as defined in the reclamation plan and reclamation description.

(D) Existing operations. The owner/operator of any existing operations shall submit a complete permit application within six (6) months of the effective date of this ordinance.

(Ord. 2011-17, passed 9-6-11)

§ 118.04 APPLICATION/PERMIT REQUIREMENTS.

(A) Introduction. Prior to any mining or quarrying on a property, the owner/operator shall submit an application for a mining/quarry permit to the city. The application shall conform to the requirements as defined herein division (B) of this section. No application shall be deemed to be valid until all requirements as described herein are completed. The city shall process the application. Where new and/or expanded uses are requested, the board of adjustment may impose specific requirements and/or conditions relating to plans for such an operation as defined in the zoning ordinance. Upon approval by the board, the city may approve the permit application. Upon any change to the operation as defined in § 118.03(C), the owner/operator shall submit a reapplication as required by division (C) of this section. The owner/operator shall annually submit a permit renewal as defined herein in division (D) of this section. Existing operations shall submit a complete permit application within six (6) months of the effective date of this chapter.

(B) Application. The application shall include the common name and geologic title of the mineral to be extracted and the following:

(1) Vicinity map. A vicinity map using a base mapping scale of one inch equals 2,000/4,000 feet.

(a) The map shall at least show the area within a two-mile radius of the boundary of the proposed site.

(b) The map shall indicate the following: Historical and archaeological sites; public facilities such as parks, schools, churches, cemeteries, fire stations and government offices; and environmentally sensitive and geologic hazard areas as defined by the land subdivision regulations, natural areas, scenic easements, and natural preserves as defined by KRS 146.415 and the greenspace requirements of the zoning ordinance and the subdivision regulations.

(c) The map shall indicate the notification area as defined by the zoning ordinance.

(2) Existing condition map. The existing condition map of the site shall use the Williamstown base mapping. The map shall be on a minimum scale to match the appropriate Williamstown mapping program. The map shall indicate the following:

(a) The total boundary and area of the property owned or leased by the applicant;

(b) All public and private rights-of-way and easements of record on or abutting the property with the existing right-of-way width and type of pavement shown;

(c) Existing contours shows with intervals sufficient to show existing drainage courses, retention and storm water retention basins, sedimentation basins, septic tanks, and drainage structures; the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet;

(d) All existing structures and types of structures on the property including roads and parking lots;

(e) Location, size and content of all existing aboveground and underground storage tanks;

(f) All existing structures and types of structures on adjacent property(s) which are within three hundred (300) feet of the common property line.

(g) All groundwater and surface water monitoring locations and any existing wells; and

(h) All roads within one hundred (100) feet of the property.

(3) Mining/quarry plan(s). The proposed mining/quarrying plan(s) shall use the Williamstown's base mapping. The plan shall be on a minimum scale of one (1) inch equals two hundred (200) feet and a reduced scale to match the appropriate Williamstown's mapping program. The plan shall include the following:

(a) The total boundary and areas of the property owned or leased by the applicant(s) showing proposed area to be quarried or mined;

(b) Any proposed new or modified rights-of-way or easements on or abutting the property;

(c) Proposed contours shows with intervals sufficient to show all proposed drainage courses, relocations, channel changes, diversions, retention and storm water retention basins, sedimentation basins, septic tanks, and drainage structures; drainage plan(s) away from the area of land affected shall include the directional flow of

water, constructed drainways, natural waterways used for drainage and the streams of tributaries receiving the discharge;

(d) All existing structures to be removed and proposed temporary structures, including the roads and processing plants, and other proposed structures of a permanent nature, including the scales, roads and parking lots;

(e) General layout of proposed development showing proposed limits and elevations of excavation including location of the typical cross-section;

(f) Location, dimension and description of proposed buffer strips, screening, fencing, embankments and stockpiles;

(g) Underground operations shall indicate the location of mining boundary, ventilation shafts and pillar layout;

(h) Location, size and content of all proposed aboveground and underground storage tanks;

(i) Location of all proposed explosives storage facilities;

(j) Location of all proposed hazardous materials storage facilities; and

(k) Location of any property boundary buffer.

(4) Reclamation plan. The reclamation plan shall use the Williamstown base mapping. The plan shall be on a minimum scale of one (1) inch equals two hundred (200) feet and a reduced scale to match the appropriate Williamstown mapping program. The reclamation plan shall indicate the following:

(a) The total boundary and area of the property owned or leased by the applicant;

(b) Proposed final contours shown with intervals sufficient to show final drainage courses, permanent retention and storm water retention basins, sedimentation basins, septic tanks, and drainage structures;

(c) All permanent structures, including roads, scales and parking lots, which will remain on the property;

(d) General layout and grade of final reclamation;

(e) Proposed vegetation plan;

(f) Location and description of portal and shaft closures; and

(g) Location and boundaries of any permanent impoundment(s).

(5) Operations description. A written description of the proposed operations addressing each of the following:

- (a) For all solid wastes generated by operation;
- (b) Method of mining/quarrying and processing;
- (c) Estimated life of operation and reserves;
- (d) Hours of operation;
- (e) Dust control;
- (f) Noise control;
- (g) Equipment storage;
- (h) Maintenance areas;
- (i) Topsoil control;
- (j) Erosion control;
- (k) Existing geohydrology, including groundwater levels;
- (l) Water pollution control methods of surface water and groundwater;
- (m) Shipping and delivery spillage control;
- (n) Blasting timetable and method;
- (o) Disposal control Subsidence control, including roof support factor of safety calculation; and
- (p) Overburden and stockpile control.

(6) Reclamation description. A written description, including sketches of the proposed site reclamation, addressing each of the following:

- (a) Reclamation sequence, including time frame for all land estimated to be affected by the operation;
- (b) Proposed subsequent or ultimate land use after reclamation is completed;

(c) Portal closures methods;

(d) Surface grading, including final drainage plans utilizing the Williamstown's Drainage Manual and/or requirements.

(e) Final groundwater elevation;

(f) Revegetation techniques, including plant species, seeding rates, tree species, and size; and

(g) Specific reclamation/revegetation techniques for coping with critical areas such as steep slopes, high drainage flow, or poor soil conditions.

(7) Transportation plan. A transportation plan shall be planned in relationship to the arterial roadway system to minimize the impact of traffic, dust and vehicle noise on areas outside the mining/quarrying site and shall include the following information:

(a) Product shipping:

1. Mode of transportation;
2. Route(s) to and from site;
3. Schedule and frequency of shipments;
4. Accident rates of mode and route(s);

(b) Operational deliveries:

1. Route(s) to and from site;
2. Mode of transportation; and
3. Schedule and frequency of shipments.

(8) Prior permits. The owner/operator shall list mining/quarrying permits of any type issued under the laws of this state or any other state, or federal government which have been revoked or have had a mining or other bond, or security deposited in lieu of bond, forfeited within five (5) years prior to the date of application.

(a) Signatures. The application shall list the name(s) and address(es) of the surface owner(s) of the property described in the application.

(b) When the application is for a surface quarry, the surface owner shall be notified at the property address.

(c) The application shall list the name(s) and address(es) and be signed by the owner(s) of the mineral to be extracted.

(d) Where the operator is other than the owner, the application shall list the name(s) and address(es) of the operator(s).

(e) The operator(s) shall also sign the application. All signatories shall agree to all conditions and/or restrictions of any development plan or other restrictions placed upon the property.

(C) Reapplication. The reapplication shall include the following:

(1) Vicinity map. A vicinity map shall be submitted utilizing the criteria in division (B) of this section with all changes or modifications indicated.

(2) Existing condition map. An existing map shall be submitted utilizing the criteria in division (B) of this section with all changes or modifications as indicated.

(3) Mining/quarrying plan(s). The proposed mining/quarrying plan(s) shall use the Williamstown unified base mapping. The plan shall be on a minimum scale of one (1) inch equals two hundred (200) feet and a reduced scale to match the appropriate Williamstown mapping program. The plan shall include the following:

(a) The total boundary and area of the property owned or leased by the applicant showing proposed area to be quarried or mined;

(b) Any proposed new or modified rights-of-way or easements on or abutting the property;

(c) Proposed contours shown with intervals sufficient to show all proposed drainage courses, relocations, channel changes, diversions, retention and storm water retention basins, sedimentation basins, septic tanks, and drainage structures;

(d) All existing structures to be removed and proposed temporary structures, including the roads and crushing plant, and other proposed structures of a permanent nature, including the scales, roads and parking lots;

(e) General layout of proposed development showing proposed limits and elevations of excavation, including location of the typical cross-section;

(f) Location, dimension and description of proposed buffer strips, screening, fencing, embankments and stockpiles;

(g) Underground operations shall indicate the location of mining boundary, ventilation shafts and pillar layout;

(h) Location, size and content of all proposed aboveground and underground storage tanks;

(i) Location of all proposed explosive storage facilities;

(j) Location of all proposed hazardous materials storage facilities;

(k) Location of any property boundary buffer; and

(l) All changes from previous plans shall be indicated.

(4) Reclamation plan. The reclamation plan shall use the Williamstown base mapping. The plan shall be on a minimum scale of one (1) inch equals two hundred (200) feet and a reduced scale to match the appropriate Williamstown mapping program. The reclamation plan shall indicate the following:

(a) The total boundary and area of the property owned or leased by the applicant;

(b) Proposed final contours shown with intervals sufficient to show final drainage courses, permanent retention and storm water retention basins, sedimentation basins, septic tanks, and drainage structures;

(c) All permanent structures, including roads, scales and parking lots, which will remain on the property;

(d) General layout and grade of final reclamation;

(e) Proposed vegetation plan;

(f) Location and description of portal and shaft closures; and

(g) Location and boundaries of any permanent impoundment(s);

(5) Operations description. A written description of any proposed changes for operation addressing each of the following:

(a) Method of mining/quarrying and processing;

(b) Estimated life of operation and reserves;

(c) Hours of operation;

- (d) Dust control;
- (e) Noise control;
- (f) Equipment storage;
- (g) Maintenance areas;
- (h) Topsoil control;
- (i) Erosion control;
- (j) Existing geohydrology; including groundwater levels;
- (k) Water pollution control methods of surface water and groundwater;
- (l) Shipping and delivery spillage control;
- (m) Blasting timetable and method;
- (n) Disposal control for all solid wastes generated by operation;
- (o) Subsidence control, including roof support factor of safety calculation; and
- (p) Overburden and stockpile control.

(6) Reclamation description. A written description of any proposed changes to the site reclamation addressing each of the following:

- (a) Reclamation sequence, including time frame for all land estimated to be affected by the operation;
- (b) Proposed subsequent or ultimate land use after reclamation is completed;
- (c) Portal closures methods;
- (d) Surface grading, including final drainage plan utilizing the Williamstown Drainage Manual and/or requirements;
- (e) Final groundwater elevation;
- (f) Revegetation techniques, including plant species, seeding rates, tree species, and size; and

(g) Specific reclamation/revegetation techniques for coping with critical areas such as steep slopes, high drainage flow, or poor soil conditions.

(7) Transportation plan. A transportation plan shall be modified to include any changes as defined in division (B)(6) of this section.

(8) Prior permits. The owner/operator shall list mining/quarrying permits of any type issued under the laws of this state or any other state, or Federal government which have been revoked or have had a mining or other bond, or security deposited in lieu of bond, forfeited.

(9) Signatures. The reapplication shall list the name(s) and address(es) of the surface owner(s) of the property described in the reapplication. When the reapplication is for a surface quarry, the surface owner shall be notified at the property address. The reapplication shall list the name(s) and address(es) and be signed by the owner(s) of the mineral to be extracted. Where the operator is other than the owner, the application shall list the name(s) and address(es) of the operator(s). The operator(s) shall also sign the application. All signatories shall agree to all conditions and/or restrictions of any development plan or other restrictions placed upon the property.

(D) Permit issuance.

(1) The zoning inspection shall issue a nontransferable mining/quarrying permit following the approval of the application and written confirmation that the bond has been posted as defined in Section V. Board of Adjustment approval shall be required for new or expanded uses. The zoning inspector shall procure payment for a permit fee of twelve dollars (\$12.00) per acre for land to be affected or a renewal fee by the operator of six dollars (\$6.00) per acre for land to be affected by the total operation in the next ensuing year. All fees must be in the form of cash, cashier's check, certified check, or company check.

(2) Where one operator succeeds another at any uncompleted operation, whether by sale, assignment, lease, merger or otherwise, no fee, or any portion thereof; paid by the first operator shall be returned to either operator.

(3) The permit when issued shall be in printed form and shall be kept posted at a conspicuous place near the main entrance to the mine or quarry in a manner consistent with Article 17 of the zoning ordinance.

(4) The permit shall not be transferred unless approved through reapplication process set forth in division (C) of this section.

(5) Where a conditional use permit is required, none is valid until all necessary permits and/or licenses of compliance from local, state and federal agencies having jurisdiction are submitted. The board may accept a letter of good standing or intent or permit by rule in lieu of actual permit(s) or license(s) for a period of sixty (60) days.

(E) Permit renewal. Renewal permits are valid for one (1) year and shall be renewed annually to be valid. An application for renewal shall be submitted prior to the expiration of the previous permit.

(1) Within forty-five (45) days after January 1 each year, the owner, operator or lessee of each mine or quarry shall procure from the city a permit to operate such a mine or quarry; and such permit shall not be transferable.

(2) The permit shall be automatically renewed provided all conditions, provisions and restrictions of the permit(s) are in compliance with all federal, state and local requirements, regulations and conditions.

(3) Request for additional bond may be made at time of renewal. If at renewal time bond is considered to be less than required coverage, notification shall be made in writing from the zoning inspection to the operator stating the amount required. The operator shall have thirty (30) days from the date of notification to submit the required bond or appeal the decision of building inspection before the Board on the issue of additional bond.

(4) A renewal fee in the amount of six dollars (\$6.00) an acre for the previous acres disturbed plus estimated additional acres to be disturbed in the next twelve (12) months must accompany the updated plans and maps. All updated plan(s) and map(s) as described herein must be received by the anniversary date or the permit shall expire.

(5) The city shall act to approve or deny the renewal application within twenty (20) working days of receipt of a complete renewal application.

(6) The applicant shall list whether any federal, state or local authority has cited or fined the mining/quarrying operation at that site.

(Ord. 2011-17, passed 9-6-11)

§ 118.05 BONDING.

(A) Bond.

(1) An applicant shall not disturb surface acreage or extend any underground shafts, tunnels or operations prior to issuance of a

permit and approval of a performance bond covering areas to be affected by the new and/or continued operation of mining/quarrying.

(2) After submission of an original permit application, permit application, or permit renewal in order to conduct mining/quarrying operations has been approved, but before such a permit is issued, the applicant shall file a bond to the benefit of the city. The bond amount shall be equal of the estimated cost of reclamation. The reclamation costs shall be determined by the City of Williamstown based upon information submitted by the applicant and any other information available to the division. The bond shall be in a form approved by the city. Additional increases in the bond may be required annually upon permit renewal as described herein in section 8-4(5)(c). Bond previously posted shall be released for the areas disturbed in the last twelve (12) months if reclamation work has been completed.

(3) The bond shall be conditioned upon the faithful performance of all the requirements and provisions of the reclamation plan and permit and shall cover all mining/quarrying and reclamation operations to be conducted within the permit area. The surety shall be in the form of cash, cashier's check, certified check, certificate of deposit, bank letter of credit or insurance surety bond.

(B) Bond forfeiture.

(1) A bond for a permit area shall be forfeited if the City of Williamstown finds after notice that:

(a) The permittee has violated any of the terms, regulations or conditions of the bond and has failed to take corrective action;

(b) The permittee has failed to conduct the mining and reclamation operations in accordance with the regulations and/or conditions of the permit within the time required, and the city has determined that it is necessary, in order to fulfill the requirements of the building inspection has determined that it is necessary, in order to fulfill the requirements of the permit, to have someone other than the permittee correct or complete reclamation;

(c) The permit for the area or increment under bond has been revoked or the operation terminated, unless the permittee or surety assumes liability to the satisfaction of the city for completion of the reclamation work and is, in the opinion of the city, diligently and satisfactorily performing such work;

(d) The permittee or surety has failed to comply with a compliance schedule issued pursuant to section 13(1); or

(e) The permittee has become insolvent, been adjudicated as bankruptcy, filed a petition in bankruptcy or for a receiver, or had a receiver appointed by any court.

(2) The permittee may appeal building inspection's forfeiture of bond to the board as provided for in the zoning ordinance.

(C) Use of forfeited fund. The city shall utilize funds collected from bond forfeiture to complete the reclamation plan on the permit area on which bond coverage applied, and to cover associated administrative expenses. Such funds shall be deposited in an appropriate account for the payment of such costs. The owner/operator shall be responsible for any deficiencies in funds required for completion of the reclamation plan. Funds remaining after reclamation shall be returned to the person from whom the forfeiture proceeds were received.

(D) Bond Release.

(1) No portion of the guarantee contained in the release of bond required by these regulations will be released until after the final inspection and evaluation of vegetative cover. There shall be allowed a reduction in said bond amount for all reclamation completed at that time. An amount reasonably related to the cost of regarding and revegetation shall be retained for a period of up to eighteen (18) months following the final inspection and evaluation to ensure the completion of any regarding and/or revegetation that may become necessary during this period.

(2) To release bond, the operator shall file with the city a written report stating under oath that reclamation has been completed on certain acreage and submit the following:

(a) Identification of the operation consisting of permit number and street address;

(b) A description of the area of land affected by the operation within the period of time covered by such report with sufficient certainty to enable it to be located and distinguished from other lands;

(c) A copy of the reclamation plan as required by section 8-4(3)(d) indicating the area that has been reclaimed and that is being submitted for bond release. The boundary shall be surveyed by a licensed surveyor or engineer.

(Ord. 2011-17, passed 9-6-11)

§ 118.06 PERFORMANCE REQUIREMENTS/STANDARDS.

(A) The conduct of mining/quarrying and the handling of refuse and mining wastes shall be done in such a way as to eliminate adverse effects and to protect the adjoining landowners and those in the area from damage.

(B) Development and operation of the mining/quarrying site shall be in accordance with all federal, state, and local laws and regulations. Portals, stockpiles and processing facilities associated with underground mining shall only be located in a zone(s) which permits such uses as defined in the zoning ordinance. In the event of conflict in the standards, the stricter or higher standard shall apply.

(C) They shall meet the following standards:

(1) Noise. The approved facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations relating to noise.

(2) Air Quality. The approved facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations pertaining to water quality.

(3) Water Quality. The approved facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations pertaining to water quality.

(a) Natural drainageways: Alterations and relocations of natural drainageways as shown on the operation/reclamation plan(s) will be permitted if the natural drainageway will not be blocked and if no damage results to the natural drainageway or to adjoining landowners.

(b) Stream crossings: Bridge or culvert structures shall be required in order to cross a stream channel. Such structures shall be construed so as not to restrict the flow of the stream, i.e., the bridge or culvert(s) shall be of adequate size to permit stream flow throughout the seasonal periods during the life of the surface mine permit.

(c) Filter strips: A protective strip of undisturbed forested or grassed area at least fifty (50) feet wide measured on the slope should be provided between any disturbed area and stream to reduce the sediment load of the stream. Where a grassed or forested area is not feasible, a silt fence, fabric filter or other approved method shall be installed.

(d) Water impoundments. Plans for water impoundments shall be approved by the division of engineering.

(4) Drainage and sediment erosion control. All mining operations shall have adequate drainage, erosion, and sediment control measures incorporated in the mining/quarrying plan and/or reclamation plan and installed in accordance with the plan(s) and/or accepted standards of the division of engineering. If in the event adequate drainage, erosion and sediment control cannot be provided, surface mine permits may be denied. The operator shall have certified to the city by

a registered professional engineer that the sediment ponds, water impoundments, and diversions have been construed in accordance with the approved plan(s).

(a) Natural drainways: Natural drainways in the area of land affected by the operation shall be kept free from overburden. Such drainways shall be identified on the existing condition map. If in the operation it is necessary to cross such a drainway, proper drainage structures shall be provided according to division of engineering standards. Sufficient water retarding structures and slit dams constructed to the approval of the division of engineering shall be placed in all natural drainways on every operation before the work begins. The proposed location of such dams and structures shall be indicated on the mining/quarrying plan. The drainage manual shall be used as the standard to be applied.

(b) Sediment basins: Disturbed areas that are not adequately controlled by acceptable erosion and sediment control measures or mining methods which incorporate sediment control shall have sediment basins installed on drainageways from all proposed disturbed areas. Sediment basins shall be located as close to the disturbed areas as possible. Sediment basins shall not be located in perennial streams. Sediment control measures shall be installed prior to land-disturbing activities within the drainage area controlled by the sediment basin.

(c) Diversion structures. Diversion structures, where conditions necessitate, shall be constructed to divert water away from surface mined areas and direct runoff from spoil slopes to sediment problems and interference with active mining operations.

(d) Barriers protecting intermittent or perennial streams: All intermittent or perennial streams shall be protected from spoil by natural or constructed barriers.

(e) Storage of topsoil: Topsoil will be needed for future reclamation and shall not be removed from the permitted area unless authorized. The stockpile topsoil shall be seeded with quick-growing grasses or legumes for stabilization until used in final reclamation.

(f) Road surfaces and ditches: Road surfaces and ditches shall be stabilized. Side slopes shall be constructed in a stable manner to minimize erosion and sedimentation. Ditches shall be constructed where necessary and shall have sufficient capacity to control surface runoff.

(g) Culvert(s). Culverts shall be installed in accordance with the drainage manual.

(h) Roads.

1. Approaches to public roads. Access roads which intersect with a state highway or a public street shall be paved with an approved all-weather surface for the entire length of road from the state highway or street to the scales. All-weather surface shall consist of either asphalt or concrete.

2. Internal roads. Internal roads may be unpaved provided dust is adequately controlled by the operator. Innovation and improved designs and construction techniques shall be encouraged. Designs and construction techniques for roads, drainage structures, and control of drainage, erosion and sedimentation other than those contained or referred to in these regulations shall be subject to review and approval by the division of engineering.

3. Internal roads. Internal roads may be unpaved provided dust is adequately controlled by the operator. Innovation and improved designs and construction techniques shall be encouraged. Designs and construction techniques for roads, drainage structures, and control of drainage, erosion and sedimentation other than those contained or referred to in these regulations shall be subject to review and approval by the division of engineering.

4. Maintenance. Maintenance is required to ensure the proper functioning of the road and drainage systems. Maintenance of the road systems shall consist of inspecting, repairing and cleaning of roadways, ditches and culverts as necessary. Particular attention shall be given to removing debris from culvert inlets.

(5) Spoil. Spoil and/or overburden which has been displaced and may be moved shall be graded and stabilized so that soil erosion, surface disturbance and stream sedimentation will be prevented. The size and location spoil or overburden may be limited on site by the board. All grading must be kept current and shall be completed according to the permit.

(6) Stockpiles. Stockpiles shall be located, maintained and stabilized so that soil erosion, surface disturbance and stream sedimentation will be prevented.

(7) Hazardous Materials. Hazardous materials shall be located, stored, maintained, and discharged as required by the Commonwealth of Kentucky.

(8) Subsidence Control. The ground control plan consisting of pillars and other roof support systems shall be designed to provide a long-term factor of safety of 1.75 as calculated by standard engineering practice.

(9) Blasting.

(a) The use and storage of explosives shall be conducted in accordance with the rules and regulations of the Kentucky department of mines and minerals and applicable federal and local regulations. A pre-blast survey as detailed herein, and continued on-site seismic monitoring shall be required.

(b) The peak particle velocity of the blast shall not exceed two (2) inches per second if the blast vibration frequency exceeds thirty (30) Hertz (Hz). Table I [at the end of this chapter] shall be utilized to determine peak particle velocities for blast vibration frequencies less than thirty (30) Hertz.

(10) Pre-blast Survey.

(a) A pre-blast survey shall be conducted if requested by an eligible property owner except for existing operations and except on properties currently covered by an existing pre-blast survey. A pre-blast survey, if requested by the property owner within ninety (90) days of publication of the notice in the newspaper of highest circulation, shall be conducted by the applicant within the notification area applicable to that zone(s) as defined in the zoning ordinance. In zones where the notification area is less than one (1) mile, property owners within two thousand (2,000) feet of any part of the permit area may request a pre-blast survey within ninety (90) days of publication of the notice in the newspaper of highest circulation. The survey shall determine the condition of dwellings and/or structures and document any pre-blasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipes, cables, transmission lines, wells, springs and other water systems shall be limited to surface condition and readily available data. Special attention shall be given to the pre-blasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.

(b) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report shall include recommendations and any special conditions or proposed adjustments to the blasting procedures which should be incorporated into the blasting plan to prevent damage. If the resident or owner or his representative accompanies the surveyor, the report shall contain the name of such person(s). Copies of the report shall be kept on permanent record by the city and with the Grant County Court Clerk with recording fees paid by the applicant.

(c) If the property owner disagrees with the results of the survey, he or she shall notify in writing the city of the specific areas of disagreement.

(d) If a structure is constructed or renovated within the applicable notification area subsequent to a pre-blast survey, then upon request to the city a survey shall be performed by the operator.

(11) Buffer Zone. Except for operations with valid existing rights, the mine or quarry shall not extend within one hundred (100) feet of any adjoining property line without the prior written consent of that adjoining property owner(s) and the approval of the city.

(12) Screening. Screening shall be provided as defined in the permit application and in accordance with the zoning ordinance.

(a) Screening shall be provided to improve the appearance of the mining site from public roads, public buildings, recreation areas, and occupied dwellings.

(b) If screening is to be undisturbed forest, a distance of one hundred (100) feet must be left undisturbed from the permit line. Planted earth berms, natural topography appropriately designed fences or walls may be used if approved in the mining/quarry plan.

(c) Permanent berms for screening shall be topsoiled, seeded or planted in accordance with the approved revegetation plan.

(13) Reclamation. The reclamation of the site shall be to return the land to productive use as required by the reclamation plan and reclamation description as provided in section 8-4(2)(d) and (f). Consideration may be given to possibilities for use of a completed excavation for water impoundments suitable for recreation, water supply and storage, and wildlife. An amendment may be required to the operations plan(s) to meet the exigencies of any unanticipated circumstance or event. Reclamation shall be designed to minimize adverse effects on the environment and facilitate integration of reclamation with mining/quarrying operations according to the special requirements of various individual mineral types.

(a) Surface.

1. Buildings and structures: Upon conclusion of all mining/quarrying operations, all buildings, structures and processing plants shall be removed unless approved in the permit as permanent structures.

2. Refuse. All refuse including metal and lumber resulting from the operation within the permit area shall be removed and/or properly disposed of.

3. Spoil piles and/or overburden: All spoil piles and overburden will be graded in accordance with the operation/reclamation plan in such a manner as to prevent sediment runoff.

4. Stockpiles. At the cessation of mining/quarrying operations, all stockpile materials shall either be

removed to expose the original ground or shall be graded, scarified, covered with a minimum of eighteen (18) inches of topsoil material, and planted in accordance with the approved reclamation plan.

5. Slopes. Proposed grade of completed slopes are to be indicated on the reclamation plan. Long uninterrupted slopes must be provided with proper structures, such as terraces, berms and waterways, to minimize slope instability and erosion due to surface runoff. Slopes must be stabilized, protected with a permanent vegetative or riprap covering and not be in an eroded state in order to prohibit erosion onto an unprotected site. Constructed slopes shall not extend closer than twenty-five (25) feet to any property boundary without written permission of the adjoining property owner or unless to improve drainage by methods acceptable to the division of engineering.

6. High wall(s). Except for existing operations, all high walls shall be reduced at the closure of the operation to a maximum slope of 2 to 1.

7. Drainage. All final drainage shall be in accordance with the drainage manual and all other applicable laws and regulations.

8. Roads/parking lots. All concrete and asphalt roads/parking lots shall be removed and the refuse properly disposed of unless approved in the permit structure. All other roads/parking lots shall be ripped to a depth of twenty-four (24) inches and covered with a minimum of eighteen (18) inches of top soil material.

9. Revegetation. The objective in revegetation is to stabilize the area as quickly as possible after it has been disturbed in order to achieve permanent and protective vegetative cover. Exposed areas subject to erosion on an active mining/quarrying site shall be protected by a temporary or permanent vegetative cover or by other approved methods. Simultaneous revegetation shall be incorporated into the reclamation plan. Final reclamation shall be performed on areas where mining has ceased.

i. Conditioning the soil. Crusted and hard soil surfaces shall be scarified prior to revegetation. Steep graded slopes shall be tracked (running a cleated crawler tractor or similar equipment up and down the slope).

ii. Liming and fertilization. Application of lime and fertilizer shall be performed according to soil test and revegetation needs.

iii. Seeding and mulching. Appropriate vegetation shall be planted or seeded and mulched according to the mixtures as defined in the reclamation description.

iv. Seed quality. The seed used must meet the purity and germination requirements of the Kentucky department of agriculture. The city may, at its discretion, take samples for laboratory testing.

v. Trees and shrubs. Specific use, regional adaptability, and planting requirements shall be as defined in the reclamation description. Tree and shrub planting shall only be considered an appropriate ground cover when combined with well-established grass species.

vi. Critical or problem areas: Critical or problem areas are those areas containing steep slopes, easily erodible material, hostile growing conditions, concentration of drainage, or other situations where revegetation or stabilization will be potentially difficult. On such areas, the operation must follow procedures for revegetation as described in the reclamation description.

10. Inspections. Inspections for adequacy of vegetation for bond release shall be made by the city.

i. Inspection for bond release shall be made within twenty-four (24) months after seeding.

ii. No noncritical areas larger than one-half (0.5) acre will be allowed to exist with less than seventy-five (75) percent ground cover. Vegetation must exhibit growth characteristics for long-term survival.

iii. Seeded portions of critical areas shall have adequate vegetative cover so that, in combination with other measures that they may have been used, the area is completely stabilized.

11. Utilities. Following the closure of the operation, all utility services associated with that operation shall be terminated and made safe at the property boundary unless otherwise approved in the permit.

12. Time limit. Reclamation of disturbed areas shall begin within six (6) months of completion of active operations and shall be completed within eighteen (18) months. Except for areas in constant use, such as haul roads, access roads, stockpile areas, and processing areas, reclamation shall begin within one (1) year after an area has been disturbed. These activities as described herein shall be completed prior to obtaining bond release.

(b) Underground.

1. Subsidence. Adequate pillar and other roof support systems shall be maintained to ensure that there is no surface

effect of any subsidence following closure of the operation. The combination of all pillars and roof support systems shall be designed to provide a long-term cumulative factor of safety of 1.75 as calculated by standard engineering practice.

2. Portals. All portals shall be closed utilizing a method that provides a permanent barrier to access.

3. Shafts. All shafts shall be permanently closed utilizing a reinforced concrete cap adequately anchored directly onto the bedrock. The location of the closed shaft shall be indicated by a permanent monument on the surface directly above the center of the closed shaft.

4. Drainage. Unless the portal closures are designed to withstand the head of a flooded mine workings, adequate drainage shall be installed to ensure that the mine water pool elevation does not extend above the base of the portal closure. Such drainage structure shall be designed to ensure that no access is possible.

5. High wall(s). All high wall(s) developed to facilitate the underground mining operation shall be reclaimed as required by division (6) below.

6. Time limit. Closure of all shafts and portals shall be completed within one (1) year of closure of the operation. These activities as described herein shall be completed prior to obtaining bond release.

(14) Inactive operations. At the option of the owner/operator and with the building inspector's concurrence, an operation can remain under permit for an indefinite period during which no mineral or overburden is removed if the following conditions are complied with:

(a) All disturbed areas are reclaimed to prevent erosion and sedimentation as directed by the city.

(b) All drainage structures such as culverts, ditches, etc., are maintained according to the drainage manual.

(c) All vegetation is maintained (reseeded as necessary) to the inspector's satisfaction.

(d) All improvements on site, including machinery and equipment, are to be maintained in a reasonable state of repair and condition.

(e) All portals, shafts and points of entry on the site are secured with a safety barrier(s).

(f) All points of entry onto the property are secured.

(15) Transportation. The owner/operator shall ensure that all truck shipments by or on behalf of the owner/operator with a load of greater than ten thousand (10,000) pounds leaving the mine/quarry site shall be covered to avoid spillage.

(Ord. 2011-17, passed 9-6-11)

§ 118.07 MAPPING OF MINING OPERATIONS.

(A) The operator of each underground mine shall annually make or cause to be made a new or updated map of the workings of the mine which is accurate and of professional quality. The map shall be on a minimum scale of one (1) inch equals two hundred (200) feet and a reduced scale to match the appropriate City of Williamstown's unified mapping program. The map shall show the area mined and the forms of the excavations up to January 1, together with the location and connection of the property and mineral lease lines of all adjoining lands within one thousand (1,000) feet of the excavations and, marked on each tract, the name(s) of each owner(s) or lessee(s) of adjoining lands and of mine property for which the map is being filed. Such a map shall include the date on which the map was prepared and the following where applicable:

(1) The name and address of the mine/quarry;

(2) The proposed general plan of mining for the next twelve (12) months;

(3) All pillared, worked-out, and abandoned areas;

(4) Escapeways;

(5) Major roof falls;

(6) Water pools or streams above;

(7) Location of all known wells;

(8) Such map shall identify those areas of the mine which are inaccessible or cannot be entered safely and on which no information is available;

(9) The scale and orientation of the map, longitude, and latitude;

(10) The property or boundary lines of the mine, indicating the 100-foot barrier, if applicable;

(11) All shaft, slope, drift and tunnel opening and surface areas being mined;

(12) The location and description of at least two (2) permanent survey monuments tied to both the surface and underground surveys; the monuments shall provide both horizontal and vertical control;

(13) The location and elevation of any body of water damned in the mine or held back in any portion of the mine; however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines;

(14) The elevations of tops and bottoms of shafts and slopes and the floor at the entrance to drift and tunnel openings;

(15) The elevation of the floor at intervals of not more two hundred (200) feet in:

(a) At least one (1) entry of each working section, main entry and cross entries;

(b) The last line of each working section, and main and cross entries before such sections and main and cross entries are abandoned;

(c) Rooms advancing toward or adjacent to property or boundary lines which are adjacent to mines;

(16) Contour lines passing through whole number elevations of the areas being mined on overlays or tracings attached to mine maps.

(B) The operator shall annually deposit a true and complete copy of the map within forty-five (45) days after January 1, to the division of planning, another copy to the division of building inspection, and another to the division of engineering, and a map shall be kept at the office of the mine.

(C) The inspector shall have the authority to stop production at the mine of any operator who does not furnish a map which fully complies with these requirements within thirty (30) days of notification of specific deficiencies.

(D) If the operator of any mine fails to furnish any map required by this chapter, the Grant County building inspector or Williamstown's designee may cause a correct survey and map of the mine or extensions thereof to be made at the expense of the owner, lessee or operator of the mine, and the cost of the map shall be recoverable from the owner, lessee or operator. Failure to submit this survey as required may be grounds for revocation of the operating permit and/pr a conditional use permit.

(E) If at any time there is reason to believe that any map furnished under this chapter is materially incorrect, so that it will not serve the purpose for which it was intended, the city may give

notice to the owner/operator of the deficiency. If the deficiency is not corrected within thirty (30) days of the notice, the city may have the survey, map or corrections duly made. If the map furnished by the operator is found to be incorrect, the expense of making the survey, map or corrections shall be paid by the owner, lessee or operator of the mine. Failure to submit this survey as required may be grounds for revocation of the operating permit and/or a conditional use permit.

(F) The correctness of each map shall be certified only by a professional civil or mining engineer registered in Kentucky. All plats, and the like, shall be stamped with their seal.

(1) The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by this ordinance, and covers the period ending ___/___/___/___, ___ Certifying Agent. Acknowledge before me, ___ this ___/___/___ day of ___".

(2) The Grant County building inspector or Williamstown designee may reject any map as incomplete if its accuracy is not so attested.

(G) When an underground mine is inactive, abandoned or closed, the operator of the mine shall make or cause to be made a final survey of the mine, to show the entire worked-out area at the time the mine was abandoned or closed. The results shall be extended on the map of the mine previously made, and a copy of the survey shall be filed with the division of planning, the city, and the division of engineering. (Ord. 2011-17, passed 9-6-11)

§ 118.08 LEASES/NOTICE OF PERMIT ISSUANCE.

(A) Leases. Prior to obtaining a permit from the city, the owner/operator shall ensure that all leases, conditions and/or restrictions to the subject property, or a memorandum thereof specifying the parties and terms thereof are filed in the office of the city.

(B) Notice of Permit Issuance. Upon issuance of a permit for mining/quarrying, the city shall file in the office of the Grant County Clerk a notice of permit issuance. The notice shall set forth the names and addresses of property owners identified in the permit application, the address of the property covered by the permit, and the location of permitting files, maintained by the city. The city shall file the notice in the book in which certificates of land use restrictions are filed pursuant to KRS 100.3681. The failure to file, to file on time, or to complete the notice properly or accurately shall not affect the validity or enforceability of any permit issued by the division of building inspecting. Nothing herein shall affect the running of time

for any appeal or other act for which a time limit is prescribed by law.

(Ord. 2011-17, passed 9-6-11)

§ 118.09 ENFORCEMENT OF CONDITIONS AND INSPECTIONS.

(A) The Grant County building inspector or Williamstown designee shall be authorized to inspect the mining operation, and shall enlist the division of engineering and/or other consultant's assistance as needed for said inspections.

(B) Inspections of each mine/quarry in the city shall be inspected annually, or more often if necessary, or after receiving notification of a complaint.

(C) The inspector shall be permitted to inspect any or all portions of a mine/quarry plant or surface facility as needed.

(D) The inspector shall have the authority to issue a notice of violation. The inspector shall have the authority to issue a closure order at the mine/quarry or any facility which fails to obtain a permit or violates the conditions of the permit as provided by this chapter.

(E) The inspector shall annually check and review the surveyed underground mine plans and maps submitted by the mine operator(s).

(F) The inspector provided by the city shall have the thorough and practical knowledge of mining/quarrying as required by KRS 351.060. This may include but not be limited to a degree in mining engineering from a recognized institution or an associate degree in mining technology from a recognized institution. The inspector shall comply with all applicable Mining, Safety, and Health Administration (MSHA) certifications and requirements. If the city does not have the required expertise, the city shall contract for such services.

(Ord. 2011-17, passed 9-6-11)

§ 118.99 PENALTY.

(A) Notice of violation. Any mining/quarrying which is found to be in violation of the conditions, regulations or provisions of the permit shall be subject to the issuance of a notice of violation. The notice of violation shall state the specific violations of the permit, the remedial actions required, and the schedule for compliance. The notice of violation may be appealed to the board as set forth in the zoning ordinance.

(B) In order to abate a notice of violation, the specific remedial actions listed in the notice of violation must be complied with and fines paid if levied. If the remedial actions are not taken within the time specified in the notice of violation, the operator may be subject to a closure order, which may be appealed to the board as set forth in the zoning ordinance.

(C) Closure Order. Any mining/quarrying operation which fails to abate the notice of violation within the specified time shall be subject to the issuance of a closure order. A copy of the closure order shall be delivered to the operator at the mine/quarry facilities or served by certified mail addressed to the operator at the permanent address shown on the application for a permit. The closure order shall state the specific violations of the permit, the remedial actions required, and the schedule for compliance. All workmen, except for personnel required for safety functions, shall be withdrawn from the mine/quarry, and the mine/quarry shall be deemed closed.

(D) In order to reopen an operation which is subject to a closure order, the specific remedial actions listed in the closure order must be complied with and fines paid if levied. If the remedial actions are not taken within the time specified in the closure order, the permit shall be revoked and the bond forfeited in accordance with section 8-5(2). In addition, the person(s) shall be subject to any other penalties provided by this section. The operator may appeal the closure order to the board as set forth in the zoning ordinance.

(E) Fines. Any person(s) failing to comply with any of the provisions, regulations or conditions of this ordinance shall be guilty of a class B misdemeanor and upon conviction fined not less than five hundred dollars (\$500.00) per day. Each day the violation occurs shall constitute a separate offence.

(Ord. 2011-17, passed 9-6-11)