

**FEATHERSTONE TOWNSHIP  
GOODHUE COUNTY, MINNESOTA**  
Ordinance No. \_\_\_\_\_

**AN ORDINANCE AMENDING THE FEATHERSTONE TOWNSHIP  
BUILDING AND ZONING ORDINANCE REGARDING MINING**

The Board of Supervisors of the Town of Featherstone ordains:

**Article I. Definitions.** The Featherstone Township Building and Zoning Ordinance, which was last modified on June 22, 2009, (“Zoning Ordinance”) is hereby amended by adding the following definitions to Chapter V and renumbering the Sections within the Chapter accordingly:

Mineral – Any nonmetallic mineral, meaning a product, commodity, or material of naturally occurring, organic, inorganic, nonmetallic, non-renewable material, and any metallic mineral, meaning any mineral substance of a metalliferous nature, including iron ores and taconite ores. The term includes, but is not limited to, stone, rock, sand (including, but not limited to, silica sand), gravel, lime, and clay.

Mining – The excavation or extraction of one or more minerals including all activities, and all sites used for, the removal, stockpiling, processing, transferring, or storage of minerals either on or off of the extraction site.

Mining Operation – The use of land for the mining, extraction, storage, or processing of minerals, including all associated uses and activities. The term includes each and every aspect of the mining, extraction, storage, or processing of minerals, whether occurring together or separately, and regardless of whether they occur on the same or different parcels.

**Article II. Mining.** The Zoning Ordinance is hereby amended by deleting Chapter XII concerning excavations in its entirety and replacing it with the following:

**XII. MINING**

A. **Findings.** The Town Board hereby finds and determines as follows with respect to the Township’s mining, mining operations, and related activities:

1. A majority of the land within the Township is open space that is devoted to agricultural and residential uses;
2. Significant portions of the Township remain in a natural state, including large areas of bluff land;
3. The area in which the Township is located has experienced a dramatic increase in interest in mining, specifically in the mining of silica sand found in the southeastern portion of the state. The increased interest has focused attention on mining and the various impacts it can have on a community, surrounding properties, those living near mining operations, on public infrastructure, and generally on public health, safety and welfare. One of the items of information developed in response to the increased public attention is a publication developed by the Minnesota Environmental Quality Board called “Tools to Assist

Local Governments in Planning for and Regulating Silica Sand Projects”. The publication, which is incorporated herein by reference, focuses on silica sand mining, but it discusses the types of issues and concerns that mining operations generally can create for a community. The concerns associated with mining operations include, but are not limited to, the following: air quality concerns, including the generation and dispersion of dust and specific types of particulates; vibration from activities such as blasting, crushing, and screening materials; public safety concerns and impacts to public infrastructure created by truck traffic hauling from mining operations, processing facilities, and storage areas; impacts to ground and surface waters, including wells, from mining, dewatering, and wet processing activities; use of chemicals in the processing of minerals; improper or incomplete reclamation of mining sites; direct and indirect impacts to public health; visual and aesthetic impacts; and impacts to the value of surrounding properties;

4. Many of the same concerns associated with the extraction of minerals also apply to the processing, storage, and transferring of minerals, even if those activities occur off of the extraction site;
  5. The changing nature of mining, mining processes, and the potential intensity of mining and related activities, have resulted in significant concerns over the potential impacts of such mining operations on the Township, its residents, the character of the area, and on the environment;
  6. A few relatively small aggregate mining operations currently exist within the Township;
  7. The Township does not have the staff or resources that would be required to conduct the inspections and to otherwise monitor mining operations to ensure compliance and that they do not become a nuisance, or otherwise negatively impact surrounding properties, the community, or the environment if the Township attempted to impose specific conditions and performance standards on mining;
  8. Allowing the establishment of new mining operations, or the expansion of existing aggregate mining operations, is contrary to the long-term plans and goals for the development of the Township; and
  9. The Town Board determines the most feasible and practical method for addressing the concerns associated with mining operations, to protect the public health, safety, and welfare, and to achieve the long-term plans and goals of the Township is to prohibit the establishment of new mining operations and to prohibit the expansion of existing aggregate mining operations within the Township, with certain limited exceptions.
- B. New and Expanded Mining Operations Prohibited. The establishment of a new mining operation, or the expansion of an existing aggregate mining operation within the Township is prohibited and is a violation of this Ordinance.
- C. Exceptions. The prohibitions contained in this Chapter XII do not apply to the following:

1. Excavations or grading on the site of a building project for which a building permit has been issued;
2. Excavations or grading solely for on-site domestic or agricultural use;
3. Excavation in a right-of-way, temporary easement, or utility corridor by state, county, city, or township authorities in connection with construction or maintenance of public improvements;
4. Excavations or grading associated with preparing for, or restoring from, natural disasters;
5. Excavations that do not extract more than four hundred (400) cubic yards of minerals annually and the total area excavated on the property does not exceed one (1) acre over the entire life of the mining operation;
6. Excavation for agricultural purposes if the excavated material is not moved off-site;
7. Stockpiling of minerals for use by public road authorities and contractors on roads or parking lots, for construction purposes, or by retailers for direct resale to customers for non-commercial uses;
8. Incidental removal of mineral materials associated with some other activity such as commercial sod production, tree sales and relocation, and production of agricultural crops;
9. Storage and use of minerals as a component part in the on-site manufacture of other products;
10. Excavation for public utility purposes;
11. Temporary excavations involving mining operations associated with road construction, commonly known as temporary borrow pits, used exclusively for public infrastructure construction projects if the project is under the administration of a public entity and the contract requires erosion control, sediment containment and site restoration provisions at least as strict as those in the Minnesota Pollution Control Agency's NPDES General Storm Water Permit. These temporary borrow pits must be closed and restored within 24 months of the first date of work on the project; and
12. Stockpiling of lime for agricultural use within the Town.

D. Existing Mining Operations. Mining operations lawfully existing as of the effective date of this Chapter XII are subject to this Section.

1. A mining operation lawfully established prior to the adoption of the prohibitions contained in this Chapter XII shall be allowed to continue as a nonconforming use, but such mining operations shall not be allowed to expand.

2. Each of the following constitute an expansion of an existing mining operation that is prohibited by this Ordinance:
  - a. Enlarge or extend the mining area beyond the current boundaries of the parcel of property on which the mining operation is located; or
  - b. Increase the intensity of the mining operation through any of the following activities as compared with how the mining operation typically operated within the three-year period immediately preceding the mining operation becoming nonconforming: increase the hours of operation; increase truck traffic; introduce or increase the frequency of use of processing or manufacturing equipment such as a gravel crusher, separator, washer, or asphalt plant; introduce or increase the frequency of blasting; or expand or alter operations in any manner that results in a noticeable increase to an average person in the amount or level of noise, dust, vibration, traffic, or light off of the property on which the mining operation is located; or
  - c. Mining minerals that are different from what are currently and principally being mined by the existing mining operation on the property.

**Article III. Incorporation of Amendments.** The Town Clerk is hereby authorized to work with the Town's attorney as needed to incorporate the amendments made by this Ordinance into the Zoning Ordinance and such updated document shall constitute the official Featherstone Township Building and Zoning Ordinance.

**Article IV. Severability.** Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof, unless so specified in the judgment. If a court declares the application of any of the provisions of this Ordinance to any individual, use, or property to be invalid, such judgment shall not affect the validity of said application of any provision to any other individual, use, or property, unless so specified in the judgment.

**Article V. Effective Date.** This Ordinance shall be effective upon the first day of publication after adoption.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2014.

**BY THE TOWN BOARD**

\_\_\_\_\_  
Town Chairperson

Attest: \_\_\_\_\_  
Town Clerk