

## Ordinance No. 39, Fourth Series

### AN ORDINANCE AMENDING CHAPTER 11 OF THE ZONING LAND USE REGULATIONS

THE CITY COUNCIL OF THE CITY OF RED WING DOES ORDAIN:

**SECTION 1:** Chapter 11 of the City Code is hereby amended by deleting the ~~over struck~~ language and inserting the underlined language as shown below:

#### 10-040 **Definitions of Use Types and Classifications.**

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(42) **Heavy Industrial** – Establishments involved in the manufacture, fabrication, processing, compounding, or assembling of materials from raw material or previously processed material. These uses have severe potential for adversely affecting surrounding land uses due to potential environmental impacts related to noise, smoke/particulate emissions, vibration, noxious gases, odor, glare/heat, fire/explosion hazards and waste disposal. In addition, these uses may generate large amounts of truck or auto traffic, may involve the use of large unenclosed production areas, or may require large, tall structures that are unsightly. Heavy industrial uses typically involve primary production processes in the area of paper products (pulp mills), food processing (slaughterhouse, meat packing plant), chemicals (manufacture of inorganic chemicals, resins, plastics, paints, fertilizers, explosives, ink), petroleum products (refineries, bulk storage), primary metals (blasting, smelting, rolling), machinery and equipment manufacture (auto assembly, engines, construction equipment), leather (storing, curing, tanning), gravel based products (manufacture of bricks, concrete, abrasives), ~~and~~ lumber products (saw mills), and silica sand processing. Heavy industrial land uses may be subject to Special Provisions, as set forth in Division 55.

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(55) **Motor Freight and Warehousing** – Establishments primarily engaged in either the storage or shipment of goods and materials, including terminal facilities for handling freight, and maintenance facilities in which the truck (including tractor trailer units) involved with the operation of the business are stored, parked and serviced. Materials within a warehouse or terminal facility may be combined, broken down, or aggregated for transshipment or storage purposes where the original material is not chemically or physically changed. Motor Freight and Warehousing land uses may be subject to Special Provisions, as set forth in Division 55.

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#### 20-020 **Agricultural Residential (AR) District**

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**DC) Uses Requiring A Certificate of Compliance**

- 1) Agricultural Production
- 2) Agricultural Services
- 3) Broadcasting and Communication (Meeting Criteria)
- 4) Group Family Day Care
- 5) Home Occupation (Meeting Criteria)
- 6) Interim Use

**ED) Conditional Uses**

- 1) Air Transportation
- 2) Bed and Breakfast
- 3) Broadcasting and Communication
- 4) Campgrounds and Trailering
- 5) Cemetery
- 6) Colleges and Universities
- 7) Commercial Stable
- 8) Congregate Housing
- 9) Correctional Facilities
- 10) Day Care Center
- 11) Duplex
- 12) Farm Employee Housing
- 13) Forestry Operations
- 14) Garden Center
- 15) Golf Course
- 16) Home Occupation (Not Meeting Criteria)
- 17) Landfill
- 18) Manufactured Home Park
- 19) Nursing and Personal Care
- 20) Outdoor Entertainment
- 21) Outdoor Recreation Facility
- 22) Planned Unit Development
- 23) Railroad Transportation
- 24) Religious Institutions
- ~~25) Resource Extraction~~
- ~~26)25) Veterinary Service~~

**35-010 Light Industrial (I-1) District**

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**D) Uses Requiring A Certificate of Compliance**

- 1) Agricultural Support
- 2) Automobile Maintenance Service
- 3) Automobile Parts/Supply
- 4) Broadcasting and Communication (Meeting Criteria)
- 5) Business Services
- 6) Commercial Kennel
- 7) Commercial Vehicle Repair
- 8) Interim Use
- 9) Local Transit
- 10) Motor Freight and Warehousing, except operations involving silica sand, which are subject to Special Provisions as set forth in Division 55 and require a conditional use permit.
- 11) Offices
- 12) Repair and Maintenance Shop
- 13) Retail Trade [Only retail trade that is directly related to and incidental to a principal use on the site that is allowed as a permitted use in 35-010 C) above]
- 14) Sales and Storage Lots
- 15) Self Service Storage Facility
- 16) Transportation Services
- 17) Veterinary Service

**E) Conditional Uses**

- 1) Agricultural Services
- 2) Air Transportation
- 3) Business Center
- 4) Correctional Facilities
- 5) Day Care Center
- 6) Landfill
- 7) Marina
- 8) Silica Sand Motor Freight and Warehousing, as set forth in Division 55.
- ~~8)9)~~ Outdoor Recreation Facility
- ~~9)10)~~ Parking Facility
- ~~10)11)~~ Personal Services
- ~~11)12)~~ Planned Unit Development
- ~~12)13)~~ Railroad Transportation
- ~~13)14)~~ Scrap and Salvage Services
- ~~14)15)~~ Fast Food Restaurant
- ~~15)16)~~ Indoor Recreation

**35-020 General Industrial (I-2) District**

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**B) Permitted Principal Uses**

- 1) Car Wash
- ~~2) Heavy Industrial~~
- ~~3)2) Laundry Plants~~
- ~~4)3) Light Industrial~~
- ~~5)4) Non-production Industrial~~
- ~~6)5) Parks and Open Areas~~
- ~~7)6) Research and Testing~~
- ~~8)7) Trade Shop~~
- ~~9)8) Wholesaling~~

**C) Uses Requiring A Certificate of Compliance**

- 1) Agricultural Support
- 2) Broadcasting and Communication (Meeting Criteria)
- 3) Business Services
- 4) Commercial Kennel
- 5) Commercial Vehicle Repair
- 6) Interim Use
- 7) Local Transit
- 8) Motor Freight and Warehousing, except operations involving silica sand, which are subject to special provisions as set forth in Division 55.
- 9) Retail Trade [Only retail trade that is directly related to and incidental to a principal use on the site that is allowed as a permitted use in 35-020 B) above]
- 10) Self Service Storage Facility
- 11) Transportation Services
- 12) Veterinary Service

**D) Conditional Uses**

- 1) Air Transportation
- 2) Business Center
- 3) Correctional Facilities
- 4) Heavy Industrial
- ~~4)5) Landfill~~
- ~~5)6) Marina~~
- 7) Silica Sand Motor Freight and Warehousing, as set forth in Division 55.
- ~~6)8) Outdoor Recreation Facility~~
- ~~7)9) Parking Facility~~
- ~~8)10) Planned Unit Development~~
- ~~9)11) Railroad Transportation~~
- ~~10)12) Resource Extraction~~
- ~~11)13) Scrap and Salvage Services~~

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## **DIVISION 43: OPEN SPACE PRESERVATION OVERLAY DISTRICT**

**43-010 Policy and Administration.** The City of Red Wing has identified the need to preserve important bluff land and river land in order to protect and preserve the outstanding scenic, recreational, natural, historical and scientific values of key land areas that were recognized by the Open Space Preservation Plan, adopted by the City Council of the City of Red Wing on March 24, 2008, as an amendment to the City's Comprehensive Plan. In order to give effect to this policy, the City of Red Wing has determined that an overlay district should be created, within which certain land uses are prohibited.

**43-020 Purpose.** This Division is adopted to achieve the policy of Section 43-010 and to: (1) designate an open space preservation overlay district based on the 2008 Open Space Preservation Plan; (2) regulate the land use within the designated open space preservation overlay district by prohibiting any new Resource Extraction land use within the overlay district; (3) regulate the setback of structures and sanitary waste treatment facilities from bluff lines and shorelines to protect the existing and/or natural scenic values, vegetation, soils, water quality, floodplain areas, and bedrock from disruption by man-made structures or facilities; (4) regulate alterations of the natural vegetation and topography; (5) maintain property values and prevent poorly-planned development; (6) conserve and protect the natural scenic values and resources located within the overlay district boundaries; and (7) promote the general welfare of the people of Red Wing and the surrounding communities.

### **43-030 District Jurisdiction and Designation**

- A) **Jurisdiction.** The jurisdiction of this Division shall include all lands designated within the Open Space Preservation Overlay District within the jurisdiction of the City.
- B) **Designated Open Space Preservation Overlay District.** Additional zoning regulations shall apply to Designated Open Space Preservation Overlay District(s). Property located with certain designated Overlay District(s) shall have additional regulations applied with the intent of preserving Open Space with outstanding cultural and natural resources. These additional regulations for Open Space Preservation Overlay District(s) shall apply to the areas identified on the map designated as the Open Space Preservation Overlay District Map Addendum to the City of Red Wing Official Zoning Map which is made a part of this Division and is on file with the zoning authority.

**43-040 Definitions.** Certain terms and words used in this section are defined in Division 10, Definitions, including Resource Extraction.

#### 43-050 Uses Prohibited Within the Open Space Preservation Overlay District

A) **Purpose.** The purpose of prohibiting certain uses within the Open Space Preservation Overlay District shall be to protect and preserve existing natural, scenic, historical, scientific, and recreational values of open space properties identified in the 2008 Open Space Preservation Plan. It has been determined by the City of Red Wing that certain uses, by their very nature, have severe impacts on these values that have been identified to be preserved and protected.

B) **Prohibited Land Uses.** The following Land Uses are prohibited within the designated Open Space Preservation Overlay District as described in 43-030 B) above:

- (1) Resource Extraction Land Use.

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#### *STANDARDS THAT RELATE TO LAND USES CONCERNING NONMETALLIC RESOURCES*

#### 55-250 Resource Extraction Activities.

A) **Purpose.** The purpose of regulating Resource Extraction land uses is to provide minimum standards for all resource extraction operations within City limits in order to protect public health and safety, to preserve the scenic beauty of Red Wing's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Red Wing and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where resource extraction is most appropriate and not in conflict with other nearby land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate resource extraction.
- 3) Establishment of standards that prevent or minimize environment and aesthetic impacts on extracted properties, adjacent properties, and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and

suitable for future uses that are consistent with the City of Red Wing Comprehensive Plan.

B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined below and also in Division 10, Definitions. Particular terms that apply include Resource Extraction, Silica Sand (defined in Division 55-260), and those listed below.

C) **Resource Extraction Activities Defined.**

- 1) Nonmetallic Resource or Resource means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, and/or non-renewable material. Nonmetallic minerals include, but are not limited to, stone, rock, sand, silica sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- 2) Resource Extraction includes any or all of the following activities:
  - i. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation and grading of such materials.
  - ii. On-site manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, washing, compounding, mixing or blending of mineral aggregates or nonmetallic resources obtained by extraction from the mining site or with materials transferred from off-site.
  - iii. On-site manufacturing processes aimed at producing nonmetallic resource products for sale or use by the operator.
  - iv. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
  - v. Transport of the extracted nonmetallic resources, finished products or waste materials from the extraction site.
  - vi. Disposal of waste materials.
  - vii. Reclamation of the extraction site.
- 3) Resource Extraction Facility means any area that is being used for on-site removal, stockpiling, processing, transferring, or storage of resources.

- D) **Exempted uses and operations.** The following are exempted from the performance standards applicable to resource extraction activities:
- 1) Excavations or grading by a person solely for domestic or farm use at a person's residence or farm.
  - 2) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.
  - 3) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
  - 4) Excavations for building construction purposes conducted on the building site.
  - 5) Resource extraction at sites where less than one acre of total affected acreage occurs over the life of the mine.
  - 6) Removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
  - 7) Stockpiling of resources by retailers, such as nurseries and home improvement stores, for the purpose of resale to the public for non-industrial uses.
  - 8) Stockpiling, storage, and transportation of sand, salt, and/or gravel by state, county, and/or City entities.
  - 9) Stockpiling, storage, and transportation of dredge spoils removed from public waters.
  - 10) Stockpiling, storage, and transportation of sand and gravel for construction purposes and private snow plowing purposes.
- E) **Resource Extraction Facility Permit Required.** All persons having a legal or equitable interest in any resource extraction facility commencing on or after the effective date of this Ordinance shall obtain a conditional use permit which shall be processed in accordance with Division 90 of the Zoning Ordinance and the additional procedures and requirements of this Division. Such persons are referred to hereinafter as "owner," "operator," and/or "permittee." These terms are interchangeable for the purposes of this Division.



F) **Resource Extraction Facility Permit Application Requirements.** All persons seeking to engage in resource extraction activities within the City must submit the following:

- 1) Name, address, phone number(s), e-mail address, and website of the operator of the resource extraction facility.
- 2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the mining operation will occur.
- 3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.
- 4) A narrative outlining the type of material to be excavated, mode of operation (including any screening, drying, washing, coating, processing and storage of material), estimated quantity of material to be extracted, plans for blasting, and other pertinent information to explain the request in detail.
- 5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.
- 6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- 7) A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the facility is proposed, provide a breakdown of anticipated daily and peak number of vehicles using each access.
- 8) Any other information or documentation required for issuance of a conditional use permit under the Zoning Code.
- 9) Site maps of the proposed operations that show the entire site(s) and include areas within six-hundred feet (600') of the site. All maps shall be drawn at a scale of one-inch (1") to two-hundred feet (200') unless otherwise stated below:
  - i. Map A—Existing site conditions, to include:
    - a) Property boundaries to be surveyed by a Minnesota Licensed Land Surveyor.
    - b) A survey which provides contour lines at five foot (5') intervals.

- c) Existing vegetation including plant community, evaluation of condition of plant community, and dominant species.
- d) Existing structures.
- e) Existing pipelines, power lines and other utilities.
- f) Easements affecting the permitted property.
- g) Adjacent public road right-of-way.
- h) Existing access points to public roads.
- i) Test borings and monitoring wells used to characterize the site.
- j) Threatened and endangered species on the site and within ¼ mile of the site.
- k) Distribution, thickness and type of existing topsoil and subsoil.
- l) Location of existing historical, cultural, and archaeological features identified in the State Historic Preservation Office (SHPO) and Goodhue County databases and those not identified but discovered on-site.
- m) Location of areas previously affected by mining on-site, including location of stockpiles, wash ponds, and sediment basins.

### **GEOLOGY**

- n) Geologic units and contacts.
- o) Depth to bedrock (if applicable).
- p) Confining units (clays, shale, siltstone).
- q) Fracture patterns and traces (for rock quarries).
- r) Location of any known caves, joints, fractures, sinkholes, stream sinks, and springs.

### **HYDROLOGY**

- s) Drainage patterns and permanent water areas within six-hundred feet (600') of the property lines.
  - t) Water-table elevations with ground water flow direction.
  - u) Wells within a one-mile radius of property lines showing location, depth, static water-level, age and construction.
  - v) Location and elevation of any known springs within six-hundred feet (600') of the property lines.
  - w) General location of septic systems within six-hundred feet (600') of the property lines.
  - x) Location of designated trout streams within six-hundred feet (600') of the property lines.
- ii. Map B—Proposed operations, to include:
- a) Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
  - b) Vegetation protection plan for vegetation remaining on site.
  - c) Soil salvage plan, including storage areas, methods of protection from erosion, compaction and weeds.
  - d) Structures to be erected.
  - e) Location of sites to be mined showing depth of proposed excavation.
  - f) Location of tailing (strippings or overburden) deposits showing a maximum height of deposits.
  - g) Location of processing areas and machinery to be used in the mining operation.
  - h) Location of storage of mined materials, showing height of storage deposits.
  - i) Location of vehicle parking.
  - j) Location of storage of explosives.
  - k) Location of fuel storage.

- l) Erosion and sediment control structures.
  - m) Water retention ponds.
  - n) Drainage Plan including revisions to existing drainage patterns.
  - o) Proposed internal road system including typical cross sections.
  - p) Proposed new access points to adjacent public roads.
  - q) Proposed haul routes of vehicles removing material from the pit including current spring weight restrictions on the proposed routes.
- iii. Map C—Reclamation Plan. The Reclamation Plan must take into account the Performance Standards listed in this Division in addition to:
- a) Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
  - b) Final grade of proposed site showing elevations and contour lines at five foot (5') intervals.
  - c) Proposed land use after mining.
  - d) Location, species, rate, and density of vegetation to be seeded and planted.
  - e) Location and nature of any structure to be erected in relation to the end use plan.
  - f) Proposed improvements such as roads, paths, ponds, etc.
  - g) Topsoil restoration plan.
  - h) Rates, kinds, and location of soil amendments.
  - i) Mulching, erosion control fabric, and other soil stabilization methods.
  - j) Include the grading plans, topsoil protection and replacement, seeding, revegetation, mulching, erosion control, and sedimentation control specifications for each phase and final restoration.

k) Include quantified performance standards for the reclamation and maintenance of each plant community to be restored. These shall be based on a minimum percent cover of acceptable vegetation, maximum percent cover of unacceptable vegetation, and minimum species diversity at reclamation milestones: 0-24 months; 2-5 years; and 6 years or more after substantial completion. Acceptable and unacceptable vegetation shall be defined in the plan.

10) Supporting documentation: Every application for a resource extraction facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Division and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:

- i. A description of existing land uses on the subject property.
- ii. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
- iii. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.
- iv. A general description of surface waters, existing drainage patterns and groundwater conditions within ¼ mile of the subject property.
- v. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- vi. Copies of all state, federal, and county application documents and operating permits, including but not limited to: Minnesota Pollution Control Agency (MPCA) permits, wetland permits (Minnesota Wetland Conservation Act and/or Corps. of Engineers), Historical and Archaeological permits, Storm Water permits, Mine Safety and Health Administration permits, and the required EAW for the subject property.
- vii. A description of the site hydrology and drainage characteristic during extraction for each phase of mineral extraction including plans to control erosion, sedimentation and water quality of storm water runoff.

- viii. If there are any proposed changes to the existing drainage patterns, include proposed mitigation plans to control down stream off-site damage caused by any increase to the natural flow of water or any diversion of the existing natural flow of water.
- ix. A description of actions to be taken to mitigate potential impacts resulting from mineral extraction and processing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
- x. A description of site screening, buffering, landscaping and security fencing.
- xi. A description of the method in which complaints about any aspect of the resource extraction facility or off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
- xii. A plan for groundwater quality protection. The plan shall include a minimum of three (3) borings showing depth to groundwater. If washing or processing are not proposed, and if groundwater is not encountered at a depth of fifteen feet (15') below the bottom of the proposed pit floor, the applicant need not extend borings any further. If washing/processing is proposed, a minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.
- xiii. A minimum of three (3) cross-sections showing the extent of overburden, extent of mineral deposits, the water table, and any evidence of the water table in the past.
- xiv. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.
- xv. Identification of all proposed off-site trucking routes, together with the frequency and the common schedule of travel to be used for transporting extracted materials or products to and from the site.
- xvi. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not

travel on roads with weight limits lower than the weight of the vehicles.

- xvii. Description of methods to prevent mud and debris from being tracked onto public roads.
  - xviii. A listing of any hazardous materials, including all fuel supplies, that will be stored on-site and a description of measures to be used for securing and storing these materials.
  - xix. A listing of all chemicals used in the manufacturing and processing operations and in controlling dust.
  - xx. If a mineral extraction facility proposes to dewater the site, a plan must be submitted that includes:
    - a) Dewatering points and their elevations;
    - b) Hydrogeologic parameters of the unit dewatered including hydraulic conductivity, transmissivity, and storativity;
    - c) Proposed volume and rate of dewatering;
    - d) Discharge point; and
    - e) Duration of dewatering.
  - xxi. Contingency Plans: A plan for responding to spills and berm/earthen dam failure, or accidental release of chemicals, dust, waste, process water, or tailings.
  - xxii. Seismic Monitoring: If a resource extraction facility proposes using explosives, a pre-blast survey performed by a Minnesota Licensed Engineer of surrounding dwellings and buildings within ½ mile of the facility shall be conducted prior to initial blasting. Yearly seismic surveys shall be offered and conducted by the applicant's engineer if blasting has occurred within the previous year.
  - xxiii. Description of site security and property boundary signage to be utilized at the facility.
- 11) Additional requirements for underground resource extraction facilities:
- i. A description of the stability of lands overlaying the underground workings.

- ii. Locations of adits, ventilation shafts, and other surface openings.
- iii. Detailed description of water handling procedures, including dewatering and processing water.
- iv. Detailed description of the fate and transport of groundwater into and out of the mine workings.
- v. No resource extraction activities shall occur within a five-hundred foot (500') radius of any residential or farm well.
- vi. Designs for mining under public roads require approval of the road authority.
- vii. Mining or tunneling must maintain a two-hundred foot (200') vertical extension setback from permanent surface structures.

**G) Resource Extraction Facility Permit Application Process.**

- 1) Application. A request for a resource extraction conditional use permit, as provided within this Division, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application.
  - i. The application shall also be accompanied by ten (10) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Division.
  - ii. The Zoning Administrator shall refer the application along with all related information, to the appropriate zoning authorities for consideration.
- 2) Notice. The Zoning Administrator shall notice a public hearing as specified in Division 85-020 of the zoning ordinance.
- 3) Additional Information. The City shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Division. Failure by the applicant to provide such additional information or consent to such testimony may lead to a determination by the City that the application is incomplete.



- 4) Referrals. The City may refer the application for review and comment to other agencies, including, but not limited to, the Soil and Water Conservation District, the Minnesota Pollution Control Agency, or the Goodhue County Mining Technical Evaluation Panel.
- 5) Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the City Council. The City Council may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to, the following:
  - i. Matters relating to the appearance of the facility.
  - ii. Hours of operation.
  - iii. Limiting the number of loaded trucks leaving the facility per day.
  - iv. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
  - v. Increasing setbacks.
  - vi. Blasting notifications and frequency.
  - vii. Limiting the height, size or location of buildings or stockpiles.
  - viii. Controlling the location and number of vehicle access points.
  - ix. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.
  - x. Increasing the number, size, location, or lighting of signs.
  - xi. Requiring diking, berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - xii. Designating sites for open space.
  - xiii. Delineating the area to be mined, total size and open area at any one time.
  - xiv. Requiring phased reclamation.
  - xv. Requiring financial security to guarantee compliance with the conditions of approval.
  - xvi. Air and Water quality monitoring.

- xvii. On-site and off-site improvements to mitigate impacts caused by revisions to the natural flow of surface waters.
  - xviii. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.
- 6) City Council's Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. The Zoning Administrator shall notify the applicant of the City Council's action.
  - 7) Reapplication/Lapse of Conditional Use Permit. The City shall not accept reapplication for the same or substantially similar conditional use permit within twelve (12) months of denial.
  - 8) Amended Conditional Use Permit. Any material change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the City.
- H) **Annual Registration Required.** Annual registration of all resource extraction facilities is required. The purpose of the annual registration is to maintain an updated listing of active mineral extraction facilities in the City, to decertify any permits where the activity has ceased, to monitor compliance with the conditions of approval, to review the applicability of the conditions and to review bonding requirements.
- 1) Permit holders must complete and return registration forms provided by the City. Failure to maintain registration shall be cause for revocation of the permit.
  - 2) Conditional use permits for resource extraction facilities will not automatically expire if there are no activities as authorized within a year's time as long as the permittee complies with the annual registration specified herein.
  - 3) Annual registration is done administratively by the Zoning Administrator and will not require review by the Planning Commission or the City Council, provided all conditions are being met and the activity meets all standards as outlined in this Division, other permits and Road Impact Agreements.

- 4) For underground resource extraction facilities, a map prepared by a Minnesota Licensed Land Surveyor showing the property boundaries, the location, depth, size, and elevation of the tunnels and extent of the area mined must be submitted with the annual registration fee.
- I) **Security Required.** The City shall require the owner of the property in which resource extraction is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the City Council as part of the permit. The security shall be sufficient to reimburse the following costs:
- 1) Costs of bringing the operation into compliance with the resource extraction permit requirements including site monitoring and enforcement costs.
  - 2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.
  - 3) Extraordinary costs of providing an alternative water supply to potentially affected residences or agricultural operations located within ½ mile of the resource extraction facility or other such areas shown to be impacted by the resource extraction operations.
  - 4) Site restoration.
  - 5) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.
  - 6) Bonds shall have an initial term of at least one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.
  - 7) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the resource extraction activities.
  - 8) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.
- J) **Additional Performance Standards for Resource Extraction Facilities.** The following performance standards apply to all resource extraction facilities located in the City and are supplemental and in addition to the other performance standards contained in this Division and the zoning code:

- 1) Normal hours of operation. Resource extraction facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday, unless specified otherwise in the conditional use permit for the facility.
  - i. Exceptions to the hours of operation must be approved by the City Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the resource extraction facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
- 2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire resource extraction site, and around any ponding areas and steep sloped excavation areas unless, because of their location, they are not deemed to create a safety hazard.
- 3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
- 4) Environmental Assessment Worksheet. To mitigate public nuisances, environmental, and public health concerns, the City shall require all operators of resource extraction facilities with on-site silica sand processing operations to submit an Environmental Assessment Worksheet (EAW).
- 5) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a resource extraction facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
- 6) Resource extraction facility dust control and air quality. To mitigate public nuisances and public health concerns, the City shall require dust control in all resource extraction facilities.
  - i. Remedies to control dust may include methods such as berming, landscaping, enclosures for processing equipment, and watering stockpiled materials and all roads within the site.
  - ii. 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 feet (600') of the facility lot line.

- iii. The City may require air quality/air particulate monitoring of a resource extraction facility. If required, facilities that excavate, transfer, process or stockpile silica sand shall monitor air quality/air particulates as described herein. Monitoring equipment shall be in accordance with MPCA or the City best practices standards, whichever are more stringent.
  - a) If required, the operator shall begin air quality/air particulate and weather monitoring at least six (6) months prior to operation to create a baseline of the area.
  - b) Stationary monitors shall be located at strategic locations along the resource extraction facility property lines, within the site, and may also be required to be located at neighboring residences within 600 feet (600') of the facility property lines.
  - c) Continuous remote readings shall be taken and reported to the City when requested. A summary report shall accompany the operation's annual renewal documentation and fees.
- 7) Blasting permit required. The owner/operator shall obtain a blasting permit from the City, if applicable.
- 8) Noise. Maximum noise levels at the facility will be consistent with the standards established by the MPCA. To mitigate public nuisances, the facility shall use Best Management Practices including building berms, enclosing generators and leaving existing trees at the property boundaries to minimize noise impacts.
- 9) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations and statutes.
- 10) Water resources. The resource extraction operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The resource extraction operation shall not adversely affect the quantity or quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off-site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.

- 11) Screening/buffering. Screening barriers shall be subject to the approval of the City.
- i. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  - ii. A screening barrier may be required between the resource extraction facility and any public road.
  - iii. A screening barrier may be required to mitigate visual impacts of the resource extraction facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the SHPO and Goodhue County cultural databases.
  - iv. A buffer yard and screening that complies with “Buffer Yard D” as set forth in Division 62-030 is required for all resource extraction facility boundaries that abut residential, parks and open areas, and public assembly land uses.
- 12) Unauthorized storage. Vehicles, equipment, or materials not associated with the resource extraction facility or not in operable condition may not be kept or stored at the facility.
- 13) Setbacks. The following minimum setbacks shall be maintained from property boundaries at the surface and their vertical extensions below the surface:
- i. One-hundred feet (100’) of adjoining property lines, except for visual screening, reclamation, and berming of overburden material, unless written consent of the owner of the adjoining property is first secured, recorded with the Goodhue County Recorder and a copy submitted to the City Zoning Administrator.
  - ii. One thousand feet (1,000’) of any existing dwelling or platted residential subdivision, not owned by the operator or owner, unless written consent of the owner of the adjoining property is first secured, recorded with the Goodhue County Recorder and a copy submitted to the City Zoning Administrator.
  - iii. Three-hundred feet (300’) of the boundary of any zoning district where such operations are not permitted.
  - iv. One-hundred feet (100’) of any right-of-way of any existing or platted street, road or highway, except berm construction, vegetative screening, or maintenance activities unless by

written consent of the adjacent road authority having jurisdiction over the right-of-way and a copy is submitted to the City Zoning Administrator.

- v. The City Council may increase the setbacks based upon residential locations, social or economic concerns, type of mining, or to mitigate public nuisance concerns.

14) Phasing. Phasing plans must be prepared for all mineral extraction facilities. The proposed size of the extraction, processing, staging, and stockpiling operations are to be identified. Resource extraction activities shall be conducted so active extraction operations expose no more than forty (40) acres at any one time, unless specifically approved in the conditional use permit.

15) Weed control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.

16) Waste disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.

- i. Portable asphalt and concrete plants must be approved on a per project basis by the City.

- ii. An estimate of the amount of recycled concrete and asphalt material to be processed must be submitted. An estimate of the time required and the amount required to be stockpiled before being processed must be submitted.

17) Water quality monitoring. Water quality monitoring shall be performed when a resource extraction facility is (a) mining below the water table; (b) if the property lines are within six-hundred feet (600') of known Karst features, springs, streams, or lakes; (c) if the operation is proposing to dewater the site; (d) if the site is using chemicals as part of the washing or ponding process; (e) if otherwise required by the City Council or the MPCA; or (f) if mining silica sand, as defined in Division 55-260 of the zoning ordinance.

- i. If washing/processing operations are proposed, a minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.

- ii. A Water Monitoring Plan shall include placing a sufficient number of monitoring wells in strategic locations along the

property lines and within the site to adequately characterize and monitor surface and groundwater.

iii. Monitoring of residential wells within six-hundred feet (600') of the property lines may also be required.

iv. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall accompany the operation's annual registration documentation.

18) General compliance. The operators must comply with all federal, state, regional, county, and local laws and regulations applicable to the operation of the resource extraction facility, including, but not limited to, floodplain management regulations, shoreland management regulations, and zoning code regulations.

19) Additional regulations. The City may impose additional regulations and requirements on the resource extraction facility to protect the public health, safety, and welfare.

20) Land reclamation. The following minimum land reclamation standards and conditions shall apply:

i. For gravel pits, final grades may not exceed one (1) vertical to three (3) horizontal slope except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty feet (20') from property lines.

a) Proposed topography shall fit in with regional topography and mirror landforms typical of the area.

ii. For rock quarries, the permittee shall submit a plan to explain how the quarries are to be rehabilitated.

iii. A minimum of three inches (3") of topsoil shall be placed on all graded surfaces.

iv. Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Areas returned to agricultural production are exempt from the seeding and mulching requirements.

v. 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.



- a) Land shall be reclaimed to native vegetation unless inconsistent with the final proposed land use.
    - b) Proposed land uses shall be consistent with the Comprehensive Plan, zoning code requirements, and applicable federal, state, and local regulations in effect at the time the plan is submitted, and may be required to be amended over time.
  - vi. Soil erosion and sedimentation control measures shall be consistent with MPCA's Protecting Water Quality in Urban Areas and MPCA's General Storm Water Permit.
  - vii. Unless otherwise amended or approved by the City, all final grades and site restoration efforts shall be consistent with the Reclamation Plan.
  - viii. Within twelve (12) months after completion of resource extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.
  - ix. Within twelve (12) months after completion of resource extraction or after termination of the permit, site reclamation must be completed. Failure to annually register the resource extraction facility will be considered termination of the resource extraction facility and the twelve (12) month period for site reclamation begins.
  - x. All water areas resulting from excavation shall be addressed upon reclamation of the site. In unique circumstances where the City Council has reviewed proposals for water bodies at the time of approval of the overall plan and has determined that such would be appropriate as an open space or recreational amenity in subsequent reuse of the site, water bodies may be permitted.
- 21) Transportation Impact Study and Road Impact Agreement. The City shall require the owner/operator of a silica sand processing facility to complete a Transportation Impact Study and may require the owner/operator to enter into Road Impact Agreements as conditions of their permit and registration.
- i. Transportation Impact Studies. When a proposed or amended conditional use permit is requested, the City shall require a Transportation Impact Study.

- ii. Road Impact Agreements. When a proposed or amended conditional use permit is requested, the City may require a Road Impact Agreement to alleviate the additional burden on the City's financial resources associated with the road infrastructure maintenance affected by granting the request.

**K) Bi-Annual and Annual Reporting.**

- 1) During the first two (2) years of operations, the owner of all resource extraction operations in the City shall submit a report twice per year to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1 and July 1-August 1.
- 2) After two (2) years of consecutive operations, the owner/operator of all resource extraction operations in the City shall submit an annual report to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1.
- 3) The bi-annual and annual reports shall include the following information:
  - i. An identification of the owner/operator and the location of the resource extraction site.
  - ii. A map accurately showing the area of existing excavation, the unclaimed areas and reclaimed areas of the mine site. These maps shall include the acreage of each area.
  - iii. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).
  - iv. A written, detailed description of activities and operations planned for the following calendar year of operations.
  - v. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all water and air quality monitoring results.
  - vi. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

**L) Inspection, Violations, Penalties and Enforcement.**

- 1) Inspection. In addition to the reporting requirements, the City may make inspections of the facility upon reasonable notice to determine

the condition of the resource extraction sites in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.

- 2) Violation a Misdemeanor. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law, unless a more severe penalty is provided by state or federal law. Each day that a violation is permitted to exist shall constitute a separate offense.
- 3) Additional violations. The following also constitute violations of the zoning code:
  - i. Engaging in resource extraction without properly obtaining a conditional use permit as required by the zoning code.
  - ii. Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
  - iii. Failure to provide a bi-annual or annual report by the applicable deadline.
  - iv. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.
- 4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Division, the City may take appropriate action to enforce this Ordinance, including exercising the performance bonds, application for injunctive relief, action to compel performance, revocation of the conditional use permit, civil fines, and/or other appropriate action before the City Council or in court if the City deems it necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

**55-260 Heavy Industrial Land Use – Silica Sand Processing that does not include Resource Extraction.**

- A) **Purpose.** The purpose of this zoning regulation is to provide minimum standards for all silica sand processing operations (Heavy Industrial land use) within the City limits in order to protect public health and safety, to

preserve the scenic beauty of Red Wing's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Red Wing and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where silica sand processing is most appropriate and minimizes conflicts with other land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate silica sand processing operations.
- 3) Establishment of standards that prevent or minimize environment and aesthetic impacts on extracted properties, adjacent properties, and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore any affected property to a condition compatible with adjacent properties and suitable for future uses that are compatible with the City of Red Wing Comprehensive Plan.

B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined below and also in, Division 55-250 Resource Extraction Activities, and Division 55-270 Silica Sand Motor Freight and Warehousing. Additional terms are also defined in Division 10, Definitions. Particular terms that apply include Heavy Industrial land use and those listed below.

C) **Silica Sand Processing Defined.**

- 1) *Silica sand* means silica/frac sand having composition and grain-size distribution suitable for industrial applications, including, but not limited to, use in the hydraulic fracturing process. Characteristics of silica sand/frac sand include: spherical shape, high silica (quartz) content, hardness (can withstand high pressure), uniform particle shape, and larger grain size. This definition specifically includes silica sand obtained from Jordan and St. Peter Sandstone.
- 2) *Silica sand processing* means any or all of the following:
  - i. Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, washing, compounding, coating, mixing or blending of mineral aggregates or nonmetallic resources extracted from off-site involving silica sand.

- ii. Manufacturing processes aimed at producing silica sand and silica sand products for sale or use by the owner.
  - iii. Stockpiling of nonmetallic resources used in the silica sand manufacturing process for sale or use off-site, and stockpiling of waste materials.
  - iv. Transport of nonmetallic resources, finished products or waste materials from the silica sand processing site.
  - v. Disposal of waste materials.
  - vi. Exclusion: Silica sand processing as defined in this section does not include processing operations that take place on-site at resource extraction facilities.
- 3) Silica sand processing facility means any area that is being used for silica sand processing.

D) **Silica Sand Processing Facility Permit Required.** All persons having a legal or equitable interest in any silica sand processing facility commencing on or after the effective date of this Ordinance shall obtain a conditional use permit which shall be processed in accordance with Division 90 of the Zoning Code and the additional procedures and requirements of this Division. Such persons are referred to hereinafter as “owner,” “operator,” and/or “permittee.” These terms are interchangeable for the purposes of this Division.

E) **Silica Sand Processing Facility Permit Application Requirements.** All persons seeking to engage in silica sand processing activities within the City must submit the following:

- 1) Name, address, phone number(s), e-mail address, and website of the operator of the silica sand processing facility.
- 2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the processing operation will occur.
- 3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.
- 4) A narrative outlining the type of material to be processed, mode of operation, including any screening, drying, washing, coating and storage of material, estimated quantity of material to be processed, and other pertinent information to explain the request in detail.

- 5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.
- 6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- 7) A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the facility is proposed, provide a breakdown of anticipated daily and peak number of vehicles using each access.
- 8) Any other information or documentation required for issuance of a conditional use permit under the zoning code.
- 9) Supporting documentation: Every application for a silica sand processing facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Division and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:
  - i. A description of existing land uses on the subject property.
  - ii. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
  - iii. Copies of all federal, state, and county application documents and operating permits, including but not limited to: U.S. and Minnesota Department of Transportation permits and Minnesota Pollution Control Agency (MPCA) permits.
  - iv. A description of actions to be taken to mitigate potential impacts resulting from silica sand processing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
  - v. A description of site screening, buffering, landscaping and security fencing.
  - vi. A description of the method in which complaints about any aspect of the facility or off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.

- vii. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.
- viii. Identification of all proposed off-site trucking routes, together with the frequency and the common schedule of travel to be used for transporting materials or products to and from the site.
- ix. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.
- x. Description of methods to prevent mud and debris from being tracked onto public roads.
- xi. A listing of any hazardous materials, including all fuel supplies, that will be stored on site and a description of measures to be used for securing and storing these materials.
- xii. A listing of all chemicals used in the processing operations and in controlling dust.
- xiii. Contingency Plans: A plan for responding to spills or accidental release of chemicals, dust, waste, or process water.
- xiv. Description of site security and property boundary signage to be utilized at the facility.

**F) Silica Sand Processing Permit Application Process.**

- 1) Application. A request for a silica sand processing conditional use permit, as provided within this Division, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application.
  - i. The application shall also be accompanied by ten (10) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Division.
  - ii. The Zoning Administrator shall refer the application along with all related information, to the appropriate zoning authorities for consideration.

- 2) Notice. The Zoning Administrator shall notice a public hearing as specified in Division 85-020 of the zoning ordinance.
- 3) The City shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Division. Failure by the applicant to provide such additional information or consent to such testimony may lead to a determination by the City that the application is incomplete.
- 4) Referrals. The City may refer the application for review and comment to other agencies, including but not limited to the Minnesota Pollution Control Agency, or the Minnesota Department of Transportation.
- 5) Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the City Council. The City Council may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to, the following:
  - i. Matters relating to the appearance of the facility.
  - ii. Hours of operation.
  - iii. Limiting the number of loaded trucks entering or leaving the facility per day.
  - iv. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
  - v. Increasing setbacks.
  - vi. Limiting the height, size or location of buildings or stockpiles.
  - vii. Controlling the location and number of vehicle access points.
  - viii. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.
  - ix. Increasing the number, size, location, or lighting of signs.



- x. Requiring berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - xi. Requiring financial security to guarantee compliance with the conditions of approval.
  - xii. Air and Water quality monitoring.
  - xiii. On-site and off-site improvements to mitigate potential impacts to surface and subsurface waters.
  - xiv. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.
- 6) City Council's Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. The Zoning Administrator shall notify the applicant of the City Council's action.
  - 7) Reapplication/Lapse of Conditional Use Permit. The City shall not accept reapplication for the same or substantially similar conditional use permit within twelve (12) months of denial.
  - 8) Amended Conditional Use Permit. Any material change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the City.
- G) **Security Required.** The City shall require the owner of the property in which silica sand processing is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the City Council as part of the permit. The security shall be sufficient to reimburse the following costs:
- 1) Costs of bringing the operation into compliance with the silica sand processing permit requirements including site monitoring and enforcement costs.
  - 2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.

- 3) Extraordinary costs of providing an alternative water supply to potentially affected residences or agricultural operations located within ½ mile of the resource extraction facility or other such areas shown to be impacted by the silica sand processing operations.
- 4) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.
- 5) Bonds shall be for a minimum of one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.
- 6) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the silica sand processing operation.
- 7) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.

H) **Additional Performance Standards for Silica Sand Processing Facilities.**  
The following performance standards apply to all silica sand processing facilities located in the City and are supplemental and in addition to the other applicable performance standards contained in this Division and in the zoning code:

- 1) Normal hours of operation. Silica sand processing facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday, unless specified otherwise in the conditional use permit for the facility.
  - i. Exceptions to the hours of operation must be approved by the City Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
- 2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire facility.
- 3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road

authority may restrict the weight of vehicles allowed to use any permitted access.

- 4) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a silica sand processing facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
- 5) Environmental Assessment Worksheet. To mitigate public nuisances, environmental, and public health concerns, the City shall require all operators of silica sand processing facilities to submit an Environmental Assessment Worksheet (EAW).
- 6) Dust Mitigation Plan. To mitigate public nuisances and public health concerns, the City shall require Operators to present a Dust Mitigation Plan for approval by the City.
  - i. Remedies to control dust may include methods such as berming, landscaping, enclosures for processing equipment, and watering stockpiled materials and all roads within the site.
  - ii. All equipment used for processing 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 feet (600') of the facility lot line.
  - iii. The City shall require continuous air quality/air particulate monitoring of a silica sand processing facility. Monitoring equipment shall be in accordance with MPCA or the City best practices standards, whichever are more stringent.
    1. The operator shall begin air quality/air particulate and water monitoring at least six (6) months prior to operation to create a baseline of the area.
    2. Stationary monitors shall be located at strategic locations along the silica sand processing facility property lines, within the site, and may also be required to be located at neighboring residences within 600 feet (600') of the facility property lines.
    3. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall be included in all bi-annual or annual

reports, and shall be made available upon request by the City.

- 7) Noise. Maximum noise levels at the facility will be consistent with the standards established by the MPCA. To mitigate public nuisances, the facility shall use Best Management Practices including building berms, enclosing generators and leaving existing trees at the property boundaries to minimize noise impacts.
- 8) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations and statutes.
- 9) Water resources. The silica sand processing operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The facility shall not adversely affect the quantity or quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off-site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.
- 10) Screening/buffering. Screening barriers shall be subject to the approval of the City.
  - i. To minimize problems of dust and noise and to shield silica sand processing operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  - ii. A screening barrier may be required between the silica sand processing facility and any public road.
  - iii. A screening barrier may be required to mitigate visual impacts of the silica sand processing facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the State Historic Preservation Office (SHPO) and Goodhue County cultural databases.
  - iv. A buffer yard and screening that complies with “Buffer Yard D” as set forth in Division 62-030 is required for all silica sand processing facility boundaries that abut residential, parks and open areas, and public assembly land uses.
- 11) Unauthorized storage. Vehicles, equipment, or materials not associated with the silica sand processing facility or not in operable condition may not be kept or stored at the facility.

- 12) Waste disposal. Any waste generated from the silica sand processing operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.
- 13) Water quality monitoring. Water quality monitoring shall be performed at all silica sand processing facilities.
  - i. A minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.
  - ii. A Water Monitoring Plan shall include placing a sufficient number of monitoring wells in strategic locations along the property lines and within the site to adequately characterize and monitor surface and groundwater.
  - iii. Monitoring of residential wells within six-hundred feet (600') of the property lines may also be required.
  - iv. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall be included in all bi-annual or annual reports, and shall be made available upon request by the City.
- 14) Storm Water Management Plan. The City may require an operator to submit a Storm Water Management Plan to the City for approval.
- 15) General compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the silica sand processing facility, including but not limited to floodplain management regulations, shoreland management regulations, and zoning ordinance regulations.
- 16) Additional regulations. The City may impose additional regulations and requirements on the silica sand processing facility to protect the public health, safety, and welfare.
- 17) Transportation Impact Study and Road Impact Agreement. The City shall require the owner/operator of a silica sand processing facility to complete a Transportation Impact Study and may require the owner/operator to enter into Road Impact Agreements as conditions of their permit and registration.

- i. Transportation Impact Studies. When a proposed or amended conditional use permit is requested, the City shall require a Transportation Impact Study.
- ii. Road Impact Agreements. When a proposed or amended conditional use permit is requested, the City may require a Road Impact Agreement to alleviate the additional burden on the City's financial resources associated with the road infrastructure maintenance affected by granting the request.

I) **Bi-Annual and Annual Reporting.**

- 1) During the first two (2) years of operations, the owner of all silica sand processing facilities in the City shall submit a report twice per year to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1 and July 1-August 1.
- 2) After two (2) years of consecutive operations, the owner of all silica sand processing facilities in the City shall submit an annual report to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1.
- 3) The bi-annual and annual reports shall include the following information:
  - i. An identification of the owner/operator and the location of the silica sand processing facility.
  - ii. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).
  - iii. A written, detailed description of activities and operations planned for the following calendar year of operations.
  - iv. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all water and air quality monitoring results.
  - v. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

J) **Inspection, Violations, Penalties and Enforcement.**

- 1) Inspection. In addition to the annual reports, the City may make inspections of the facility upon reasonable notice to determine the

condition of the silica sand processing site in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.

- 2) Violation a Misdemeanor. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law, unless a more severe penalty is provided by federal or state law. Each day that a violation is permitted to exist shall constitute a separate offense.
- 3) Additional violations. The following also constitute violations of the zoning code:
  - i. Engaging in silica sand processing without properly obtaining a conditional use permit as required by the zoning code.
  - ii. Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
  - iii. Failure to provide a bi-annual or annual report within the required time period.
  - iv. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.
- 4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Division, the City may take appropriate action to enforce this Division, including exercising the performance bonds, application for injunctive relief, action to compel performance, revocation of the conditional use permit, civil fines, and/or other appropriate action before the City Council or in court if the City deems it necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

#### **55-270 Silica Sand Motor Freight and Warehousing.**

- A) **Purpose.** The purpose of this zoning regulation is to provide minimum standards for all silica sand motor freight and warehousing operations (Motor Freight and Warehousing land use) within the City limits in order to

protect public health and safety, to preserve the scenic beauty of Red Wing's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Red Wing and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where silica sand motor freight and warehousing is most appropriate and minimizes conflicts with other land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate silica sand motor freight and warehousing operations.
- 3) Establishment of standards that prevent or minimize environment and aesthetic impacts on adjacent properties and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore any affected property to a condition compatible with adjacent properties and suitable for future uses that are compatible with the City of Red Wing Comprehensive Plan.

B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined below and also in Division 10, Definitions. Particular terms that apply include Motor Freight and Warehousing, Silica Sand (defined in Division 55-260), and those listed below.

C) **Silica Sand Motor Freight and Warehousing Defined.**

- 1) *Silica sand motor freight and warehousing* means motor freight and warehousing operations (Motor Freight and Warehousing land use) that involve silica sand, as that term is defined in Division 55-260. Such operations include any or all of the following:
  - i. Operations involving the loading, unloading, transfer, storage, warehousing, stockpiling or shipping of silica sand, regardless of the mode of transportation (truck, rail, barge, etc.).
  - ii. Operations that involve the transfer or movement of silica sand from one mode of transportation to another, such as from truck to barge, or from barge to rail, etc.
- 2) *Silica sand motor freight and warehousing facility* means any area that is being used for silica sand motor freight and warehousing operations.



- D) **Silica Sand Motor Freight and Warehousing Facility Permit Required.**  
All persons having a legal or equitable interest in any silica sand motor freight and warehousing facility commencing on or after the adoption of this Ordinance shall obtain a conditional use permit which shall be processed in accordance with Division 90 of the Zoning Ordinance and the additional procedures and requirements of this Division. Such persons are referred to hereinafter as “owner,” “operator,” and/or “permittee.” These terms are interchangeable for the purposes of this Division.
- E) **Silica Sand Motor Freight and Warehousing Facility Permit Application Requirements.** All persons seeking to engage in silica sand motor freight and warehousing activities within the City must submit the following:
- 1) Name, address, phone number(s), e-mail address, and website of the operator of the silica sand motor freight and warehousing facility.
  - 2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the silica sand motor freight and warehousing operation will occur.
  - 3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.
  - 4) A narrative outlining the type of material to be handled, mode(s) of operation, including a description of the equipment and buildings/containers to be used in the movement and storage of silica sand, estimated quantity of material involved in the operation, and other pertinent information to explain the request in detail.
  - 5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.
  - 6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
  - 7) A description of the estimated average daily and peak daily number of vehicles, barges, trains, etc. accessing the facility. If more than one access to the facility is proposed, provide a breakdown of anticipated daily and peak number of vehicles barges, trains, etc. using each access.
  - 8) Any other information or documentation required for issuance of a conditional use permit under the zoning code.

- 9) Supporting documentation: Every application for a silica sand motor freight and warehousing facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Division and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:
- i. A description of existing land uses on the subject property.
  - ii. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
  - iii. Copies of all federal, state, and county application documents and operating permits, including but not limited to: U.S. and Minnesota Department of Transportation permits and Minnesota Pollution Control Agency (MPCA) permits.
  - iv. A description of actions to be taken to mitigate potential impacts resulting from silica sand silica sand motor freight and warehousing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
  - v. A description of site screening, buffering, landscaping and security fencing.
  - vi. A description of the method in which complaints about any aspect of the facility or on-site and off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
  - vii. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.
  - viii. Identification of all proposed off-site trucking, barge, and rail routes, together with the frequency and the common schedule of travel to be used for transporting materials or products to and from the site.
  - ix. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.

- x. Description of methods to prevent mud and debris from being tracked onto public roads.
- xi. A listing of any hazardous materials, including all fuel supplies, that will be stored on site and a description of measures to be used for securing and storing these materials.
- xii. A listing of all chemicals used in the silica sand motor freight and warehousing operations and in controlling dust.
- xiii. Contingency Plans: A plan for responding to spills or accidental release of chemicals, dust, waste, or hazardous materials.
- xiv. Description of site security and property boundary signage to be utilized at the facility.

F) **Silica Sand Motor Freight and Warehousing Facility Permit Application Process.**

- 1) Application. A request for a silica sand motor freight and warehousing facility conditional use permit, as provided within this Division, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application.
  - i. The application shall also be accompanied by ten (10) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Division.
  - ii. The Zoning Administrator shall refer the application along with all related information, to the appropriate zoning authorities for consideration.
- 2) Notice. The Zoning Administrator shall notice a public hearing as specified in Division 85-020 of the zoning ordinance.
- 3) The City shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Division. Failure by the applicant to provide such additional information or consent to such testimony may lead to a determination by the City that the application is incomplete.

- 4) Referrals. The City may refer the application for review and comment to other agencies, including but not limited to the Minnesota Pollution Control Agency, or the Minnesota Department of Transportation.
- 5) Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the City Council. The City Council may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include but are not limited to, the following:
  - i. Matters relating to the appearance of the facility.
  - ii. Hours of operation.
  - iii. Limiting the number of loaded trucks, railcars, barges, etc. entering or leaving the facility per day.
  - iv. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
  - v. Increasing setbacks.
  - vi. Limiting the height, size or location of buildings or stockpiles.
  - vii. Controlling the location and number of vehicle access points.
  - viii. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.
  - ix. Increasing the number, size, location, or lighting of signs.
  - x. Requiring berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - xi. Requiring financial security to guarantee compliance with the conditions of approval.
  - xii. Air quality monitoring.
  - xiii. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.

- 6) City Council's Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. The Zoning Administrator shall notify the applicant of the City Council's action.
  - 7) Reapplication/Lapse of Conditional Use Permit. The City shall not accept reapplication for the same or substantially similar conditional use permit within twelve (12) months of denial.
  - 8) Amended Conditional Use Permit. Any material change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the City.
- G) **Security Required.** The City shall require the owner of the property in which silica sand motor freight and warehousing is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the City Council as part of the permit. The security shall be sufficient to reimburse the following costs:
- 1) Costs of bringing the operation into compliance with the silica sand motor freight and warehousing facility permit requirements including site monitoring and enforcement costs.
  - 2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.
  - 3) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.
  - 4) Bonds shall be for a minimum of one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.
  - 5) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the resource extraction activities.
  - 6) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.

- H) **Additional Performance Standards for Silica Sand Motor Freight and Warehousing Facilities.** The following performance standards apply to all silica sand motor freight and warehousing facilities located in the City and are supplemental and in addition to the other applicable performance standards contained in this Division and in the zoning code:
- 1) Normal hours of operation. Silica sand motor freight and warehousing facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday, unless specified otherwise in the conditional use permit for the facility.
    - i. Exceptions to the hours of operation must be approved by the City Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
  - 2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire facility.
  - 3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
  - 4) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a resource extraction facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
  - 5) Dust Mitigation Plan. To mitigate public nuisances and public health concerns, the City shall require operators to present a Dust Mitigation Plan for approval by the City.
    - i. Remedies to control dust may include methods such as berming, landscaping, enclosures for equipment, and watering stockpiled materials and all roads within the site.
    - ii. All equipment used for silica sand motor freight and warehousing 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 feet (600') of the facility lot line.

- iii. The City shall require continuous air quality/air particulate monitoring of a silica sand motor freight and warehousing facility. Monitoring equipment shall be in accordance with MPCA or the City best practices standards, whichever are more stringent.
  - 1. The operator shall begin air quality/air particulate and water monitoring at least six (6) months prior to operation to create a baseline of the area.
  - 2. Stationary monitors shall be located at strategic locations along the silica sand motor freight and warehousing facility property lines, within the site, and may also be required to be located at neighboring residences within 600 feet (600') of the facility property lines.
  - 3. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall be submitted to the City annually, and upon request by the City.
- 6) Noise. Maximum noise levels at the facility will be consistent with the standards established by the MPCA. To mitigate public nuisances, the facility shall use Best Management Practices including building berms, enclosing generators and leaving existing trees at the property boundaries to minimize noise impacts.
- 7) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations, and statutes.
- 8) Screening/buffering. Screening barriers shall be subject to the approval of the City.
  - i. To minimize problems of dust and noise and to shield silica sand motor freight and warehousing operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  - ii. A screening barrier may be required between the silica sand motor freight and warehousing facility and any public road.
  - iii. A screening barrier may be required to mitigate visual impacts of the silica sand motor freight and warehousing facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable

waters, and sites identified in the State Historic Preservation Office (SHPO) and Goodhue County cultural databases.

- iv. A buffer yard and screening that complies with “Buffer Yard D” as set forth in Division 62-030 is required for all silica sand motor freight and warehousing facility boundaries that abut residential, parks and open areas, and public assembly land uses.
- 9) Unauthorized storage. Vehicles, equipment, or materials not associated with the silica sand motor freight and warehousing facility or not in operable condition may not be kept or stored at the facility.
- 10) Waste disposal. Any waste generated from the silica sand motor freight and warehousing operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.
- 11) Storm Water Management Plan. The City may require an operator to submit a Storm Water Management Plan to the City for approval.
- 12) General compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the silica sand motor freight and warehousing facility, including but not limited to floodplain management regulations, shoreland management regulations, and zoning ordinance regulations.
- 13) Additional regulations. The City may impose additional regulations and requirements on the silica sand motor freight and warehousing facility to protect the public health, safety, and welfare.
- 14) Transportation Impact Study and Road Impact Agreement. The City shall require the owner/operator of a silica sand processing facility to complete a Transportation Impact Study and may require the owner/operator to enter into Road Impact Agreements as conditions of their permit and registration.
  - i. Transportation Impact Studies. When a proposed or amended conditional use permit is requested, the City shall require a Transportation Impact Study.
  - ii. Road Impact Agreements. When a proposed or amended conditional use permit is requested, the City may require a Road Impact Agreement to alleviate the additional burden on the City’s financial resources associated with the road infrastructure maintenance affected by granting the request.



I) **Bi-Annual and Annual Reporting.**

- 1) During the first two (2) years of operations, the owner of all silica sand motor freight and warehousing facilities in the City shall submit a report twice per year to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1 and July 1-August 1.
- 2) After two (2) years of consecutive operations, the owner of all silica sand motor freight and warehousing facilities in the City shall submit an annual report to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1.
- 3) The bi-annual and annual reports shall include the following information:
  - i. An identification of the owner/operator and the location of the silica sand motor freight and warehousing facilities.
  - ii. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).
  - iii. A written, detailed description of activities and operations planned for the following calendar year of operations.
  - iv. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all air quality monitoring results.
  - v. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

J) **Inspection, Violations, Penalties and Enforcement.**

- 1) Inspection. In addition to the reporting requirements, the City may make inspections of the facility upon reasonable notice to determine the condition of the silica sand motor freight and warehousing site in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.
- 2) Violation a Misdemeanor. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law, unless a more severe

penalty is provided by federal or state law. Each day that a violation is permitted to exist shall constitute a separate offense.

3) Additional violations. The following also constitute violations of the zoning code:

- i. Engaging in silica sand motor freight and warehousing without properly obtaining a conditional use permit as required by the zoning code.
- ii. Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
- iii. Failure to provide any required reports or failure to provide reports upon request by the City.
- iv. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.

4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Division, the City may take appropriate action to enforce this Division, including exercising the performance bonds application, for injunctive relief, action to compel performance, revocation of the conditional use permit, civil fines, and/or other appropriate action before the City Council or in court if the City deems it necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

Section 2. Effective Date: This Ordinance is effective 14 days following the publication of the ordinance in accordance with the City Charter.

Introduced this \_\_\_\_\_ day of September 2012

Adopted this \_\_\_\_\_ day of October 2012

\_\_\_\_\_  
Ralph Rauterkus, Council President

ATTEST:

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Kathy Seymour Johnson, City Clerk

(seal)

Presented to the Mayor at \_\_\_\_\_ pm on this \_\_\_\_\_ day of \_\_\_\_\_  
2012. Approved this \_\_\_\_\_ Day of \_\_\_\_\_ 2012.

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Dennis Egan, Mayor