

TOWN OF ROCKFORD
RESOLUTION NO- 2019-9

**RESOLUTION ADOPTING
AN ORDINANCE AND REGULATIONS APPLICABLE TO MINING FACILITIES
IN THE TOWN OF ROCKFORD**

WHEREAS, the Town of Rockford ("Town") is located within Wright County, Minnesota ("County");

WHEREAS, the County has a mining ordinance, and the Town wishes to be consistent with, and in some cases more restrictive than, the County in regulating mining in the Town.

WHEREAS, a public hearing was held on September 17, 2019, by the Planning Commission of the Town with proper notice given, and all those in attendance were given a chance to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the Town of Rockford resolves and ordains that the following ordinance is adopted and shall be known as Rockford Township Ordinance Number 2019-9

**TOWN OF ROCKFORD
ORDINANCE NO 2019-9
MINING AND EXTRACTION**

The Board of Supervisors of the Town of Rockford ordains:

1. **DEFINITIONS**. For purposes of this ordinance, the following words and terms, whenever they occur in this Ordinance, are defined as follows:

Mining - The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand (1,000) cubic yards or more and the removal thereof from the site shall be mining. The only exclusion from this definition shall be the removal of minerals associated with construction of a building, provided such removal is an approved item in the building permit.

2. **PURPOSE**. The purpose of this ordinance is to regulate mining and extraction of materials in the Town. Modern life styles create a continuing demand for the various subsurface resources used throughout this country. These resources are unevenly and sometimes sparsely distributed, thus creating a continual shortage of some materials. Unfortunately, excavation of these resources may not only present conflicts with adjacent land uses but have often, in the past, left unsightly scars upon the landscape. This provision is designed to minimize the conflicts and eliminate the scars as far as is feasible.

3. INTERIM USE PERMIT. Mining shall be an Interim use as described in Minnesota Statutes, Section 462.3597, and no Mining activity shall commence in Rockford Township without a properly issued Interim Use Permit pursuant to this Ordinance. Said permit shall be valid for a period of time set forth therein as approved by the Rockford Township Town Board, after which all Mining activity shall cease and reclamation as set forth in the Interim Use Permit shall continue until completed. Persons requesting a Mining permit shall submit a fee of \$ _____ to the Rockford Township Town Clerk, together with all information required in this Ordinance and on the forms provided by the Township. The owner/applicant shall provide six (6) copies of the required information. All residents and landowners within two thousand six hundred forty (2640) feet of the proposed Mining operations shall be notified in writing of the permit request and the date of the public hearing. Notification shall be mailed at least ten (10) days prior to the Planning Commission review, and must include advance notice of the proposed project area on the property. For Mining operations which will last only one season, such as for road projects, the Town Board may issue a Temporary Mining Permit. Such permit may include the placement of a bituminous hot mix plant and other accessory equipment. Said permit shall only apply if the Mining site is to be opened, closed and reclaimed within one year. The Zoning Administrator may waive some of the information required by Section 4 in the case of a Temporary Mining Permit. A Temporary Mining Permit shall be administered as an Interim Use Permit. If the request is denied, no reapplication shall be made for a period of six (6) months. All Interim Use permits shall require that the Mining operation comply with the predictions and plans, including staging and reclamation, set forth in the application materials required in the following section.

4. INFORMATION REQUIRED. The following information shall be provided by the person requesting the Mining permit, and updated from time to time during the life of the permit, as required by the Town Board:

- (a) The name and address of the property owner and contractor if applicable requesting the permit.
- (b) Title work from a reputable title company or attorney's opinion in form acceptable to the Town Board setting forth the identity of the current fee owner of the property requested to be mined.
- (c) The exact legal property description and acreage of area to be mined.
- (d) The following maps of the entire site, which shall include all areas within five hundred (500) feet of the site. All maps shall be drawn to a scale of one (1) inch to one hundred (100) feet, unless otherwise stated below:

Map A Existing conditions to include:
 Contour lines at two (2) foot intervals;

Existing vegetation;
Existing drainage and permanent water areas, and wetlands and impaired waters within 1,000 feet;
Existing structures;
Existing wells.

Map B

Proposed operations to include:
Structures to be erected;
Location of sites to be mined showing depth of proposed excavation;
Location of tailings deposits showing maximum height of deposits;
Location of machinery to be used in the Mining operation;
Location of storage of mined materials, showing height of storage deposits;
Location of vehicle parking;
Location of storage of explosives;
Erosion and sediment control structures;
Impact on aquifer.

Map C

End use plan to include:
Final grade of proposed site showing elevations and contour lines at two (2) foot intervals;
Location and species of vegetation to be replanted;
Location and nature of any structures to be erected in relation to the end use plan.

- (e) A soil erosion and sediment control plan per the MPCA general permit requirements.
- (f) A staging plan setting forth the anticipated staged life of the Mining operation, in form and substance and detail acceptable to the Town Board.
- (g) A plan for dust and noise control.
- (h) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the Mining operation.
- (i) A detailed reclamation plan consistent with all requirements of this Ordinance including for reclamation of the turf and foliage.
- (j) Detailed photographs of the Mining area and surrounding property, acceptable to the Town Board.

- (k) An MPCA Storm Water General Permit. Copies of the storm water inspection reports must be given to the Town within two days of inspection. Failure to provide the reports within that time period will result in a fine of \$500.00 per day.
 - (l) A driveway access permit which meets County and Town standards,
 - (m) Any other information requested by the Planning Commission, Town Clerk or Town Board.
5. RENEWAL OF MINING PERMITS. All property owners and residents within two thousand six hundred forty (2640) feet of the Mining shall be notified of a Mining permit renewal request.
6. USE RESTRICTIONS. Mining shall be an Interim Use in the Agricultural District, and is allowed in no other District. At all times, the maximum number of Mining operations active and permitted in the Township shall be three (3). Bituminous hot mix plants shall not be allowed. Washing, refining or processing, other than the initial removal of material, shall be considered an Interim Use separate from extraction and not contained within the definition of Mining, and no crushing operations shall be permitted in the Township without a separate conditional use permit. In stone quarries, the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered an Interim Use separate from extraction and not contained within the definition of Mining. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the Mining shall be considered as an Interim Use separate from extraction and not contained within the definition of Mining. The governing body may impose additional performance standards as part of any Interim Use Permit.
7. PERFORMANCE STANDARDS.
- (a) General Provisions - Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property. No sand and gravel operation shall be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active Mining-, provided that both tracts are being operated by the same sand and gravel producer. All equipment used for Mining shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity. All non-conforming uses on any portion of property that have been granted an Interim Use

Permit must cease unless a separate permit is obtained for their continuation.

- (b) Water Resources - The Mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the Mining operation. The Mining operation shall not adversely affect the quality of surface or subsurface water resources. Surface water originating outside and passing through the Mining district shall, at its point of departure from the Mining site, be of equal quality to the water at the point where it enters the Mining site. The Mining operator shall perform any water treatment necessary to comply with this provision.
- (c) Safety Fencing - Any Mining operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards.
 - (1) Where collections of water occur that are one and one-half (1-1/2) feet or more in depth existing for any period of at least one (1) month and occupying an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.
 - (2) In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.
- (d) Mining Access Roads - The location of the intersection of Mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of the public road in view so that any turns onto the public road can be completed with a margin of safety. All entrance and exit roads must meet then existing Township standards. All trucks entering and exiting the Mining operation must be able to enter and exit onto their travel lanes without crossing into opposing traffic. Mining permits shall be denied as a matter of public safety and convenience for locations that do not have separate acceleration and bypass lanes.
- (e) Screening Barrier - To minimize problems of dust and noise and to shield Mining operations from public view, a screening barrier shall be maintained between the Mining site and adjacent residential and commercial properties. A screening barrier shall also be maintained between the Mining site and any public road within five hundred (500) feet of any Mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash. Existing trees and ground cover

along public road frontage shall be preserved, maintained and supplemented for the depth of the roadside setback, except where traffic safety requires cutting and trimming.

- (f) Setback - Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structure prior to commencement of processing operations without the written consent of all owners and residents of said structures. The processing of minerals shall not be conducted within shoreland structure setback distances. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such adjoining property is first secured in writing. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
- (g) Appearance - All buildings, structures, and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
- (h) Hours of Operation - All Mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. on Mondays through Fridays and between the hours of 7:00 a.m. and 12:00 p.m. on Saturdays. Operations may be conducted on Sundays only with Town approval. No operations may be conducted on legal holidays.
- (i) Dust and Dirt - All equipment used for Mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the Mining operation's lot line. All access roads from Mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions. These limitations shall not apply to any Mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yards to another zone other than an industrial zone.
- (j) Pickup sweepers that use water.

8. LAND RECLAMATION REHABILITATION AND RESTORATION. All Mining sites shall be rehabilitated after mining operations cease. Rehabilitation shall be complete within one (1) year. The following standards shall apply:

- (a) Within a period of three (3) months after the termination of a Mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a Mining permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the Mining operator last operating such buildings, structures and plants. A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
- (b) The peaks and depressions of the area shall be graded and backfilled 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 finished slope shall exceed twenty-three (23) percent in grade.
- (c) Reclaimed areas 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. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosions. If an open water pond is requested and accepted by the Township the water depth of the proposed pond shall be a minimum of 10 feet in depth. Soil conditions may require that a liner be constructed to maintain a constant 10 foot water depth. The proposed pond shall be designed using the MN Stormwater Manual (which is online "wiki" format which is being continuously updated by the MPCA). The section for ponds is here: <https://stormwater.pca.state.mn.us/index.php?title=Design> criteria for storm water ponds. The maximum slope that approaches the water line shall be one (1) foot vertical and six (6) foot horizontal. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which Mining operations have been conducted. The finished plan shall restore the Mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.
- (d) All restorations must comply with the following:
 - (1) Each stage must be reclaimed prior to the next stage being mined.

- (2) All restoration must be completed by or before the expiration of the Interim Use Permit.
 - (3) Reclamation must begin in conjunction of Mining.
 - (4) The pit must be reclaimed to a usable surface for future use such as farming.
 - (5) Reclaiming pits for use as wetlands shall not be acceptable.
 - (6) Reclaiming the pit shall place the property back to marketable value.
 - (7) Foreign materials such as concrete, rubber, plastic, wood or metal or any excavated pipes are strictly prohibited and are not allowed for restoring the pit. No contaminated / hazardous materials.
 - (8) Grass seed or other vegetation must be planted and show signs of growth within 30 days.
- (e) The Town must be notified, in writing, 90 days prior to the expiration of the Interim Use Permit to allow it to determine the state of mining and restoration.

9. PERFORMANCE SECURITY. All Interim Use Permits shall require posting of a performance bond, in the amount of \$5,000.00 per project acre, acceptable in the sole discretion of the Town Board, to ensure compliance with the Interim Use Permit, all applicable laws and ordinances, and to ensure adequate and complete reclamation, and providing the Town Board with the ability to draw on said security in the event of a violation or if reclamation is not completed properly. Further, all Interim Use Permit holders must maintain \$10,000 in cash on deposit with the Township that can be drawn on in a similar manner. All of the security described in this section is hereinafter referred to as the "Security".

- (a) All Interim Use Permits shall require that any costs and expenses, including but not limited to engineering, contractors, permits, and attorney's fees, as well as any costs related to reclamation and restoration, if undertaken by the Township, as well as any funds expended by the Township in enforcement of the Interim Use Permit, revocation of the Interim Use Permit, or enforcement of this Ordinance must be paid by the permit holder/applicant and the Security may be accessed for this purpose.

10. CONSISTENT WITH WRIGHT COUNTY. Pursuant to the provisions of Minnesota Statutes Section 394.33, The Town of Rockford states that it is the Town's intention that this Ordinance be consistent with, and not less restrictive

than, the ordinances of Wright County. In any situation where a conflict may arise, the more restrictive Ordinance shall govern.

11. OWNER RESPONSIBLE. All Interim Use Permits shall state that the owner of the real property shall be responsible for compliance with the permit and all rules and regulations.
12. The Township shall have access to the property with permission from the property owner or contractor to view compliance.
13. FINES. Fines will be enforced for the following violations at \$500.00 per day for each day after the Town has sent notice by email or mail and made a telephone call to or left a voice mail message with the owner/applicant:
 - (a) Failure to comply with the Storm Water General Permit;
 - (b) Dust complaints from residents, including when exiting the pit;
 - (c) Truck complaints, including pulling out in front of other traffic or jake braking;
 - (d) Material left on public roadways;
 - (e) Failure to comply with the Interim Use Permit.
13. PENALTY FOR VIOLATION. In addition to the provisions of Section 12, violation of any provision of this Ordinance or any Interim Use Permit shall be a misdemeanor under the laws of the state of Minnesota. Each day of violation shall be a separate misdemeanor. The Township may enforce this Ordinance or take action under an Interim Use Permit as a civil or criminal matter against all responsible parties. In addition to the other provisions of this Ordinance, all costs of prosecution may be added to the penalties for an ordinance violation pursuant to Minnesota statutes section 366.01 subdivision 10.
14. EFFECTIVE DATE. This Ordinance will become effective immediately upon its passage and publication according to law.
15. SUMMARY APPROVED. The Board of Supervisors of the Town of Rockford hereby adopts the following summary of the Ordinance:

On this 17 day of September 2019, the Board of Supervisors of the Town of Rockford adopted "**AN ORDINANCE AND REGULATIONS APPLICABLE TO MINING FACILITIES IN THE TOWN OF ROCKFORD**". The Ordinance regulates mining facilities, their operation, permitting, and reclamation within the entire Township of Rockford. It sets forth an approval process for an interim use permit for approving new mining operations and requires compliance therewith and provides performance standards, as well as a process for obtaining and

maintaining a permit and reclaiming the property once mining activities have ceased.

A printed copy of the whole Ordinance is available for inspection in person at the offices of the Town Clerk, 3039 Dague Avenue SE, Buffalo, MN, 55313.

The Town Clerk can be contacted if a copy of the Ordinance is needed.

16. PUBLICATION AND RECORDING. The Town Clerk is forthwith directed to publish, post and record the Ordinance as follows:

- (a) The Clerk shall publish the entire text of the Ordinance in the Wright County Journal Press in body type no smaller than Brevier or 8 point type. The Clerk is instructed to record the Ordinance in the Town's Ordinance book within twenty (20) days after publication of the title and summary. Proof of said publication shall be attached to the recorded Ordinance.
- (b) The Clerk is instructed to file a copy of the full text of the Ordinance with Wright County and to place a copy of the full text of the Ordinance in the Rockford library for public viewing.

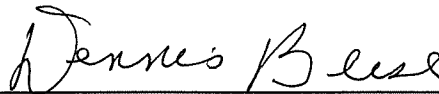
All those in favor:

All those opposed:

Dennis Beise
 Greg Eckblad
 Karen McDougall
 John Deitering
 Joel Kjome

None

ENACTED by the Board of Supervisors of the Town of Rockford this 17 day of September, 2019.



Dennis Beise, Chairperson
 Town Board of Supervisors

The Ordinance and Resolution

 5 passes

 0 fails

Signed/Attest



Rachelle L. McDougall, Town Clerk

