

City Council
2023 Special Council Meeting-May 24, 2023
Vergas Event Center & Zoom Id number 267-094-2170 password 56587
4:30 PM on Wednesday, May 24, 2023

1. **Call to Order**
2. **Loon Placement**
 - A. Event Center
 - B. Long Lake Park
3. **Liquor Store**
 - A. Hiring
 - B. Engineering plans for Municipal Building
4. **Event Center**
 - Resolution accepting donation
5. **Emergency - Water**
6. **Ordinances Updates**
 - A. Gravel Pit Ordinance 1st Reading
 - B. 2023 Revised Minnesota Basic Code of Ordinances 1st Reading
7. **Adjournment**

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2. Loon Placement

- A. Event Center
- B. Long Lake Park

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3. Liquor Store

- A. Hiring
- B. Engineering plans for Municipal Building

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4. Event Center

Resolution accepting donation

Files Attached

- Resolution 2023-009 Vergas Donation for Event Center - TIP.pdf

RESOLUTION 2023-009
RESOLUTION ACCEPTING DONATION RECEIVED

WHEREAS, Minnesota Statutes Section 465.03 provides that donations to the City be accepted by resolution of the City of Council; and

WHEREAS, the City of Vergas has received the following donation:

\$20,000.00 from T.I.P. Otter Tail Chapter
From funds of a purse bingo and gun raffle

WHEREAS, it is the recommendation of the Vergas City Clerk that the City accept these donations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vergas, Minnesota:

That the City graciously appreciates and accepts this donation and will use it as prescribed.

Passed and Adopted by the Council on this 9th day of May 2023

CITY OF VERGAS

By: Julie Bruhn
Its Mayor

ATTEST: _____
By: Julie Lammers
Its City Clerk-Treasurer

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6. Ordinances Updates

- A. Gravel Pit Ordinance 1st Reading
- B. 2023 Revised Minnesota Basic Code of Ordinances 1st Reading

Files Attached

- Proposed ORDINANCE 151.70 Gravel Pit Ordinance as of 05-22-2023.pdf
- 05-2023 Proposed Open Burning Ordinance.pdf

**CITY OF VERGAS
COUNTY OF OTTER TAIL
STATE OF MINNESOTA
Proposed revision May 22, 2023**

151.70 EXCAVATION, MINING AND GRAVEL PITS

151.70 PURPOSE AND INTENT

It is the purpose of this ordinance to regulate the existing and future Mining Operations in the city. Mining Operations are inherently accompanied by noise and dust, often create hazardous conditions, and may result in lasting disfigurement of the land where they are conducted on, and therefore can tend to interfere with the use of nearby property or the quality of life for the residents adjacent or in proximity to Mining Operations. It is also the city's intent to ensure that the disturbed areas are restored upon completion of Mining Operations, and overall, to protect public health, life and general welfare.

151.701 DEFINITIONS.

For the purposes of this section, the definitions listed below shall be construed as follows:

Abandonment. The inactivity of a worksite for one year or more without the act of extracting any minerals.

***Active Gravel Pit.** The terms "active gravel pit" and "active excavation" mean any area where the topsoil or overburden has been removed for the purpose of mining earthly deposits or minerals.

Berm. A mound of earth designated to provide screening of areas and to reduce noise.

Dust. Airborne mineral particulate matter.

Engine Retard Breaking. Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

Excavation. The movement or removal of soil and minerals.

Interim Use Permit. A permit for temporary use of a property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Manufacturing. Any activity that includes Portable, Permanent, or Temporary Asphalt Plants, Concrete Ready-Mix Plants, Processing and Recycling Plants.

Manufacturing Area. Such operations may include, but are not limited to, concrete mixing, concrete block production, asphalt production, the grinding and/or crushing of concrete or asphalt, and the processing of petroleum-contaminated soil being managed pursuant to the Minnesota Pollution Control Agency (MPCA) approval, so long as the processing or recycling does not violate any federal or state law or any of the requirements of any regulatory agencies having jurisdiction over said operations.

Mineral. Sand, gravel, rock, clay and similar higher density non-metallic natural minerals.

Mineral Extraction. The removal of sand, gravel, rock, clay and other minerals from the ground.

Open Gravel Pit Open-pit mines that produce building materials and dimension stone are commonly referred to as "quarries." Open-pit mines are typically enlarged until either the mineral resource is exhausted, or an increasing ratio of overburden to ore makes further mining uneconomic.

Operator. Any person or persons, partnership, corporations or other entities or a combination or assignees thereof, including public or governmental agencies, engaging in mineral extraction and any processing, recycling, and manufacturing activities derivatives.

Operation. "Operation" includes the driving of all hauling trucks or equipment into or out of a gravel pit, loading, roadwork or engine start-up of any kind.

Owner. Any person or persons, partnership, corporation or other entities owning fee title to the Subject Property.

Processing Area. Any area that is being used for stockpiling, storage, or processing or recycling of sand, gravel, soils, or other materials or products derived from gravel mining, even if such materials did not originate or were not produced on the premises.

Processing Plant. Machinery used to crush, wash, compounding, mixing, or treat dirt, sand, gravel, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, and other similar products. This does not include Asphalt Plants and Concrete Ready-Mix Plants. (see Manufacturing Area)

***Potential Minalable Area.** The area within the subject property that can be mined/excavation that meets the conditions and setbacks as described in this ordinance. This area includes any existing mined area and any virgin land that meets the conditions and setbacks within the subject property.

***Prohibited Zone for Mining Operations.** The area within the subject property that cannot be mined/excavated as it does not meet the conditions and setbacks as described in this ordinance. Potential minable area should also exclude wetlands and other areas that cannot be legally mined under any local, county, state or federal laws, rules or regulations without proper permits.

Reclamation. To claim land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Ordinance.

***Reclaimed Area.** Areas of the subject property that have met the reclamation standards.

Rough Grade. The stage at which the grade approximately conforms to the approved plan.

Slope. An inclined ground surface the inclination of which is expressed as a rate of horizontal distance to vertical distance.

Soil. Is naturally occurring superficial deposits overlaying bedrock.

Stockpiling. Move or handle a reserve supply of goods or raw material accumulated for future use.

Subject Property. The real property on which Mineral Extraction Facilities, Processing Plant, Asphalt Plant and/or Ready-Mix Plant is sought to be permitted.

Topsoil. Is the upper most layer of naturally occurring soil.

***Virgin Land.** The area untouched and undisturbed by mining/excavation operations.

* Areas to be monitored annually per inspections.

151.71 PERMIT REQUIRED.

Mineral Extraction.

- A. Permit Required. Irrespective of the zoning classification of a subject property a permit, as provided herein, is required for Mineral Extraction or Manufacturing unless specifically excepted from such permit.
- B. Interim Use Permit (I.U.P.) is required for any Mineral Extraction or Manufacturing Facility.
- C. Interim Use Permits are valid for one year. City has 60 days to issue permit.

151.72 PERMIT APPLICATION REQUIREMENTS.

An application for a permit required by this Ordinance shall contain the following:

- A. The legal description of the lands from which it is proposed to excavate, remove, process, store or handle minerals.
- B. The name and address of the applicant and the name and address of the owner of the land.
- C. Names and addresses of all adjacent landowners within one-half mile radius.
- D. Copies of any agreements pertaining to the operation including the duration of any lease, if applicable.
- E. The purpose of the excavation or related activities.
- F. The estimated time required to complete the excavation or related activities.
- G. The highways, streets or other public ways within the city upon and along which the material removed shall be transported.
- H. The plan of operation, including, but not limited to:
 - 1. Soil processing (any operation other than direct mining and removal),
 - 2. Nature of the processing and equipment,
 - 3. The area to be included in the operation,
 - 4. Depth of topsoil and soil type,
 - 5. The depth and grade of excavation,
 - 6. The estimated quantity of material to be added to or removed from the premises,
 - 7. Location of the plant,
 - 8. Location of stockpiles,
 - 9. Source of water, disposal of water and reuse of water. In the event that water is used in the operation of a pit, approval from the state department of natural resources and other appropriate state or federal agencies shall be obtained as to the type, location and depth of such well and contained with such application.

10. The number and location of trees prior to excavation.
 11. Adjacent and on-site buildings and land uses.
 12. Map or plat of the proposed pit or excavation showing the confines or limits thereof, together with the proposed finished elevations based on sea level readings.
 13. Elevations and percent slope within 100 feet beyond the perimeter of the excavation and other such information necessary to analyze the site shall be provided by the applicant. United States Geological Survey datum shall be used for all topographic mapping where feasible.
 14. Phasing plan which provides no more than 50% of the total potential minable area shall be open to active excavation at any one time. Before any additional land may be mined, the applicant must reclaim portions of the potential minable area to the condition that is indicated on the approved reclamation plan.
- I. The operation plan must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and rising dust out of any sand or gravel pit.
 - J. A reclamation plan including, but not limited to:
 1. Final grade of the property;
 2. Depth of topsoil reclaimed;
 3. Type of vegetation replanted;
 4. Number of trees to be replanted, replacing the trees removed during excavation.
- 15 Minimum Potential Movable Area. No permits shall be granted for lots with less than thirty (30) Acres of potential minable area.

151.73 **BOND.**

A. The city council shall require the applicant apply for a special use permit under this ordinance. Owner or user of the property on which the pit or excavation is located, shall post a cost bond with surety acceptable to the city or cash escrow in such form and sum as the city council shall determine, with sufficient surety running to the city, conditioned to pay the city the extraordinary cost and expense of managing or repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing material from any pit or excavation, the amount of such cost and expense to be determined by the city engineer; and conditioned further to comply with all the requirements of this ordinance, and the particular permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

The city council, for failure of any person to comply with any requirements made of them in writing, under the provisions of this ordinance, as promptly as the same can reasonably be done, may proceed to such requirement to be complied with and the cost of such work to be taxed against the property, whereon the pit or excavation is located or the city council may at its option proceed to collect such costs by an action against the entity to whom such permit has been issued and its sureties.

B. In addition to the bond required in subsection (A), the applicant for the permit shall post a performance bond of at least \$50,000.00. The amount may be greater based on the city engineer's recommendation(S). The performance bond shall be executed by a corporate surety company authorized to do business in the state. The performance bond shall be used for the subject property for which a permit is granted and conditioned upon full

performance of the terms and conditions of this chapter by the applicant and/or owner of the premises described in the permit application. The bond shall remain in effect for at least one year after the expiration of the permit or until reclamation of the subject property . The bond shall guarantee the required restoration of the entire site.

151.74 AGREEMENT TO HOLD CITY HARMLESS

No person shall open, operate or maintain any mineral extraction facility or engage in mineral extraction on a subject property without an agreement with the city, saving the city free and harmless from any and all suits or claims for damage resulting from negligent excavation, removal or storage of minerals or operation of any mineral extraction facility within the city.

151.75 FEES AND APPLICATIONS.

151.75.001. Annual fee required. An annual fee will be required for the Interim Use Permit. Such fee shall be established by council resolution as adopted from time to time.

151.75.002. Inspection and review permit fee. The inspection and review permit fee shall be established by council resolution adopted from time to time.

151.75.003. Denial of Permit. In the event an application for the issuance of a permit is denied, the city council shall retain such amount of said fees as shall be necessary to defray costs of engineering and legal services incurred by the council in connection with such application and the balance, if any, shall be returned to the applicant.

151.75.004. Reimbursement to city for engineering and legal services. In the event of the cost of engineering and legal services exceeds the permit fee, then and in that event the applicant shall, upon notice from the city, reimburse the city for the same within 30 days.

151.75.005. Form of application. The application shall be in such form and shall furnish such information as shall be required by the city council.

151.76 INSPECTIONS.

The City Engineer shall inspect operating and gravel mining pits annually, approximately May 1, weather permitting, and have the report to the City Clerk by June 1. The Engineer shall inspect and certify as compliant or, if deficient, note the deficiency and corrective action(s) to be taken pursuant to a checklist to be developed by the Engineer and the City to ensure compliance with this Ordinance.

151.77. CONDITIONS OF PERMIT.

151.77.01. Hours of Operation. Operation shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless specifically authorized by the City. No mineral extraction or manufacturing shall take place on holidays. In cases of public emergencies, hours of operation may be extended by the City Clerk. It is the specific intent of this section that no crushing, loading, hauling, or engine startup activity of any kind shall take place on or upon any area or subject property other than during those hours specified above.

151.77.02. Fencing or Berm: Where deemed necessary by the City, a fence or berm may be required prior to the commencement or as a condition of the continuous operation of any Mineral Extraction or Manufacturing operation enclosing the area authorized by the applicable permit. If required, the fencing must have a minimum

of two (2) single strand wires with posts a maximum of twelve (12) feet apart and at least four (4) feet in height. A berm must be a minimum of thirty (30) inches high and six (6) feet in width at the base.

151.77.03. Screening. The applicant or owner shall plant suitable and fast growing screening trees which shall be a minimum of six feet high placed in two rows, staggered with trees not more than ten feet apart in each row, reducing unsightly view of the operations and reducing noise and dust.

151.77.04. Access Roads. All access roads will be of a sufficient length from a public road so that any turns onto the public road can be completed with a margin of safety. All access roads shall be maintained so as to minimize noise and dust from vehicles using such access road.

151.77.05. Dust Control. The Operator shall utilize all practical means to reduce the amount of dust cause by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the MPCA pollution control agency and the United States Environmental Protection Agency (EPA).

151.77.06. Noise. Maximum noise levels at the perimeter of the Operation will be consistent with the standards established by the MPCA and the United States EPA.

151.77.07. Air Quality. All activities on the Subject Property will be conducted in a manner consistent with the MPCA standards.

151.77.08. Maximum slopes. During the entire period of operations, all excavations other than the working face shall be sloped on all sides at a maximum ratio of one foot horizontal to one foot vertical, unless a steeper slope shall be approved by the city. Where excavations are adjacent to a public roadway or other right-of-way, or the property adjacent to the excavation, the excavation shall have a maximum four to one slope. Slopes adjacent to or contiguous to bodies of water shall be sloped at a maximum of six to one.

151.77.09. **Setbacks. The following setbacks shall apply:**

a. No mining shall take place within one-hundred (100) feet of any property lines, road right-of-way or easement;

b. No part of the operation shall be within five hundred (500) feet of any occupied structure not owned by the Operator or Owner and existing at the time of the original permitting.

151.77.10. Limits of Excavation. No more than 50% of the total potential minable area shall be open to active excavation at any one time.

151.77.11. Noxious Weeds. The Operator shall utilize all practical means to reduce and prevent the growth of noxious weeds.

151.77.12. Spillage on Public Roadways. Spillage of material on and damage to public streets used as haul roads shall be cleaned up and repaired to the satisfaction of the City Engineer in a timely manner.

151.77.13. Water pollution. Operators shall comply with all applicable state pollution control agency regulations and federal and EPA regulations for the protection of water quality. No waste products or process residue, including untreated wash water, shall be deposited in any lake or natural drainage system, except that lakes or ponds wholly contained within the extraction site may be so utilized.

151.77.131. Topsoil preservation. All topsoil shall be retained at the site until complete reclamation of the site has taken place according to the reclamation plan.

151.78. **RECLAMATION.**

151.78.01. All mining areas shall be reclaimed immediately after mining operations cease. Reclamation shall be complete within one (1) year. The following standards shall apply:

- 1) The peaks and depressions shall be graded and backfilled to a surface which will result in a gentle rolling topography in substantial conformity to the land area immediately surrounding. All interior slopes shall be graded to a maximum of 4:1.
- 2) The slope to adjacent properties shall be four foot horizontal to one foot vertical (4/1) of mined areas;
- 3) Reclaimed areas shall be surfaced with an amount equal to the surrounding area with a minimum of 2 inches of soil of a quality at least equal to the topsoil of the land areas immediately surrounding; and
- 4) The reclaimed areas shall be seeded, sodded or planted with native grasses, legumes and grasses. Trees and shrubs may also be planted, but not as a substitute to native grasses, grasses and legumes. Erosion control measures must be implemented until ground cover is established.

151.79. Standards for filling and compaction.

- 1) Prior to reclamation, the operator shall provide to the city engineer the location, area, and depth of the land before and after the anticipated activity. Such activity and the materials used shall be subject to the following:
- 2) Prior to such activity, the operator shall submit an engineering analysis of the proposed fill and compaction method to the city engineer. Side slopes of the excavation shall be graded to a maximum 1:1 slope prior to the placement of fill and achieve a maximum final slope of 4:1 after filling operations are complete.
- 3) Unless otherwise approved by the city council, materials including, but not limited to, organic soils and debris (topsoil, peat, muskeg, muck, stumps, roots, logs, brush, etc.), demolition debris (broken concrete or bituminous fragments, brick, lumber, metal, etc.) and any other solid or hazardous wastes shall not be used as fill in reclamation.
- 4) Imported materials used as fill in reclamation shall consist of mineral soils which typically demonstrate a minimum soil bearing capacity.
- 5) The top ten feet of all fill areas shall be compacted by mechanical equipment as the fill is placed, unless otherwise approved by the council, to a minimum of 95 percent of maximum density for a particular soil as determined by the Standard Proctor method.

151.79.00 PERMIT RENEWAL

Operations in compliance with the Interim Use Permit may renew the permit on an annual basis. Renewal applications must be submitted to the City, 60 days before current permit expires.

151.80.00 TERMINATION OF PERMIT.

- 1) Violations. The Council may terminate an Interim Use Permit for violation of this Ordinance, or a condition of this permit, or for violation of other applicable laws.
- 2) Notice to Terminate. To terminate a permit, the Council shall give notice of the violation or other cause for termination along with an order that the condition be remedied. If the condition has not been repaired within two (2) weeks, the Council shall hold a hearing to determine whether the permit should be terminated.
- 3) Cease Operation Upon Termination. No mining shall take place after the permit is terminated.

151.81.000 PENALTY

1) Violation a misdemeanor. Any person, firm or corporation who violates or who fail to comply with any of the provision of this ordinance or who make any false statement or omission in any document required to be submitted under the provisions shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

2) Each day an offense. Each day that a violation continues shall constitute a separate offense.

151.82 ENFORCEMENT.

Shall be pursuant to Ordinance 151.99, as amended.

Adopted this ____ day of _____, 2023 by the City Council of the City of Vergas., 2023.

Julie Bruhn, Mayor

ATTEST:

Julie Lammers, Clerk

Established: January 25, 2017

Updated:

Proposed OPEN BURNING

May 22, 2023

§ 92.60 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a recreational fire as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as open burning.

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a recreational fire site using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a recreation fire site as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

RUNNING FIRE. An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

VEGETATIVE MATERIALS. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not considered vegetative materials.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, Apresto logs, charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three-foot lengths.

§ 92.61 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petrol fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet

rock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.

Penalty, see ' 92.99

' 92.62 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained a Minnesota Department of Natural Resources (DNR) permit in accordance with Minnesota Statutes (M. S.) 88.16 and 88.17 open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in ' 92.60.

Once an open burn permit is received, a copy of burn permit must be provided to City Clerk-Treasurer, 48 hours prior to said burn, with the following additional information: types of materials to be burned, and the date and time burning will take place.

Penalty, see ' 92.99

' 92.63 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, land spreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, trees, diseased beehives.

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(6) Disposal of yard waste materials at the Vergas Yard Waste Site.

(B) Fire training permits can only issued by the DNR.

(C) Permits for the operation of permanent tree and brush burning sites may only be issued by the DNR.

Penalty, see ' 92.99

‘ 92.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making an application on a form prescribed by DNR. Except, the City will still require proof of a DNR burning permit even when the ground is snow covered for all fires not requiring a DNR permit.

Penalty, see ‘ 92.99

‘ 92.65 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals, if he or she reasonably believes necessary, may schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

‘ 92.66 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see ‘ 92.99

‘ 92.67 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals or the City of Vergas. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see ‘ 92.99

‘ 92.68 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal, or Assistant Fire Marshals or the City of Vergas, these officers may deny the application for the open burn permit.

‘ 92.69 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potentially hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see ‘ 92.99

‘ 92.70 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. ‘ ‘ 88.16 to 88.17, as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

‘ 92.71 EXTERNAL SOLID FUEL-FIRED HEATING DEVICES (OUTDOOR WOOD BURNING STOVES).

(A) Definitions.

(1) **EXTERNAL SOLID FUEL-FIRED HEATING DEVICE.** A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

(2) **PERSON.** An individual, partnership, corporation, company or other association.

(3) **STACKS OR CHIMNEYS.** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

(B) Requirements for operation.

(1) Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, is declared a public nuisance.

(2) No person may install, use or operate an external solid fuel fired heating device on a lot less

than four acres in size.

(3) All stacks or chimneys must be so constructed to withstand high winds or other related elements and in accordance to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 25 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.

(4) All external solid fuel-fired heating devices must be setback a minimum of 50 feet from all property lines.

(5) All external solid fuel-fired heating devices must be setback a minimum of ten feet from any principal or accessory structure.

(C) *Fuels.*

(1) Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.

(2) The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.

' 92.99 PENALTY.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in ' 10.99