

**SAN FRANCISCO TOWNSHIP
CARVER COUNTY, MINNESOTA
Ordinance No. 12**

ORDINANCE AMENDING THE MINERAL EXTRACTION ORDINANCE

WHEREAS, Sibley Aggregates (d.b.a. Chard Tiling and Excavating, Inc.) (“Applicant”) submitted an application to San Francisco Township (“Town”) to request several amendments to the text of the San Francisco Township Mineral Extraction Ordinance (Ordinance No. 8) (“Ordinance”);

WHEREAS, the Applicant’s requested amendments propose to expand the available hours of operation, the number of haul truck trips allowed within an hour, and to allow materials to be brought in for recycling and temporary stockpiling;

WHEREAS, the application was deemed complete on October 22, 2014, the Town provided more than 10 days’ published notice of a public hearing, and the San Francisco Township Planning Commission conducted the hearing on the application on November 19, 2014;

WHEREAS, at the public hearing the Applicant explained the requested amendments and the public was provided an opportunity to provide oral and written comments regarding the application;

WHEREAS, the Planning Commission discussed the proposed amendments, acted on each of the requested amendments, and directed the Town Attorney to draft a proposed ordinance amendment to reflect the Planning Commission’s recommendation for consideration by the Town Board at its December 15, 2014 meeting; and

WHEREAS, the Town Board hereby finds and determines as follows:

- (1) Affected property owners are allowed under Chapter 15, Section 1 of the Ordinance to submit an application seeking an amendment to the text of the Ordinance;
- (2) The Town processed the Applicant’s application in accordance with the procedure set out in Chapter 15 of the Ordinance;
- (3) A number of owners near the Applicant’s property attending the hearing, expressed concerns about the current operation, and did not want any changes to the Ordinance that would result in increased noise, traffic, or other negative impacts from the operation;
- (4) The Planning Commission, based on input from the Applicant and the public at the hearing, made certain revisions to the proposed amendment that were reflected in the draft ordinance amendment presented to the Town Board;
- (5) The decision to amend the Ordinance is a legislative one and the Town Board has a great deal of discretion to decide if it will amend its Ordinance and, if so, to determine the language of any such amendments;

- (6) The Applicant is currently engaged in mining on property within the Town pursuant to a conditional use permit issued by the County;
- (7) The existing conditional use permit allows the recycling of materials and a level of operation that exceeds what would be allowed under the Town's Ordinance;
- (8) Because the Town had adopted its Ordinance after the Applicant had already initiated mining on the property, the mining continued pursuant to the conditional use permit issued by the County and did not require a permit from the Town;
- (9) Mining of the area authorized under the County's conditional use permit is anticipated to conclude in the spring of 2015 and in order to continue mining as part of a new phase on the property the Ordinance requires the Applicant to obtain an interim use permit from the Town and its operations are subject to the standards established in the Ordinance;
- (10) In anticipation of seeking an interim use permit from the Town, the Applicant submitted the application seeking amendments to better accommodate a level of operation for the next phase that is more similar to the current operation than would currently be allowed under the Ordinance and which the Applicant argued is needed in order for the next phase to be viable;
- (11) The Town Board recognizes that while the requested amendments were submitted by an existing mining business, the proposed changes are not limited to this particular operation and instead impact future mining operations wherever they may be allowed to occur within the Town;
- (12) The Planning Commission and the Town Board were clear that the approval of the proposed amendments does not limit the Town Board's authority to impose stricter limits as part of an interim use permit it may issue; and
- (13) The Town Board determines the amendments contained within this ordinance are appropriate to ensure the minimum standards imposed by the Ordinance are not overly restrictive, while still ensuring the Town Board retains the discretion to impose stricter standards on particular mining operations based on the applicable facts as found as part of processing an interim use permit application for the operation.

NOW, THEREFORE, based on the record of this proceeding, the Planning Commission's recommendations, and findings and determinations contained herein, the Board of Supervisors of the Town of San Francisco ordains:

Article I. Hours of Operation. Chapter 7, Section 1, Paragraph A of the San Francisco Township Mineral Extraction Ordinance is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- A. **Hours of Operation.** Mineral extraction facilities shall operate only between the hours of ~~8:00~~ 6:00 a.m. and ~~5:00~~ 6:00 p.m., Monday through Friday. A mineral extraction facility may be opened one hour before hours of operation to allow for staging. No Saturday, Sunday or holiday operations will be allowed. The holidays are New Years Day, Memorial Day, July 4th, Labor Day, Thanksgiving and, Christmas. When New Year's Day, July 4th, Thanksgiving or Christmas fall on a Sunday, the following Monday shall be considered the holiday. When New Year's Day, July 4th, Thanksgiving or Christmas fall on a Saturday, the previous

Friday shall be considered the holiday.

1. Operators ~~are~~ may be allowed extensions to the hours of operation for emergencies. Operators must notify and obtain approval from a Town Supervisor in advance of the proposed exception.
2. ~~The Town Board must approve other~~ approval is required for any temporary, non-emergency, exceptions to the hours of operation, such as Saturday operation, government agency contracts and other evening work, and may only be granted upon a showing of a sufficient need for extended hours that is not based solely on economic considerations.

Article II. Number of Haul Trucks. Chapter 4, Section 3, Paragraph P of the San Francisco Township Mineral Extraction Ordinance is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- P. The number of haul trucks will not exceed ~~12~~ 24 trucks per hour one way.

Article III. Processed Materials. Chapter 7, Section 1, Paragraph B of the San Francisco Township Mineral Extraction Ordinance is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- B. **Source of Materials.** Only minerals from the site shall be processed at the mineral extraction facility unless the permit issued to the facility expressly allows the processing of recyclable materials, which shall be limited to concrete and/or asphalt.

Article IV. Processed Materials. Chapter 7, Section 1, Paragraph L of the San Francisco Township Mineral Extraction Ordinance is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- L. **Accessory Uses.** Accessory uses must be identified in the permit. Accessory uses not identified in the permit are not allowed. The accessory uses of a concrete block production plant or ready-mix concrete production plant or asphalt production plant, shall be strictly prohibited. A concrete recycling plant and an asphalt recycling plant are ~~also prohibited~~ only permitted if expressly allowed in the permit issued for the particular facility. The storage, stockpiling, sale, and mixing of materials that have been excavated off-site are ~~strictly prohibited~~ permitted only to the extent allowed in the permit. Accessory uses will terminate when the principal use terminates.

Article V. Conditions. Chapter 6, Section 1, Paragraph A of the San Francisco Township Mineral Extraction Ordinance is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- A. Mineral extraction permits shall be considered and processed by the Town Board as interim use permits. The Town Board may attach conditions to the interim use permit in addition to those set forth in the Ordinance. The conditions imposed by the Town Board on an interim use permit shall be reasonable and may impose requirements, restrictions, and standards that are stricter than those established in this Ordinance or the County Ordinance.

Article VI. Incorporation of Amendments. The Town Attorney and Town Clerk are hereby authorized and directed to incorporate the amendments made by this ordinance into the San Francisco Township Mineral Extraction Ordinance (Ordinance No. 8) and such updated version shall constitute the official San Francisco Township Mineral Extraction Ordinance (Ordinance No. 8).

Article VII. Effective Date. This ordinance shall be effective on the first day after publication.

Adopted this 15th day of December 2014.

BY THE TOWN BOARD

Town Chairperson

Attest: _____
Town Clerk