

## ORDINANCE NO 2012-1

### Town of Rock Elm

#### **Moratorium on Expansion of Existing and Creation of New Nonmetallic Mining Operations Within the Town of Rock Elm**

##### SECTION 1—TITLE AND PURPOSE

The title of this ordinance is the Town of Rock Elm **Ordinance to Impose a Moratorium on the Expansion of Existing and Creation of New Nonmetallic Mining Operations Within the Town of Rock Elm, Pierce County Pending the Study of Possible Legislative Action.**

The purpose of this moratorium is to allow the Town of Rock Elm, Pierce County adequate time to study the possible impacts that nonmetallic mining operations and processing plants related to nonmetallic mining may have on the health, safety, and welfare of the residents of the Town of Rock Elm, Pierce County including air quality and water quality concerns; potential impact to the infrastructure of the town, property values, and the local economy; to allow the Town and town residents the opportunity to consider enacting zoning or other regulatory ordinances; to determine the advisability of amending the Town Comprehensive Plan; and to review and consider amending or adopting other police powers, licensing ordinances or zoning ordinances so as to effectively regulate nonmetallic mining operations and related processing plants.

##### SECTION 2---AUTHORITY

The town board has the specific authority granted under the village powers of the town board pursuant to Sec. 60.10 (2)(c), 60.22 of Wis. Statutes and pursuant to Sec. 60.23, 60.61, and 60.62 of Wis. Statutes.

##### SECTION 3----ADOPTION

This ordinance adopted by a majority vote of the town board on roll call vote with a quorum present and voting and proper notice having been given, provides for the imposition of a moratorium on the expansion of existing or creation of new nonmetallic mining operations within the Town of Rock Elm, Pierce County.

##### SECTION 4----DEFINITIONS

- (1) "Nonmetallic minerals" means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- (2) "Nonmetallic mining" means any of the following:
  - a. 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, grading, and dredging of such materials.
  - b. Manufacturing or processing operation that may involve the use of equipment for the crushing, screening, separation, or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site or with minerals transferred from off-site.

- c. Manufacturing processes aimed at producing nonmetallic products for sale or use by the operator.
  - d. Stockpiling of nonmetallic products for sale or use of off-site and stockpiling of waste materials.
  - e. Transport of extracted nonmetallic materials, finished products or waste materials to or from the extraction site.
  - f. Disposal of waste materials as defined in this ordinance.
  - g. Reclamation of extraction sites.
- (3) "Waste material" means the non-marketable by-product that results directly from or is displaced by extraction or that is by-product of a manufacturing process that is schedule for disposal at the extraction site of a nonmetallic mine site or processing operation. Or some other site as part of a reclamation plan.
- (4) A "mine site" or "site" means land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the land owner or any agent of the land owner, including all land on which is or will be located any structures, equipment, storage facilities, washing or screening facilities, private roads or haulage ways associated with nonmetallic mining operations; and all contiguous lands to the nonmetallic operation under common ownership or control of the owner or his/her agent.

#### SECTION 5---MORATORIUM IMPOSED

The Town Board of the Town of Rock Elm, Pierce County hereby prohibits the expansion of any existing nonmetallic mining operation or related processing plant beyond its physical dimensions as of the date of the adoption of this Ordinance, and further prohibits the creation of any new nonmetallic mining operation or related processing plant in the Town during the pendency of this moratorium. For purposes of this Ordinance, the term "physical dimensions" shall refer to the external footprint of the existing mine site, quarry, pit, or other excavation area within which nonmetallic mining or processing operations are occurring as of the date of this Ordinance. Further, there is hereby established a temporary stay on the acceptance, review, and approval by Town officials, staff, consultants of any applications of any permits for nonmetallic mining operations after the effective date of this Ordinance until the effective period of the moratorium expires.

#### SECTION 6---DURATION OF MORATORIUM

This Ordinance shall be effective for the period of not longer than nine (9) months.

#### SECTION 7---ACTION AND STUDY DURING MORATORIUM

During the moratorium imposed by this ordinance the Town of Rock Elm Town Planning Commission shall study and analyze the impact of nonmetallic mining and shall make its final recommendations to the Town Board not later than seven (7) months from the date of adoption of this Ordinance.

The Town Planning Commission shall be charged with research the issues associated with nonmetallic mining operations and making recommendations to the Town Board regarding regulatory and police powers necessary to responsibly manage new, existing or proposed nonmetallic mining operations. Issues under consideration by the Town Planning Commission shall include but are not limited to possible



regulatory structures including zoning, licensing, and blasting ordinances, and developers agreements; health concerns; environmental impacts; impacts on town infrastructure; impacts on the local economy and financial considerations for the town. The Town Planning Commission shall make reports to the Town Board as directed by the Town Board.

#### SECTION 8---SEVERABILITY CLAUSE

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

#### SECTION 9---PENALTY PROVISION

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture of not less than \$1,000.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

#### SECTION 10---EFFECTIVE DATE

This ordinance shall be effective upon passage and posting as required by law. The town clerk shall properly publish this ordinance as required under Sec. 60.80 (2) of Wis. Statutes as a Class I Notice in a newspaper.

Adopted this 13<sup>th</sup> day of February, 2012.

TOWN OF ROCK ELM

John Eager  
By: John Eager, Town Chair

Attest: Tammy Waltz  
By: Tammy Waltz, Town Clerk

I, the undersigned Town Clerk, hereby certify the foregoing Ordinance was posted in the following three public places in the Town of Rock Elm on Feb 17, 2012.

Town of Rock Elm Hall  
Waveley Bar  
Exile Bar

Tammy Waltz  
Tammy Waltz, Clerk