

Section 6 Inspection, Enforcement, Reclamation

Any effort, whether it be the upfront work done to properly administer the CUP application review process or issuance of a CUP for use by an operator, is ultimately only as good as the effort applied to adhere to, or enforce, the conditions under which it was approved.

In contrast to Option 3 within the ARDC Town of Fredenberg-Community Vision report see attachment [6.1](#), no discussions have been held as to the logic of prohibiting borrow pits, however concerns have been raised as to the ongoing review and enforcement of CUPs for borrow pits that are currently in operation or new borrow pits that may be under consideration.

A quote from Minnesota Association of Townships Chapter 2020 Town Manual, Sixteen Planning & Zoning 16-1-B.

Planning and zoning has two primary purposes: (1) protecting the health, safety, and general welfare of a community, including protecting property values; and (2) providing for the orderly growth and development of communities.

How a community uses planning and zoning to achieve those purposes can vary greatly, as can the opinions regarding the value of zoning itself.

While some view planning and zoning as a necessary part of any community, others see it as an unwarranted intrusion into their private lives and their right to use their property as they see fit. Planning and zoning, if done properly, can yield many beneficial results; however, if done poorly it can create inefficiencies and costs without much benefit in return. Like most things in life, “you get out of it what you put into it.”

To get a better understanding of how SLC has been administering and enforcing Fredenberg Township borrow pits, a data request was sent requesting “all data regarding Extractive Use for the following pits in Fredenberg Township”. SLC provided Information for borrow pits 1 through 15 below which are also mapped on attachment [6.2](#)

1. Older - [Older CUP Documents from SLC](#)
2. Minnesota Power - [MN Power CUP Documents from SLC](#)
3. Blix Property - [Blix CUP Documents from SLC](#)
4. B.E. Nelson – [B.E. Nelson CUP Documents from SLC](#)
5. Pearson South - [Pearson South CUP Documents from SLC](#)
6. Minnesota Power - [MN Power \(32075\) CUP Documents from SLC](#)

7. Minnesota Power - [MN Power \(32077\) CUP Documents from SLC](#)
8. Current Fordson Pit [Fordson CUP Document from SLC](#)
9. Current Clearwater Farms LLC - [Clearwater Farms CUP Documents from SLC](#)
10. Current Lakehead McKeever Pit - [Lakehead McKeever CUP Documents from SLC](#)
11. Current Lakehead Main Pit - [Lakehead Main CUP Documents from SLC](#)
12. Current Dirt Works Specialist- [Dirt Works CUP Documents from SLC](#)
13. Pearson - [Pearson CUP Documents from SLC](#)
14. Fredenberg Pit –no documentation from SLC, but it is indicated on a map from attachment [6.2](#).
15. Lakehead 6464 Fredenberg Lake CUP – Fredenberg Moratorium until April 1, 2021

Upon review of these borrow pits, the most current document found was from 2008. It is an inspection report done for the following borrow pits: 3, 8, 9, 10, 11, 13. Dirt Works (#12) is an active pit but has no documentation of any inspection ever being done. Of the inspections done, there were some borrow pits with compliance concerns. These compliance concerns appear to have not been reviewed and SLC failed to follow their own ordinance as stated below;

- SLC Ordinance [6.22-B-1](#), “Extractive use operations with a valid permit issued by St. Louis County, that **remain in compliance** with the terms and conditions of their permit shall be allowed to continue until the permit has expired, been revoked, or self- terminated.”
- SLC Ordinance [6.1-A-4](#), “Every land use permit issued shall be conditioned upon the proposed development **being in full compliance** with the terms of the specified standards. Failure to comply with the terms of the permit shall result in the Director revoking the permit.”
- SLC Ordinance [8.11-C-1](#), “Upon issuance of a land use permit for a variance, conditional use, performance standard or any other permit, the **Director shall monitor compliance** with the terms of the permit. If the Director determines that a violation has taken place, notification shall be given to the applicant of the nature of the violation and the steps needed to correct it. If the Director determines that corrective steps are either not possible, or that the applicant is unwilling to take such steps, the permit may be revoked.”

There is also no documentation from SLC that there was an investigation done regarding the 2008 inspection compliance concerns.

- SLC Ordinance [62-8.2-A](#), “Investigations: The Director shall use his or her discretion to

investigate violations of this ordinance, notify the owners of violations and direct the property owner to correct violations within a reasonable period of time, and if compliance is not obtained within a reasonable period of time, shall report such violations to the County Attorney.”

During the last extractive use CUP hearing, there was no prior review of other owned CUPs prior to approving the new CUP.

- SLC Ordinance [6.22-B-4](#), “No permits shall be issued to an operator/owner who has not reclaimed a previously approved extractive use or is in violation of the conditions of their permit.” Many individuals can testify that in order to get a building/land use permit, SLC does a thorough job of reviewing the property before approving the building/ land use permit.

It is also important to note that many of these pits listed above have been inactive for many years.

- SLC Ordinance [62-8.11-B](#), “If no application for a land use permit has been applied for within two years of conditional use or variance approval, a permit may be revoked.” From the documents received from SLC regarding all Fredenberg Extractive Use CUPs, no documentation was found stating that any of these pits have been filed as inactive.

Reclamation is a serious problem with borrow pits and SLC does not enforce reclamation.

- SLC Ordinance 62 [6.22-H-1&7E](#), “Reclamation shall occur concurrent with the operation, as well as at the completion, and implementation and completion of all other reclamation actions in accordance with the reclamation plan within six months of the use terminating.

Fredenberg, relative to its neighboring townships has a rather high borrow pit to square mileage ratio. Refer to chart on page 4 of this report. What this starts to point out is the need to get serious about managing the pool of maturing borrow pits and get serious about preparation for reclamation. Once only an afterthought due to lower population densities, perceived more rural location and borrow pits in startup mode or full operation now looks to become a pressing need. Without a closer attention to inspection, enforcement, and reclamation more residents will be negatively impacted, and less land will be re-purposed for the betterment of the entire township.

While the use of the word “enforcement” may be perceived as conveying a sense of lawlessness it is really just the process by which the residents are ensured the protections as defined by the CUP and associated ordinance. Here again the responsibility or effort to administer is not diminished based on whether SLC or the township oversees the CUP process however the attention to this critically important aspect of overall process would likely be better managed by those within the township on behalf of the residents versus by SLC who is not following their own ordinance.

	Fredenber
Population	1417
Housing Units	738
Total square miles	35.9
Square Miles of Land	25.4
Square Miles of Water	10.5
Total Number of pits	15
Pit Density (ratio of square miles of land per pit)	1.7

See Density Map [6.3](#)