

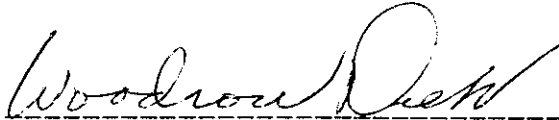
RESOLUTION NO. 92-180

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED AS THE MINING ORDINANCE, AN AMENDMENT TO THE PLANNING AND ZONING ORDINANCE (87-A23).

BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA:

THAT certain document (attached hereto as Exhibit A), entitled "Mining Ordinance", an amendment to the Planning and Zoning Ordinance, three copies of which are on file in the office of the Town Clerk, is hereby declared to be a public record, pursuant to ARS 9-802, and said copies are ordered to remain on file with the Town Clerk.

PASSED, APPROVED AND ADOPTED THIS 6th day of May, 1992, by the affirmative vote of a majority of the members of the Common Council of the Town of Camp Verde, Yavapai County, Arizona.



Woodrow Diehl, Mayor

ATTEST:



Dane L. Bullard, Town Clerk

APPROVED AS TO FORM:



Ronald C. Ramsey, Town Attorney

attachment: Exhibit A, Mining Ordinance

## MINING ORDINANCE

### 1.0 GENERAL PROVISIONS

- 1.1 Authority: The authority of the Town of Camp Verde to establish the regulations in this ordinance is granted by Arizona State Statutes 9-462.01, 9-240.B.5(c) and the Planning and Zoning Code of the Town of Camp Verde (87-A23), Sections 102, and 108.A, J.
- 1.2 Purpose: It is the intent of the Town of Camp Verde to establish regulations on uses that mine, quarry or extract resources which are taken from the natural environment. These regulations are intended to aid in managing the Town's resources by complimenting the federal, state, county and local regulations.
- 1.3 Applicability and Exemptions: The regulations contained in this ordinance apply to all business operations which mine, quarry or extract natural resources as defined herein. This ordinance shall not be construed to prevent, restrict or otherwise regulate the use or occupation of land or improvements for railroad, grazing or general agricultural purposes. Mining, quarrying or processing of natural resources for personal use, as defined herein, are exempt from the requirements of this ordinance. This ordinance supersedes sections 104 and 105 of the Planning and Zoning Ordinance as far as the activities and uses described herein.

Any existing legal non-conforming operations as of the date of adoption of this ordinance are considered a "grandfathered" right of continued use unless one or a combination of the following occur:

1. Operations on the site were illegally installed on the property as defined herein as a non-conforming use;
2. The mining, quarrying or extracting operations are discontinued for a period of six continuous months or more unless written permission is granted by the Director;
3. The land area used for the mining, stockpiling and/or processing operations is increased, by purchase or annexation, to encompass more than the original land area used for the mining operation, this ordinance is not to be construed to require a permit for operations where mining is moving from one location to another within the boundaries of the property lines where an existing non-conforming mining operation is located;
4. The introduction of different processing uses which are related to the mining, quarrying or processing operation such as crushing, batching or other related processing of mined materials; this does not apply to new methods which are similar or the same as existing processing operations or any uses that are listed in the grandfathered use permits; and/or
5. The operation expands to mine or quarry a new resource not previously extracted from the site, this does not include resources which are mined as part of the existing operation but are not necessarily processed or sold.

In no case is this exemption to be construed to allow any existing non-conforming use to operate in a fashion so as to cause a public nuisance pursuant to Section 108-A of the Planning and Zoning Ordinance. Where the processing of natural resources is conducted as a sole use, not combining with a mining or quarry operation, such uses are restricted to appropriate zoning districts.

2.0 DEFINITIONS: For the purposes of administering this ordinance, the following definitions are provided:

Agent: Any person, business, corporation or other entity proposing an application on behalf of the property owner. Agent will provide a copy of the agreement that the requested use is permissible from the owner.

Agricultural Purpose: Grazing, growing of crops or other bona fide agricultural uses of property as defined by the State of Arizona.

Applicant: Any real property owner or agent applying for a permit according to this ordinance.

Commission: The Planning and Zoning Commission of the Town of Camp Verde.

Council: The Mayor and Common Council of the Town of Camp Verde.

Department: The Department of Planning and Zoning of the Town of Camp Verde.

Director: Director of the Planning and Zoning Department of the Town of Camp Verde.

Environmental Impact: A change, modification or effect which positively or negatively influences the condition, volume, number, nature or quality of air, water, earth, plant and animal life, natural resources, noise, public services, transportation and circulation, land use, aesthetics, cultural, archeological and historical resources, the provision of public utilities, human health and recreation.

Established Residential Area: An area which is zoned for residential use and is subdivided or contains a residential structure. Such areas are delineated by the exterior property line of the subdivided lot or residential site.

Existing Illegal Non-Conforming Use: Any use which is conducted without the required permits or is not a legal non-conforming use.

Extract: Removing, cutting, gathering, digging, scraping, pumping, or other similar action resulting in the separation of a natural resource from its original environment as part of a mining, quarrying or processing operation.

Legal, Non-Conforming Use: Any use which legally exists with all permits required at the time the use was installed.

Mining or Quarrying Operation: Any commercial or industrial operations involving extraction, removal, processing, quarrying or transportation of natural resources, and related products and the storage, stockpiling, distribution and sale thereof from the site where such resources were derived. Such operations include the extraction, removal and the delivery of the product off-site, of natural resources for monetary gain, regardless of the size of the site or the volume of extraction.

Natural Resource: Sand and gravel, rock or any mineral, gas, or petroleum product, geo-thermal energy, earth or clay which is naturally found on a property.

Permanent Mining Operation: Any mining operation which is conducted on a site for a period of six (6) continuous months or more.

Permittee: Any person, business, company, corporation or entity who is granted approval of a Use Permit according to this ordinance.

Personal Use: On site excavation and movement, on or off site, of natural resources to improve a site for the purposes of agriculture or development. Materials under this definition will be limited to incidental sales as determined by the Director. In no case shall this definition be construed to require a permit under this ordinance if excavation activities are specifically related to agriculture or development of the property and not for monetary gain from the sale of natural resources.

Planning and Zoning Ordinance: Ordinance No. 87-A23 as adopted and amended from time to time, by the Town of Camp Verde that regulates land use and development within the Town.

Processing: The act of preparing, mixing, batching, washing, crushing or otherwise modifying a natural resource for the purpose of creating a saleable commodity or product.

Temporary Mining Operation: A short term use, less than six months in one time period, where natural resources are mined from a site specifically for monetary gain. Such operations are subject to the requirements listed in Section 4 of this ordinance.

Town: Town of Camp Verde, Yavapai County, Arizona.

### 3.0 PERMITTING REQUIREMENTS AND PROCEDURES

3.1 Permit Required: The establishment or expansion of mining or quarrying operations may occur in any zoning district if a conditional use permit is approved by the Council. The set-back requirements of mining or quarrying operations will be a maximum of 300 feet from the property line; however as individual cases may warrant, the set-back requirement will be regulated by the Council on a case by case basis determined by, but not limited to, topography and adjacent land uses.

For uses applicable to this ordinance, a complete Use Permit application must be filed with the Department. All Use Permits shall be processed in accordance with this ordinance and sections 108 J and 113 of the Planning and Zoning Ordinance. Consent petitions with at least 51% of the owners by number and area of other properties within 300 feet of the proposed change are not required, however, owners of property with any part of which is within 300 feet of the proposed change must be notified of all Public Hearings concerning the Use Permit. The Director may elect to eliminate Public Hearings, provided the applicant obtains consent petitions with at least 51% of the owners by number and area of properties located within a 300 foot radius as measured from the edge of all property lines of the property on which the change will occur. A Public Hearing will be required if there is any objection from a property owner of an occupied residence within 500 feet of the proposed project.

For temporary mining or quarrying operations, as defined herein, a Temporary Use Permit shall be reviewed. Permits must comply with criteria in Section 3.2 and are processed according to Section 3.5 of this ordinance. The Council reserves the right to apply reasonable and necessary conditions on permanent and temporary mining operations as they deem in the best interest of the public.

3.2 Procedure For Obtaining Permits: Any party who wishes to install or expand a mining, quarrying or processing operation shall complete a Use Permit or Temporary Use Permit application obtained from the Department. This application will be filed with the appropriate filing fee as established by Council Resolution.

When the application is completed and submitted to the Department, the Director shall place the application on the next available Commission agenda. The procedures in Section 3.5 of this ordinance apply for temporary permits. Appropriate projects shall be noticed, posted and advertised for public hearing according to State Law and the requirements of the Planning and Zoning Ordinance.

Prior to filing an application, the applicant will meet with the Director or other duly appointed representative of the Town, for the purpose of discussing the intended use. The Department will also prepare a list of requested data based upon the discussion of the intended use, any preliminary project data provided by the applicant and federal, state and local requirements. This list will assist the applicant in preparing the required application, but in no means should be construed as a complete listing of all requirements from all agencies. It is the applicant's responsibility to acquire all necessary permits and licenses. When the application is completed to the satisfaction of the Director, it will be submitted, if required, to the Commission for review. A recommendation from the Commission will then be submitted to the Council with a request for Council action. Provided a permit is issued by the Town to an applicant, such permit is not transferable without written consent of the Director or approved by Council. The report may include but is not limited to the following:

Based on Local Requirements

1. Completed Application - Use Permit/Temporary Use Permit.
2. Proposed Location - Impacts to existing residentially developed properties.
3. Noise - Impacts related to noise created by truck traffic, engine warm-up and operation of mining and processing equipment.
4. Dust - Impacts on surrounding land uses.
5. Screening - Screening and buffering of operation from properties zoned residential.
6. Operational Controls - related to setbacks and environmental impacts.
7. Lighting - Planning and Zoning Ordinance.
8. Parking - Planning and Zoning Ordinance.
9. Post Mining Plan - A proposed use of the area following the mining project.
10. Noise and Vibration Control Plan - Planning and Zoning Ordinance.
11. Other Environmental Impacts- Impacts identified by the applicant or staff.
12. Other information as determined by the Council or Director.

Based on Federal, State, County Requirements and Local Input

1. Transportation - Impacts related to truck traffic routes and associated traffic hazards. ADOT/Local
2. Excavation and Reclamation - Quality and effectiveness of site restoration plan and consideration of site reuse and development timing. FEMA/Local
3. Hydrology Plan - County, Army Corps of Engineers
4. Sanitation Permit - County
5. EPA Permits - Federal/State
6. DEQ/ADEQ Permits - Federal/State
7. Erosion Plan - FEMA/Army Corps of Engineers/County
8. Archeological Permit - State
9. Others, as determined by Federal, State, County or Local requirements.

**3.3 Application Requirements for Permanent Mining Operations:**

An application filed for permanent mining, quarrying and processing operations as defined in this ordinance, shall include the following information:

1. A completed Use Permit application form.
2. An 8-1/2" x 11" zerox (transparency) reduction of the site plan.
3. A site excavation and reclamation plan containing all required data contained in section 3.4 of this ordinance.
4. A complete list of all required permits from county, state and federal agencies who regulate the proposed use. This list shall include a description of the required permit, the Agency which is responsible for issuing the permit, including contact person names, phone numbers and addresses, and an anticipated time frame for obtaining each required permit.

**3.4 Excavation and Reclamation Plan:** As required by Section 3.3, of this ordinance, all Use Permit applications for mining operations shall include an excavation and reclamation plan. If the proposed operation is located in a flood plain area a topographic survey shall be provided in accordance with Yavapai County Flood Control District and/or Army Corps of Engineers requirements. The Excavation and Reclamation Plan shall be reviewed in conjunction with the information gathered by staff. For the purposes of ensuring that the site is reclaimed for reuse and the site is mined in an expeditious manner, the applicant shall provide the following:

1. The general location of resources to be mined, overlaid on the topographic survey of the site, if provided.
2. The method of grading and restoring vegetation.
3. The location and containment methods for stockpiling of mined materials, including dust and erosion control.
4. A description of the mining method.
5. An estimate of the costs associated with the restoration of the site.
6. For preliminary and secondary review application, the applicant will provide the Department with sufficient copies of all required documents.

**3.5 Permit Requirements for Temporary Mining Operations:** Certain temporary mining operations, as defined herein, may not be required the same permitting procedures as permanent uses. Only one temporary permit per site may be issued. Successive permits or occasional use of temporary permits are not allowed and such operations shall be deemed permanent mining operations subject to the permitting requirements provided in this ordinance.

For temporary mining operations, such as major grading operations where excavated fill is to be sold or other similar types of operations, a permit may be reviewed and approved by the Council without advertising a public hearing, when these operations do not exceed a period of 30 days. If such operations are to exceed a 30 day time period, but are less than six (6) months in duration, the Temporary Use Permit shall be reviewed by the Commission and a recommendation forwarded to the Council. Upon filing an application for a temporary mining operation, the operator shall provide the following information:

1. The site plan and permit requirements for permanent mining operations stated in Section 3.3 items 2, 3 and 4 of this ordinance.
2. The excavation and restoration information required in Section 3.4, items 2, 3, 4 & 5 of this ordinance.
3. Other information, as requested by Council.

4.0 GENERAL REGULATIONS: The general regulations contained in this ordinance shall apply to all mining operations and permits.

4.1 Site Development and Operational Regulations: All mining, quarrying and processing operations shall conform to all applicable plans and documentation approved as presented or revised in the Use Permit or Temporary Use Permit application. In addition to the conditions applied on the permit, all operations shall meet the following operational regulations:

1. Dust Control: All private haul roads connecting internal operations and roads connecting to paved public streets and/or easements shall be kept wetted, treated with a dust palliative or hard-surfaced and maintained so as to control dust while in use.
2. Setbacks: The set-back requirements of mining or quarrying operations will be a maximum of 300 feet from the property line; however as individual cases may warrant, the set-back requirement will be regulated by the Council on a case by case basis determined by, but not limited to, topography and adjacent land uses.

4.2 Implementation of Use Permit: If the Council approves the permit, the applicant shall provide the following prior to the issuance of the use permit:

1. Written proof and verification of approval of all required permits from county, state or federal agencies.
2. Written verification of compliance with all conditions of approval placed on the permit as applicable.
3. The applicant shall provide appropriate financial assurance equal to the amount and method approved by the Town for restoration of the site. The Council or Director will make a determination based on the excavation and reclamation plan and using one or more of the following options:
  - A. Allowing the applicant to provide property as security.
  - B. Allowing a percentage of the monetary gain to be placed in trust as security.
  - C. Other approved methods of assurance.

5.0 ADMINISTRATION

5.1 Subsequent Review and Expiration of Permits: All Use Permits issued pursuant to this ordinance are subject to periodic review and expiration as determined by the Town Council.

5.2 Revocation of Use Permit: Violation of any applicable federal, state or local regulation is sufficient grounds for action by the Council which may lead to revocation of the Use Permit.

5.3 Appeals: If the applicant or affected property owner disagrees with the decision of the Director to issue or deny a temporary permit or the requirements for permit processing related to a permanent or temporary operation, such person(s) may file a written appeal with the Director within 10 days of the Director's decision. Such appeal shall be referred to the Board of Adjustments pursuant to Section 112 of the Planning and Zoning Ordinance. Further appeals are possible through Superior Court.

5.4: Permit Status: Issuance of a permit is not an approval by the Town of any use or activity that is prohibited by any other governmental agency or private covenant.

6.0 SEVERABILITY: If for any reason a court of law determines that any portion of this ordinance is invalid, such portion shall be deemed severable and does not impact the validity of the remaining portions herein.

6.1 Repeal of Conflicting Ordinance: All ordinances or portions of ordinances in conflict with this Ordinance, or inconsistent with the regulations of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

6.2 Penalty: Any person who fails to comply with any provision of this ordinance, or uses property in violation of any provision of the ordinance or a permit issued herein, shall be guilty of a petty offense for the first offense, and a misdemeanor for a second or subsequent offense as to the same property or activity, with each day the property or activity is not in compliance constituting a separate offense. "Person" includes the property owner, occupant, agent, or any person having control over the use of the property. Enforcement of this ordinance may also be pursuant to Council action under 9-462.05, as amended."