

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

**AN ORDINANCE AMENDING ORDINANCE NO. 8 –
SAN FRANCISCO TOWNSHIP MINERAL EXTRACTION ORDINANCE**

The board of supervisors of the Town of San Francisco ordains:

ARTICLE I. Definitions. Chapter 3 of the Township of San Francisco Mineral Extraction Ordinance is amended by adding the following definitions as follows:

Active Mining Area

The portion of the total mining area containing the extraction area, operations area, and restoration area. This area may not exceed 35 acres.

Extraction Area

The portion of the active mining area that may be actively excavated for mineral extraction. This area may not exceed 10 acres.

Operations Area

The portion of the active mining area being used to support the extraction area including, but not limited to, the storage of equipment and the processing and stockpiling of materials. This area may not exceed 15 acres.

Restoration Area

The portion of the active mining area being restored through reclamation. This area may not exceed 10 acres.

Total Mining Area

The total area on the parcel covered by the mineral extraction permit. This area may not exceed 80 acres.

ARTICLE II. Interim Use Permits. Chapter 4, Section 3 of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

Section 3 - INTERIM USE PERMITS

Interim Use Permits for mineral extraction may be issued under the following conditions: The Town Board may impose additional conditions on the mineral extraction permits it issues as well as conditions imposing stricter standards than those contained in this

Ordinance.

- A. The date or event that will terminate the use can be identified with certainty.
- B. The proposed mineral extraction satisfies the general provisions contained in Section 152.081 of the County Ordinance and the minimum criteria for issuance and minimum conditions contained in Section 152.082 of the County Ordinance.
- C. No Mineral Extraction Interim Use Permit ~~can~~ may permit a total mining ~~on an~~ area larger than ~~35~~ 80 acres. An applicant must specifically identify the portion of the parcel (not to exceed ~~35~~ 80 acres) that shall constitute the total ~~mineral extraction~~ mining area.
- D. Use of the total mining area shall be limited as follows:
 - 1. No more than 35 acres of the total mining area may be used as the active mining area. An applicant must specifically identify the proposed active mining area when applying for a mineral extraction permit. Once permitted, the active mining area shall not be altered except in accordance with the terms and conditions of the mineral extraction permit and the Operations Agreement.
 - 2. No more than 10 acres of the ~~identified~~ active mining area may be ~~mined~~ used as the extraction area at one time. Restoration must be completed before additional acres may be mined.
 - 3. No more than 15 acres of the active mining area may be used as the operations area at one time.
 - 4. No more than 10 acres of the active mining area may be used as the restoration area at one time.
- E. No additional Conditional Use Permits, or Interim Use Permits, except a “Permitted Accessory Uses and Structures Conditional Use Permit”, will be allowed on the same area covered by a Mineral Extraction Interim Use Permit.
- F. No more than one Mineral Extraction Interim Use Permit may be issued per parcel. If a Mineral Extraction Conditional Use, or Mineral Extraction Interim Use Permit exists for a parcel, an Interim Use Permit may not be issued for that parcel unless the existing Mineral Extraction Conditional Use, or Mineral Extraction Interim Use Permit, is first extinguished or revoked. A parcel divided from a larger parcel (on or after January 1, 2006) on which a Mineral Extraction Operation existed prior to the division, shall not be treated as a separate parcel for the purposes of this Ordinance and shall not be eligible for the issuance of a Mineral Extraction Interim Use Permit, unless all permits existing on the larger parcel for the Mineral Extraction Operation have been extinguished or revoked,

the Mineral Extraction Operation has ended, and the parcel has been fully reclaimed. Adjacent parcels under the same ownership shall be considered a single parcel for the purposes of this Ordinance so that only one Mineral Extraction Operation may exist on the parcels as a whole ~~and said Mineral Extraction Operation may not exceed a total of 35 acres.~~

- G. A mandatory 1000-foot setback is required from any residence, except the residence of the mine owner or permittee. The setback applies to all areas of the operation including the area to be mined, all internal haul routes, and the entrance/exit onto the roadway.
- H. A mandatory 200-foot setback is required from the property line, and berm or screening will be required beyond the 200-foot setback, if visible from surrounding residences, public roadway, or public view.
- I. Berm heights will be negotiated with surrounding property owners, and the Town Board, or designee. The Town Board, or designee will be the final decision maker of berm heights.
- J. A mandatory one thousand (1000) foot setback is required from the ordinary high water level of any lake, pond, or flowage.
- K. A mandatory three hundred (300) foot setback is required from rivers and streams as designated on the Carver County Zoning Map, or the landward extent of the designated floodplain area of a river or stream, whichever is greater.
- L. No mining will be allowed within 10 feet of the normal water table.
- M. Given the nature of Mineral Extraction Facilities, the Town Board determines they may have the potential for significant environmental effects and, therefore, the establishment of such a facility shall require the preparation of an Environmental Assessment Worksheet (EAW). The applicant will pay for the EAW, but the Township will hire the firm that prepares the EAW. The Township will be the Responsible Governmental Unit (RGU).
- N. Unless the Town Board determines, based on the information developed and comments submitted as part of the EAW process, that the proposed project does not have the potential for significant environmental effects, a proposal to establish a Mineral Extraction Facility within the Minnesota River Bluff and Ravine Areas shall require the preparation of an environmental impact statement (EIS). The applicant shall be required to pay for the EIS, but the Township will hire the firm to prepare the EIS.
- O. All new mines must be registered with MSHA (www.msha.gov).
- P. The number of haul trucks will not exceed ~~24~~ 40 trucks per hour one way.

ARTICLE III. Application. Chapter 5, Section 1 of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

Section 1 - APPLICATION

An application for a mineral extraction permit shall include but not be limited to the following information:

- A. Name, address, phone number, contact person for the proposed operator and signature of an authorized representative.
- B. Name, address, phone number and signature of the landowner(s).
- C. Acreage and complete legal description of the property on which the mineral extraction will be located, including all contiguous property owned by the landowner.
- D. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
- E. Type and estimated quantity of material to be extracted.
- F. The estimated time required to complete the proposed operation and reclamation, including starting and completion dates.
- G. A description of all vehicles and equipment proposed to be used by the proposed operator in the operation of the facility.
- H. A description of the estimated average daily and peak daily number of haul trucks accessing the facility, including a breakdown of operator owned and non-operator owned vehicles. The number of haul trucks will not exceed ~~12~~ 40 trucks per hour one way.
- I. The total estimated amount of all other daily vehicle traffic from workers, customers, and service vehicles.
- J. A description of the haul routes within the Township to be used in the operation of the facility.
- K. A scoping EAW will be required and used to set the requirements for an EIS. An EIS will be mandatory if the proposed mineral extraction is within the Minnesota River Bluff or Ravine areas of San Francisco Township, unless the Town Board determines, based on the information developed and comments submitted as part of the EAW process, that the proposed project does not have the potential for

significant environmental effects. The applicant will pay for the EAW and EIS, but the township will hire the firm that prepares the EAW and EIS. The township will be the Responsible Governmental Unit. A traffic study will be required as part of the EIS.

- L. New Permits require an operational plan and site plan with soil borings, and a phased restoration plan.
- M. A bond ~~will be required in the amount of at least \$5000~~ 2,500 per acre of ~~disturbed the active mining area (up to 35 acres).~~ Bond amounts ~~will be~~ are subject to adjustment for inflation as determined by the Town Board. The Town will notify the operator if it is required to provide a larger bond.
- N. GIS/GPS coordinates of mined area will be specified.
- O. End use of property must be defined.

ARTICLE IV. Supporting Documentation. Chapter 5, Section 2, Paragraph K of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

- K. A description of the hydrology and drainage characteristics during extraction for each phase. Identification of any locations where drainage of any disturbed areas will not be controlled within the boundaries of the subject property and plans to control erosion, sedimentation and water quality of the runoff. This includes holding ponds, with standards to be determined by the ~~Town Board~~ Carver County Water Management Organization.

ARTICLE V. Interim Use Permit. Chapter 6, Section 1, Paragraph F of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

- F. After receipt of all required information and upon completion of the environmental review process, the Town ~~Board or designee~~ Planning Commission shall hold a public hearing for the mineral extraction permit. The hearing will satisfy the hearing requirements of the Interim Use Permit.

ARTICLE VI. Performance Standards. Chapter 7, Section 1, Paragraphs C, F, K, N, O, and W of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

- C. **Fencing.** Fencing in good repair is required around the entire permitted area of operation. ~~Fencing as a minimum must be three (3) wires with posts a maximum of twelve (12) feet apart and at least four (4) feet high.~~ The Town Board or designee may require specific fencing requirements at its discretion in the interim use permit or as part of the Operations Agreement.
- F. **Haul Trucks.** The following limits shall apply to haul trucks.

1. All haul trucks exiting onto public roadways must be tarped. No “Jake breaking” is allowed on public roadways or in the mining area.
 2. The number of haul trucks will not exceed 40 trucks per hour one way.
 - a. Operators may be allowed to exceed the limit on the number of haul trucks for emergencies. Operators must notify and obtain approval from a Town Supervisor in advance of the proposed exception.
 - b. Town Board approval is required for any temporary, non-emergency, exception to the number of haul trucks per hour, and may only be granted upon a showing of a sufficient need for higher truck trips per hour that is not based solely on economic considerations.
- K. **Air Quality / Water Quality.** All activities on the subject property will be conducted in a manner consistent with operating permits issued by state and federal agencies. The Town Board, or designee, may require other standards it deems reasonably necessary. ~~Run-off must be retained on-site with retention or detention ponds.~~ Operators shall comply with all applicable regulations of the Carver County Water Management Organization and obtain any additional permits that may be required.
- N. **Setbacks.** No extraction activity may occur within one thousand (1000) feet of any dwelling and within two hundred (200) feet of any adjacent property line, road right-of-way or public utility. Screeners, and other processing equipment may not be located closer than one thousand (1000) feet from a dwelling nor closer than two hundred (200) feet from any adjacent property line, or road right-of-way. Setbacks from an existing dwelling shall take precedence over setbacks for road right-of-way, adjacent property line and public utility. Grading plans affecting pipelines or power line corridors will be evaluated on a case-by-case basis. The Town Board may waive setback requirements when the common boundary area of an adjoining property is a legal mining operation, the common boundary is not within one thousand (1000) feet of a residence, and both property owners of adjacent mining operations have agreed to a common reclamation plan and have a written agreement with the Township establishing responsibility for reclamation. Restoration activities may occur within setback areas if allowed in the Operations Agreement.
- O. **Phasing.** Phasing plans must be prepared for all mineral extraction facilities. The Operator and owner must follow the phasing plan approved by the Town Board. No more than ten (10) acres of land may be ~~exposed to extraction~~ used as the extraction area at any one time. A maximum of fifteen (15) acres may be utilized at any one time as the operations area for ~~extraction~~, processing, staging and stockpiling. Areas where extraction has been completed shall be reclaimed according to the provisions of this Ordinance. The reclamation area shall not exceed 10 acres at one time ~~except for that area currently being used in the~~

~~maximum fifteen (15) acre operational area.~~ The total active mining area may not exceed thirty five (35) acres at one time.

W. **Reclamation Plan.** A reclamation plan must include the grading plans, on-site topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The Operator and owner must follow the reclamation plan approved by the Town Board, or designee. The following minimum standards and conditions apply:

1. The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No graded slope shall exceed a 5:1 ratio (twenty (20) percent). The final grade slope shall commence at the setback, unless provided otherwise in the Operations Agreement. Berms will be removed to the original elevation of the land, unless the Board has approved a different elevation as part of the End Use Plan.
2. Excavated, graded or back-filled areas, shall meet the following requirements:
 - a. All materials used for back-filling in any area of the reclamation shall be tested to be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
 - b. The graded or back-filled area shall not collect or permit stagnant water to remain therein.
 - c. Such graded or back-filled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.
 - d. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
3. Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
4. Soil restoration, seeding and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the operational processing, storage and staging areas within each phase.

5. Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protecting Water Quality in Urban Areas" and the applicable section of the San Francisco Comprehensive Plan.
6. Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the reclamation plan.
7. When the end-use is some form of open space, the type of vegetative re-growth must provide appropriate habitat for wildlife consistent with the form of end-use.
8. The end-use plan shall consider the safe use of the property. The end-use plan shall be consistent with the San Francisco Township Comprehensive Plan.
9. Within nine (9) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, stock piles of extracted mineral materials, and debris shall be removed from the subject property.
10. For each phase, within nine (9) months after completion of mineral extraction for that phase, reclamation must be completed. If the permit is terminated earlier, reclamation must be completed within nine (9) months after termination.
11. ~~Soil And Water Conservation District And Watershed Review And Recommendations~~. As a part of the original application for an interim use permit, the applicant shall submit grading plans, phased reclamation plans and water control plans to the Carver County Soil and Water Conservation District and to the ~~governing bodies of the township watersheds~~ Carver County water Management Organization for review and recommendations. Said recommendations on the phased reclamation, grading, soil and water retention plans shall be reviewed annually by the Town Board and may be included as conditions of the interim use permit.

ARTICLE VII. Reimbursement of Costs. Chapter 10, Section 13 of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

Section 3 - REIMBURSEMENT OF COSTS

The applicant shall reimburse the Township for all out of pocket expenses as incurred by the Township in the review of the initial and ~~review~~ renewal applications, public hearing, preparation of documents, inspections and enforcement of this Ordinance, whether a permit is issued or not. The Operations Agreement may specify particular costs to be reimbursed, the timing for the payment of such costs, and require an escrow or other form of security to pay the Township's ongoing costs.

ARTICLE VIII. Reimbursement of Costs. Chapter 11 of the Township of San Francisco Mineral Extraction Ordinance is amended as follows:

Chapter 11: Financial Guaranty.

The Operator must provide and maintain a performance bond, or cash escrow, in a form acceptable to the Township, to guarantee compliance with this Ordinance and the terms and conditions of the Operations Agreement. The Township shall have the right to use the financial guaranty to remove stockpiles and complete site reclamation and correct other deficiencies or problems caused by the Operator, in the event the Operator is in default of the permit obligations. The amount of financial guaranty shall be ~~Five at least~~ Two Thousand Five Hundred Dollars (~~\$5,000~~ 2,500) for every ~~unreclaimed~~ in the active mining area (up to 35 acres). This amount may be increased by the Board with reference to the increase in the Consumer Price Index (CPI) beyond January 1, 2006, for the Minneapolis-St. Paul Area. The financial guaranty shall include acreage used for reclamation, stockpiling and processing as well as extraction area and shall remain in full force and effect for a minimum period of nine (9) months or after reclamation or cleanup of the site is complete, whichever is longer.

ARTICLE IX. Incorporation of Amendments. The Town Board hereby directs and authorizes as follows:

1. The Town Attorney is authorized to incorporate these amendments into the text of the Township of San Francisco Mineral Extraction Ordinance, including renumbering sections and making non-substantive corrections as needed;
2. The Chairperson and Clerk are authorized to execute the updated Township of San Francisco Mineral Extraction Ordinance, which shall constitute the official copy of the ordinance; and
3. The Clerk shall maintain an official copy of the updated Township of San Francisco Mineral Extraction Ordinance in the office of the Clerk and post a copy of it on the Township's website.

ARTICLE X. Effective Date. This Ordinance shall be effective upon its passage and the first day of publication.

The ~~stricken~~ material is to be deleted and double underlined material is to be added.

Adopted this ____ day of _____, 2020.

BY THE TOWN BOARD

Doug Weber, Chairperson

ATTEST:

Heidi Schmidt, Clerk