

ORDINANCE NO. 762

TOWN OF ROCK

MINERAL AND MINE ORDINANCE

SECTION I.

STATEMENT OF PURPOSE

In order to protect the health, safety, and general welfare of the citizens of Rock County, the Rock Township Board of Supervisors do hereby enact this ordinance to reserve and protect the mineral deposits of Rock Township and to provide methods for the regulation of mineral extraction.

This ordinance recognizes that minerals are fixed in location, are rare, and are nonrenewable in nature. In order to prevent non-compatible land uses from denying the benefits of these materials to the citizens of Rock Township, to protect mineral deposits near urban centers, to prevent unwise patterns of development, to assure growth opportunities and environmental management techniques available, this ordinance is enacted.

SECTION II.

DEFINITIONS

1. Mineral shall mean a naturally occurring element or combination of elements that occur in the earth in a solid state, but shall not include soil.
2. Mining shall mean all or part of the processes involved in the extraction and processing of mineral materials.
3. Operator shall mean any person or any agency either public or private, engaged or who has applied for a permit to engage in mining, whether individually, jointly, or through subsidiaries, agents, employees, or any person engaged in managing or controlling a mining operation.
4. Structure shall mean any building, whether for human habitation or not.
5. Board shall mean the Rock Township Town Board.
6. Waste shall mean all accumulation of waste mined material and overburden placed on the land surface, whether above or below water.

7. Person shall mean an individual, partnership, cooperative, corporation or agency, either public or private, or any persons, whether incorporated or not.
8. Reclamation Plan shall mean the operator's proposal for the reclamation of the project site which must be approved by the board under this ordinance prior to the issuance of the mining permit.
9. Mining Permit shall mean the Town mining permit, whether on a regular or temporary basis, which is required by Section IV of Ordinance 762. It does not replace or otherwise eliminate the need to apply for state mining permits such as are required under Chapter 144.85 of the Wisconsin Statutes.

SECTION III.

MINING DISTRICTS

Mineral extraction or mining shall only be conducted in the Mining District as provided by the Town of Rock Zoning Ordinance.

SECTION IV.

MINING PERMIT REQUIRED

In order to assure that mineral deposits are protected from noncompatible adjacent land uses and that mineral extraction operations are properly controlled, mineral extraction or mining shall only be permitted in a mining district and then only pursuant to a mining permit issued on a regular or temporary basis by the Town Board of the Town of Rock.

SECTION V.

APPLICATION FOR A REGULAR AND TEMPORARY MINING PERMIT

- I. The application for a regular mining permit shall be accompanied by information which shall include the following:
 - (1) The names and addresses of the applicant, operator, and principal officers, and resident agent of the business if other than a single proprietor.

- (2) A legal description and map and/or aerial photograph of the tract or tracts of land to be involved and affected by the proposed operation, which may be supplied by the board.
- (3) The map and/or aerial photograph and accompanying materials shall indicate:
 - (a) Boundaries of the affected and adjacent lands;
 - (b) Surface drainage of the affected land;
 - (c) Location and names of all streams, roads, railroads, utility lines and pipelines on or immediately adjacent to the area;
 - (d) Location of all structures within one thousand feet of the outer perimeter of the area, present owners and occupants of such structures, and purposes for which each structure is used;
 - (e) Names of the owners of the affected and adjacent lands;
 - (f) Proposed location, area extent, and depth of intended mine excavation;
 - (g) Proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities or other permanent or temporary facilities used in mining as defined in Section 2;
 - (h) Estimated depth to groundwater.
- (4) A description of the mining and processing equipment to be used;
- (5) A description of measures to be taken to control noise and vibrations from the operations;
- (6) A description of the anticipated hours of operation.
- (7) A description of measures to be taken to screen the operation from view;
- (8) Proposed primary travel routes to be used to transport the mined material to processing plants or markets away from the property.
- (9) A description of the plans for topsoil storage;
- (10) A reclamation plan which shall include:

- (a) A map or plan and description of the proposed reclamation including grading, final slope angles, highwall reduction, benching and terracing of slopes, slope stabilization and revegetation where applicable, and erosion control, and alternative future land uses;
 - (b) Description of topsoil stripping and conservation during storage and replacement;
 - (c) Plan and description of anticipated final topography water impoundments, and artificial lakes on the property;
 - (d) Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining;
 - (e) A plan for disposal or treatment of any harmful or toxic materials found in any formations penetrated by the mining operation or produced during the processing of minerals on the affected land, and of chemicals or materials used during the mining or processing operations;
 - (f) The estimated cost of reclamation for the total project;
- (11) A statement in writing and adequate evidence to indicate the duration of the lease in years;
 - (12) A timetable of the commencement, duration, and cessation of the mining operations;
 - (13) Any and all mining permits held by the applicant within the state;
 - (14) Such other information as may be necessary to determine the nature of the operation and the effect of the surrounding area, including the mining reclamation plan;
 - (15) The signature of the applicant and date of signature;
 - (16) The application shall be accompanied by a fee of \$5.00 for each acre of surface area to be disturbed, but the total fee shall not be less than \$35.00.

II. The application for a temporary mining permit shall be accompanied by information which shall include the following:

- (1) The names and addresses of the applicant, operator and principal officers and resident agent of the business if other than a single proprietor.
- (2) A legal description of the land involved.
- (3) As may be required by the board, a map and/or aerial photograph of the land with any or all of the information as listed in I-3-a, b, c, d, e, f, g, of this section, relating to requirements for maps and/or aerial photographs for regular mining permits.
- (4) As may be required by the board, any or all of the information listed in part I-4, 5, 6, 7, 8, 9, 10, 11, 12, 13 of this section, relating to requirements for information for regular mining permits.
- (5) The signature of the applicant and date of signature.
- (6) The application shall be accompanied by a fee of \$5.00 for each acre of surface area to be disturbed, but the total fee shall not be less than \$35.00.

III. The board may vote to waive or modify any requirements for information requested under the terms of this Section.

IV. Unless the board votes to waive or modify any requirements of this Section, the application shall not be accepted or deemed to be accepted unless all of the information required by this section is supplied by the applicant. In the case of an incomplete application, the review and decision on the application shall not commence and no regular or temporary mining permit shall be issued.

SECTION VI.

REVIEW AND DECISION ON THE APPLICATION FOR A REGULAR AND TEMPORARY MINING PERMIT

A permit for mineral extraction shall be approved by the Town Board if found to comply with the following requirements:

- (1) Upon receipt of the application and supporting information, the board shall:
 - (a) Review the application for completeness and accuracy. To accomplish this purpose or to assist in the enforcement of the ordinance, the board may request assistance from other governmental agencies or any educational institution.

- (b) For a regular mining permit application, hold a public hearing within 30 days at such time and place as established by the board with notice of the hearing published as a Class 2 notice under Chapter 985 of the Wisconsin Statutes. Notice of the time, place, and purpose of such public hearing shall also be sent to the applicant. If the proposed is within one-fourth mile of any other jurisdiction, the clerk of that governmental unit shall also be notified. All owners of land, as determined by owners of record in the current tax description records, within 300 feet of the proposed site shall also be notified.
 - (c) The public hearing may be recessed for a reasonable amount of time, as determined by the board, if the board feels that additional information or study is needed. The hearing shall be conducted and a record of the proceedings shall be made according to procedures as the board shall prescribe.
- (2) The board shall approve an application for a regular mining permit when the application, in addition to all other requirements, meets the following standards listed below:
- (a) That the establishment, maintenance, or operation of the permit shall not endanger the public health, safety or general welfare;
 - (b) That the establishment, maintenance, or operation of the permit will not substantially affect the existing use of adjacent property, and will not have a substantially adverse effect on the long-term future use of the adjacent property.
 - (c) That adequate utilities, access roads, drainage, traffic plans, and other site improvements have been, are, or will be provided;
 - (d) That the permit shall conform to all governmental regulations pertaining to the activity itself;
 - (e) That the mining operation shall conform to applicable air and water quality standards;
 - (f) That the noise, vibration, and dust levels at the property lines be within the levels determined by the board;

- (g) That an undeveloped buffer zone, commencing not less than 20 feet from the property line of the mining site or such other distance as the board finds necessary for the protection and safety of adjacent property from mining, with a stable angle of slope repose shall be provided along property lines;
 - (h) Where deemed practicable and necessary by the board, an earth bank or vegetative screen shall be erected and/or maintained to screen the mining operation from view from any residential district located within one-half mile of the operation;
 - (i) Where deemed necessary by the board, each mining operation shall be enclosed by at least a single-strand barbed-wire fence, maintained at all times, with warning signs spaced no more than 200 feet apart to indicate the presence of a mining area.
 - (j) That an application shall not be of a speculative nature, nor shall the mining cause harm to adjacent property;
 - (k) Such other standards that will permit the board to evaluate and decide on a regular mining permit.
- (3) The board shall grant, grant with conditions attached, or deny the application for a regular mining permit within a reasonable time after the public hearing. Prior to granting, granting with conditions attached, or denying the regular mining permit, the board shall make findings of fact based upon the evidence presented that the standards of this ordinance will or will not be met.
- (a) Upon approval of the application, the board shall notify the applicant in writing of the decision and where applicable establish the amount of bond necessary to assure reclamation of the affected land according to the reclamation plan. Upon receipt of the established bond from the applicant, the board shall issue a regular mining permit for an initial term of not more than five years. The applicant shall commence significant development of mining operations within two years of the date of issuance of such permit. At the written request of the board the applicant shall submit proof in writing of the significant development of mining operations. A violation of the terms of

the regular mining permit may result in a forfeiture, a fine, or suit by the Township according to the terms of this ordinance.

- (b) The board may approve the regular mining permit with conditions attached to the permit in writing. Such conditions may cover such subjects as control of operations, bonding and surety mechanisms, periods of operation, access, and any other standard or requirement listed under the terms of this ordinance. A violation of the conditions attached to this permit shall be a violation of this ordinance and shall be subject to the penalty provisions contained in this ordinance. Any conditions attached to the regular mining permit shall continue to apply to heirs, assigns, transferees, or successors in interest to the application for such permit.
 - (c) Upon disapproval of the application, the board shall notify the applicant in writing stating the reasons for disapproval as well as the necessary action, if any, that the applicant may take to complete the application in an acceptable form. No application which has been denied, in whole or in part, may be resubmitted for six months from the date of denial, except for new evidence, change of conditions, or such other reason as the board may accept.
- (4) The board may approve an application for a temporary mining permit for a term not to exceed six months.
- (a) The board may subject the granting of the temporary mining permit to any or all of the standards listed in part 2 of this section, relating to the standards for a decision on a regular mining permit.
 - (b) The board shall grant, with conditions attached, or deny the application for the temporary mining permit within a reasonable time after any public hearing the board may hold. Prior to granting, granting with conditions attached, or denying the temporary mining permit, the board shall make findings of fact based upon the evidence presented that the standards will or will not be met.
 - (1) Upon approval of the application, the board shall notify the applicant in writing of the decision and where applicable establish the amount of bond

necessary to assure reclamation of the affected land according to any reclamation plan. Upon receipt of the established bond from the applicant, the board shall issue a temporary mining permit. A violation of the terms of the temporary mining permit may result in a forfeiture, a fine, or suit by the Township according to the terms of this ordinance.

- (2) The board may approve the temporary mining permit with conditions attached to the permit in writing. Such conditions may cover such subjects as control of operations, bonding and surety mechanisms, periods of operation, access, and any other standard or requirement listed under the terms of this ordinance. A violation of the conditions attached to this permit shall be a violation of this ordinance and shall be subject to the penalty provisions contained in this ordinance. Any conditions attached to the temporary mining permit shall continue to apply to heirs, assigns, transferees, or successors in interest to the application for such permit.
 - (3) Upon disapproval of the application, the board shall notify the applicant in writing stating the reasons for disapproval as well as the necessary action, if any, that the applicant may take to complete the applications in an acceptable form. No application which has been denied, in whole or in part, may be resubmitted for six months from the date of denial, except for new evidence, change of conditions, or such other reason as the board may accept.
- (c) The board may extend the effectiveness of a temporary mining permit for an additional six-month period upon request of the operator, subject to the provisions of public notice and hearing contained in part 1-b, c of this section, relating to publication requirements.

SECTION VII.

BONDING AND OTHER SECURITY MECHANISMS

- (1) Prior to the issuance of a mining permit, the operator, if required by the board, shall deposit with the board

a bond conditioned on faithful performance of all the requirements of this ordinance and all the rules of the board. The bond shall be in an amount and of a kind to be determined by the board. In lieu of a bond, the operator may deposit cash, government securities, or land of equivalent value with the board.

- (2) The board shall establish the length of the bonding period, which may be less than the permit period, and the amount of the bond necessary to cover the cost of the reclamation of all areas disturbed by the mineral extraction operation during the bonding period, less that amount of bond that the operator has deposited with the appropriate governmental agency as security for the particular mining operation.
- (3) Any operator who obtains a mining permit from the board for two or more project sites within this jurisdiction may elect, at the time the second or any subsequent site is approved, to post a single bond in lieu of separate bonds on each site. Any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under each of his mining permits issued in Rock Township less that amount deposited for the particular sites with the appropriate governmental agencies. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the Town Board.
- (4) At the termination of each bonding period, the board of adjustment shall review the bond amount on mining and reclamation progress and shall either maintain the existing bond, return all or a portion of the existing bond, or request the operator to increase the amount of the bond.
- (5) The operator may file with the board a request for release of bond at such time as the operator feels that all reclamation has been satisfactorily completed or is in progress in accordance with the approved reclamation plan on any or all of the affected lands. Such request for release of bond shall include the name and address of the operator, the permit number, a legal description of the area, and a final reclamation report on the area for which the release of bond is requested. The final reclamation report shall contain the following information:

- (a) Name and address of the operator, permit number, and legal description of the land;
- (b) A map and/or aerial photograph which may be supplied by the board, on which the operator shall indicate the final contours, slope angles of the affected land, surface water drainage and ponds, and the locations of any remaining structures and roads;
- (c) A description of reclamation activities leading to completion of the approved reclamation requirements including: topsoil disposition and thickness, revegetation practices, disposition of waste dumps, tailing ponds, and surface structures, haulage and access roads, sediment control practices, and maximum depth of artificial lakes or ponds;
- (d) Operators of all underground mineral extraction operations shall also submit a complete plan of all entries, workings, and levels as well as a description of the sloping and ground support methods at the cessation of operations;
- (e) For underground mining operations, a description of the stability of lands overlaying the underground workings and a description of methods to be used for sealing all shafts, adits, inclines, and other mine entries;
- (f) Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond.

Final release of the bond shall not occur until the operator files a final reclamation plan under the terms of this ordinance.

- (6) Upon receipt of a request for release of the bond, the board shall:
 - (a) Inspect the designated lands;
 - (b) Publish, following a Class 2 notice under Chapter 985 of the Wisconsin Statutes, notice that the release of bond application is pending and specify a 30-day period for filing of complaints with the board against the release of bond;

- (c) Publish, following a Class 2 notice under Chapter 985 of the Wisconsin Statutes, notice of a public hearing at such time and place as the board determines to consider the request for release of bond and make a determination on the validity of complaints. The notice required in part 6(b) of this section and this subsection may be published at the same time, but in all cases the public hearing shall be held at least 30 days after the notice required in part 6(b) of this section;
 - (d) If the reclamation is found to be satisfactory and all valid complaints have been satisfied, the board shall release the appropriate amount of bond 30 days after the public hearing.
 - (e) If the reclamation is found to be unsatisfactory, so notify the operator by registered mail setting forth the reasons for denial of release of bond and the corrective action necessary for release of bond.
- (7) Nothing in this section shall be construed to infringe upon the board's authority to take appropriate action on bonds, including forfeiture of all or part of the bond for cause. Forfeiture shall not be approved by the board unless there has been publication of notice and a public hearing held consistent with the terms of this ordinance.
 - (8) The mining operator shall maintain a public liability insurance policy issued by an insurance company authorized to do business in the state of Wisconsin which affords personal injury and property damage protection for any individual and for adjacent property for the term of the permit or permit renewal. The total amount of the insurance shall be determined by the board, but shall be not less than 50,000 dollars.
 - (9) Each operator shall notify the board of cessation of all mining activity at the project site no later than 60 days before operations are to cease. Such notice shall indicate the operator's name, address, and permit number.
 - (10) The requirements of this section shall apply to the successor in interest to the operator upon the sale or transfer of assets of the mining operation.

SECTION VIII.

EXISTING MINING OPERATIONS AND EXPANSION
OF MINING ACTIVITIES

- (1) Any operator producing mineral materials from a mining operation at the date of enactment of this ordinance shall not need a regular or temporary mining permit to continue mining.
- (2) Upon the enactment of this ordinance, the board shall, by resolution, define the criteria for expansion of mining operations so that the applicant knows what an expansion of mining operations constitutes at the time the application for a mining permit is filed for a new mine.
- (3) Any operator who holds any mining permit issued under the terms of this ordinance or who operates a pre-existing mine under part 1 of this section shall apply for a regular or temporary mining permit if:
 - (a) the mining and processing equipment used in the operation changes substantially; or
 - (b) the normal hours of operation increase substantially; or
 - (c) the amount of noise, vibration, and dust from the operation increases substantially; or
 - (d) the extent of the area of the mining operation increases beyond the limits of land designated or held for that purpose at the time of adoption of this ordinance; or
 - (e) any other substantial increase in the mining or method of operations at the mining site, as determined by the formal decision of the board.
- (4) The board, when considering the application for a regular or temporary mining permit, as required by this section, shall consider the effect of the total mining operation, including reclamation of the entire site, to the extent feasible.

SECTION IX.

CHANGE, RENEWAL, AND TRANSFER OF MINING PERMITS

- (1) An operator holding a mining permit may at any time apply to the board for amendment, cancellation, renewal, transfer, or change in a regular or temporary mining permit or reclamation plan, provided that:
 - (a) This section shall not include an expansion of a mining operation which is subject to another section of this ordinance.
 - (b) This section shall not include a removal of mined land from the areal extent of the approved permit, which is subject to another section of this ordinance.
 - (c) This section shall not include a release of a bond or other security mechanism, which is subject to another section of this ordinance.
 - (d) This section shall not include the renewal of a temporary mining permit, which is subject to another section of this ordinance.
- (2) The application for the amendment, cancellation, or change shall be submitted to the board which shall approve, approve conditionally, or deny the application subject to the following standards:
 - (a) The operator shall identify the tract of land and shall supply the permit number of the project to be removed from the project site or to be affected by any change in the mining operation or reclamation plan;
 - (b) If the application is to change a permit for a tract of land which has had no mining operations conducted upon it, the board shall ascertain by inspection that no mining has occurred. After so finding, the board shall order the release of any bond or security instrument and shall amend the mining permit to reflect the removal of the unmined land from the project site;
 - (c) Such other standards consistent with the terms of this ordinance which provide for proper amendment, cancellation, and change to the permit.

- (3) A regular mining permit shall be renewed at the end of the permit term for successive five-year terms after public hearing and notice so long as the operator continues to produce mineral materials from the property, conforms to the approved reclamation plan, and conforms to the provision of this ordinance and is within the timetable of operations as established by Section 5-I-12 of this ordinance.
- (4) No operation shall assign, sell, lease or transfer in any manner any rights granted under a regular or temporary mining permit until the succeeding operator has complied with all the requirements of this ordinance, including all requirements of the reclamation plan and the filing of a bond of like amount with the board. Upon compliance with the requirements of this ordinance, the board shall release the first operator from the requirements of this ordinance, including any bond, and transfer the permit to the successor operator.
- (5) Any application granted with conditions attached under the terms of this section shall have the conditions attached in writing to the document of approval. Such conditions may cover any standard or requirement listed in this ordinance. A violation of the conditions shall constitute a violation of this ordinance, subject to penalties listed in this ordinance.

SECTION X.

INSPECTIONS

- (1) Upon issuance of a regular or temporary mining permit, the board or its approved agents may inspect the project site to determine compliance with the requirements of this ordinance. Inspections may also include the required records of a mining operation.
- (2) Such inspection shall be at reasonable times with notice provided to the operator.

SECTION XI.

PENALTIES

- (1) Whenever the board finds a violation of this ordinance at a mining operation with Rock Township, including

unapproved deviation from the reclamation plan, it shall be recorded and the board shall send the operator by registered mail an order specifying the nature of the violation, time of violation, and corrective steps necessary to achieve compliance with this ordinance.

- (2) The board shall cancel the mining permit held by a mining operator who fails to comply with the order within 30 days after the order is served unless the operator named therein, within 10 days after notice, requests in writing a hearing before the board. Failure to show just cause for the continued violation and lack of compliance with the order shall result in permit cancellation and immediate cessation of all mining activities on the affected property.
- (3) Any person, firm, corporation, cooperative, operator, or any other group of persons convicted in a court of law of engaging in a mining operation without a valid permit from this jurisdiction shall be required to forfeit not less than \$100.00 nor more than \$500.00 per day for each and every day the operation is found to be in violation of this ordinance.
- (4) Compliance with the terms of this ordinance may also be enforced by injunctive order at the suit of ~~the county.~~

Rock Township.

SECTION XII.

EXPLOSIVES AND BLASTING AGENTS

The storage, handling and transportation of explosives, as defined in Chapter Ind. 5 of the Wisconsin Administrative Code, on the site of the mine shall be governed by Wisconsin Administrative Code Ind. 5. All persons preparing explosive charges or conducting blasting operations must be licensed pursuant to Section Ind. 5.12.

SECTION XIII.

BONDING ROADWAYS

All persons licensed to conduct mining operations in the Town of Rock shall furnish to the Township, on request, a bond for road repair or replacement which will indemnify the

Township for any and all damage to roads and highways over which the vehicles owned or hired by such licensed mine operator travel to and from the mine site. The bond shall be in a form and amount satisfactory to the Township and shall be furnished prior to the granting of any permit.

SECTION XIV.

VALIDITY

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION XV.

CONFLICTING PROVISIONS REPEALED

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

SECTION XVI.

WHEN EFFECTIVE

This ordinance shall be in force from and after its passage, approval, posting and recording according to law.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 5th day of April, 1976.

John H. Lee
Town Chairman

Donald R. Welch
Town Supervisor

Town Supervisor

ATTEST:

Virginia Shelly
Town Clerk