

February 2, 2021

## Section 2 Ordinance Comparison Summary

The intent of the Ordinance Comparison Summary was to gain an understanding of how a more “local” set of regulations may differ and potentially better address the needs of the township in comparison to those administered by SLC. Per Minnesota State statutes, townships’ regulations can only be more restrictive, not less restrictive, and therefore one would expect township- based regulations to be more defined. In this case the study focused on areas where neighboring townships have adopted more specific regulations associated with the issuance or application of a borrow pit CUP. The existence of more fully defined regulations should serve to assist township zoning and planning members, CUP recipients, and residents to all better understand the rights and obligations associated with borrow pits’ operation. Application of, and adherence to, such requirements provides a level of protection to township residents. It should be noted that for the purpose of the study the committee reviewed ordinances from a number of townships including Duluth Township, Lakewood Township and Canosia Township, however, the Gnesen Ordinance was directly applied within the comparison as it was the most recent and comprehensive.

As a result of the comparison, and further considerations of the differences, regulations were grouped into a number of categories with some material difference emerging between the SLC and township ordinances. Those categories include regulations that represent what is considered to provide better protection of the neighborhoods from both a residential, environmental and land use perspective.

Beyond the specific regulations, the existence of a township ordinance also carries with it the expectation that the process of applying such regulations will be administered by a township appointed planning commission and as such will be able to bring to the process a more representative local perspective. This would direct how regulations are applied, and while the intent is to be as objective as possible, not all regulations or process considerations can truly be defined in a completely objective manner. Being closer to the specifics of the application, be that compatibility, orderly development or desirable pattern of development, would allow those within the township impacted by such decisions to be better represented. In addition, although the value of, or need for, a borrow pit CUP may be viewed similarly between SLC and the township there is likely to be some level of difference as to the tradeoffs associated with granting a borrow pit CUP. This will likely become more the case as the residential development within the township continues to expand and new borrow pit locations are identified that are in close proximity to growing neighborhoods. See attachment [2.1 Population and Home growth](#).

With that in mind, and in conjunction with the comparison text within the Ordinance Comparison Table, attachment [2.2](#). The following differences are listed for consideration of areas the township should consider if the SLC Ordinance sufficiently protects the interests of the Fredenberg Township and its residents or if further regulations imposed by the township, as reflected within regulations in place on the part of other communities, would assist to better protect the township and its residents.

1. Hours of operation, Section 1a lists township requirements or reduced hours of operation on Saturdays and includes more holidays than SLC Ordinance.

2. Noise, air quality and dust control; Sections 6a and 14a list township requirements including: dust control measures as a condition of a CUP which would help to address concerns over air quality; a requirement on the part of the CUP applicant to provide noise levels at property lines; and the need to adhere to all Minnesota Pollution Control Agency noise and air quality standards. All of these would help address the associated negative impact on health concerns of personal property owners that are adjacent to the borrow pit.
3. Safety, Sections 4a and 4b reflect comparable expectations between township and SLC ordinances.
4. Aesthetics appearance, Sections 5a, 12a, and 14a list township requirements associated with shielding or limiting the view of the pit operation from public roads and residents via the type and height of berms or barriers and the associated buffer area vegetation. The SLC Ordinance makes reference to the need for adequate vegetative screening but less specific requirements and no need for berms.
5. Erosion control, Section 8a lists township erosion and run off controls that extend beyond the SLC Ordinance to add the requirement to conform to the standards and specifications of the Soil Conservation Service Field Service Guide or that of the Minnesota Department of Transportation.
6. Water use, Sections 9a and 14a list township requirements that restrict surface or ground water use unless authorized by the Minnesota DNR.
7. Reclamation, Section 10a of township requirement references as a guideline for reclamation the use of a Minnesota DNR handbook for reclaiming sand and gravel pits.
8. Pit inspections, Section 13a establishes an annual township inspections (verses SLC one-time administration review after 5 year) cycle to inspect and report on adherence to requirements as well as more explicit reference to enforcement via conditions that can result in revoking of a permit. Additional considerations relative to inspections, enforcement and reclamation are covered in section 6 of this report.
9. Township Comprehensive Plan – Section 19a of township requirements provides the township zoning officer the authority to apply aspects of the Township Comprehensive Plan. The SLC Ordinance, being administered by the county, uses the county comprehensive plan as the basis for regulating land use. Additional considerations relative to zoning and comprehensive plans are covered in section 3 of this report.
10. Environmental Assessment Worksheet, 20a of township requirements mandates an environmental assessment for all CUP applications where as the SLC Ordinance only requires for those greater than 40 acres.
11. Hearing notice, Both Sections 21a and 21b contain references to notices being provided and conditions under which property owners will be informed.
12. Property value impact, Section 20a lists township requirements that a CUP shall not be approved if it results in a decrease in value of other properties in the area. The SLC Ordinance has no such requirements. Additional considerations relative to property value impact is covered in section 5 of this report.