

EUREKA TOWNSHIP
DAKOTA COUNTY, MINNESOTA
Ordinance No. 2022-01

**AN INTERIM ORDINANCE AUTHORIZING A STUDY AND PLACING A
MORATORIUM ON THE ESTABLISHMENT OF NEW MINING FACILITIES**

The Board of Supervisors of the Town of Eureka ordains:

Section 1: Purpose and Intent. The purpose and intent of this interim ordinance (“Ordinance”) is to impose, pursuant to Minnesota Statutes, section 462.355, subdivision 4, temporary restrictions within Eureka Township (“Town”) regarding the establishment of new mining facilities and the expansion of existing mining facilities during the period of this Ordinance in order to protect the planning process and the health, safety, and welfare of the citizens of the Town.

Section 2: Legislative Findings. The Town Board hereby finds and determines as follows:

- (a) The Town is a “municipality” for the purposes of the Municipal Planning Act in Minnesota Statutes, chapter 462, and it has exercised its authority pursuant to that Chapter to adopt zoning regulations as part of the Eureka Township Code of Ordinances (“Town Code”);
- (b) The majority of the Town’s regulations regarding mining are set out in Ordinance 6 of the Town Code;
- (c) Minnesota Statutes, section 462.355, subdivision 4 authorizes the Town Board to adopt interim ordinances to regulate, restrict, or prohibit any use, development, or subdivision within the Town;
- (d) The Town Code currently allows mining facilities in the Agricultural District within the Town with the issuance of an interim use permit;
- (e) The Town has previously issued interim use permits for mining facilities;
- (f) The Town has experienced operational compliance and reclamation issues with at least one of the existing mining facilities. The Town Board is also aware of the increasing potential for mining facilities to conflict with residential and other allowed uses in the Town;
- (g) The Town Board determines it is appropriate to study the sufficiency of its mining regulations and to determine if they need to be updated or otherwise amended; and
- (h) While the Town Board conducts its study, and potentially works to develop amendments to its regulations, it is appropriate to place a moratorium on the establishment of new mining facilities and on the expansion of existing mining facilities

in order to protect the planning process and the health, safety and welfare of the Town's residents.

Section 3. Definitions. For the purposes of this Ordinance, the following terms shall have the meaning given them in this Section. Any term not defined in this Section shall have the meaning given it in the Town Code, and if not defined therein, it shall have the meaning given it in the most applicable Minnesota Statute or Rule.

- (a) Town Code. "Town Code" means the most current enactment of the Eureka Township Code of Ordinance.
- (b) Existing Mining Facility. "Existing Mining Facility" means a Mining Facility located in the Town that has an interim use permit in effect as of the date of adoption of this Ordinance that expressly allows Mining activities.
- (c) Expansion. "Expansion" means, with respect to an Existing Mining Facility, a proposal to extend the permitted mining area beyond the area permitted for mining under the Town's current interim use permit. The term does not include on-going mining activities within the already permitted mining area, provided such activities are in accordance with its current permit and all applicable laws.
- (d) Mining. "Mining" has the same meaning given "mineral extraction" under Ordinance 6, Chapter 3 of the Town Code.
- (e) Mining Facility. "Mining Facility" means any Mining operation requiring an interim use permit under the Town Code.
- (f) Ordinance. "Ordinance" means this interim ordinance imposing a moratorium pursuant to Minnesota Statutes, section 462.355, subdivision 4.
- (g) Planning Commission. "Planning Commission" means the Eureka Township Planning Commission.
- (h) Town. "Town" means Eureka Township, Dakota County, Minnesota.
- (i) Town Board. "Town Board" means the board of supervisors of Eureka Township.

Section 4. Study Authorized. The Town Board shall conduct a study of Mining Facilities as provided in this Section. The Town Board may call upon the Planning Commission for assistance in conducting the study. The study shall consider the compatibility of Mining Facilities with other allowed uses within the areas in which mining is allowed, the types of impacts the Expansion of Existing Mining Facilities may have on the Town as well as the impacts of allowing new Mining Facilities within the Town. The Town Board shall work as part of the study to develop a consensus among the supervisors on whether Mining Facilities should continue to be allowed within the Town, where, whether the current regulations on Mining Facilities are sufficient, and, if not, how best to amend the Town Code to effectively regulate

Mining Facilities to avoid or minimize negative impacts to surrounding properties and the public health, safety, and welfare.

Section 5. Moratorium. A moratorium is hereby imposed so that during the period of this Ordinance the following are prohibited:

- (a) No application for an interim use permit, or an amended interim use permit to establish a new Mining Facility or for the Expansion of an Existing Mining Facility shall be submitted, accepted, processed, or acted on by the Town;
- (b) The placement, construction, or expansion of a new Mining Facility is prohibited; and
- (c) The Expansion of an Existing Mining Facility is prohibited.

Section 6. Exceptions. The moratorium imposed by this Ordinance does not apply to the following:

- (a) The continued Mining by an Existing Mining Facility within the permitting Mining area as identified in the current interim use permit issued for the Mining Facility and in compliance with conditions imposed on the permit; or
- (b) An application to renew the interim use permit of an Existing Mining Operation to continue Mining operations on the same property, provided the application does not seek approval of a Mining area that is larger than what was approved in the expiring, or recently expired, interim use permit.

Section 7. Application and Duration. This Ordinance shall remain in effect for 12 months from the date of its adoption, until it is expressly repealed by Town Board resolution, or until the effective date of an ordinance amending the Town Code to address Mining Facilities, whichever occurs first. All inquiries regarding the application of this Ordinance shall be submitted to the Town in writing and the Town Board's decision regarding the matter shall be final. As part of interpreting this Ordinance, the Town Board may issue written clarifications of, and variances from, its terms as needed to effectuate its purpose and intent.

Section 8. Penalty and Enforcement. Any person, firm, partnership, corporation, or other entity violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment for up to 90 days, a fine of up to \$1,000, or both, plus the costs of prosecution. Each day that a violation occurs shall be considered a separate offense. The Town may enforce this Ordinance through criminal prosecution or by undertaking such civil actions or proceedings, including injunctive relief, as it determines appropriate to prevent, restrain, correct, or abate any violation or threatened violation of this Ordinance. The initiation of one type of enforcement action shall not preclude the Town from instituting any other action or proceeding available to it under law to enforce this Ordinance.

Section 9. Severability. Every section, provision and part of this Ordinance is declared severable from every other section, provision and part thereof. If any section, provision or part

of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision or part of this Ordinance.

Section 10. Effective Date. This Ordinance shall take effect immediately upon its adoption.

Adopted this 10th day of April 2022.

BY THE TOWN BOARD

Lu Barfknecht, Chair

Attest: _____
Ranee Solis, Clerk