

SECOND AMENDMENT TO ORDINANCE NO. 181

ORDINANCE ESTABLISHING AN EIGHTEEN MONTH MORATORIUM ON NON-METALLIC MINING FOR FRAC SAND WITHIN THE JURISDICTIONAL LIMITS OF PEPIN COUNTY FOR THE PURPOSES OF DEVELOPING/UPDATING/AMENDING LAND USE PLANS AND TO EVALUATE REGULATORY CONTROLS TO PREVENT INCOMPATIBLE LAND USES WITHIN THE COUNTY

Pepin County, Wisconsin

The Pepin County Board of Supervisors does ordain as follows:

1. **Purpose.** This temporary ordinance is enacted to promote the public health, safety and general welfare of the residents of Pepin County. It is hereby recognized by this body that many of the towns and villages in Pepin County have expressed concern that unplanned and unregulated frac sand mining operations may cause conflicts between adjacent land uses, devalue property, degrade roads, threaten air and water quality and generally present conditions which may be harmful to the citizens and environment of the County.

The Pepin County Board of Supervisors hereby directs the Pepin County Land Use Committee and asks the Towns and Villages in the County to join in a cooperative effort to study and define parameters in their respective land use plans within which frac sand mining can occur if deemed appropriate, and to establish permitting procedures and standards for evaluating frac sand mining conditional use permit applications. The Pepin County Board of Supervisors recognizes that adequate resources must be found to permit Towns and Villages to participate in this cooperative effort. This cooperative effort shall be completed within the eighteen month time period of this moratorium.

2. **Authority.** This ordinance is enacted pursuant to section 59.03 and 59.69, Wisconsin Statutes.
3. **Applicability.** This ordinance shall apply to the individual Towns and Villages within Pepin County upon its adoption by said Towns and/or Villages.
4. **Duration.** This ordinance shall be effective for a period of eighteen months from the date of its original enactment (December 29, 2011).
5. **Scope of Regulation.** While this ordinance is in effect:
 - A. No new non-metallic frac sand mining operations shall be established nor issued any reclamation permit under Chapter 24 of the Pepin County Code, 295.13(1) Wis. Stat. or NR 135 Wis. Administrative Code
 - B. No expansion of any existing non-metallic frac sand mining operation in the County beyond its present physical dimensions or external footprint (to be defined as that area, land and materials, under which they currently have a permit to operate) shall be permitted by the County, or any of its committees.

C. No expansion into frac sand mining by any existing non-metallic sand or gravel mining operation shall occur or be allowed by the County; nor shall any of the committees of the Pepin County Board of Supervisors grant any conditional use permit, reclamation permit, any exemption or any variance for frac sand mining if it would be contrary to the purposes of this Ordinance.

D. Definitions. While this ordinance is in effect, no “frac sand mining” and “frac sand-related operations”, as defined below, shall be established or located in the County:

(1) “Frac Sand”. “Frac Sand” is hydraulic fracture grade silica sand used in the exploration, drilling, production and recovery of oil and gas.

(2) The terms “frac sand mining” and “frac sand-related operations”, as used in this Ordinance, mean all of the following in subsections A. to C. below:

A. Operations or activities at a nonmetallic mining site for the extraction from the earth, at either an open pit mine site or by tunneling into an underground mine site, mineral aggregates or nonmetallic minerals for sale or use by the mine operator as industrial silica sand to be processed and used as fracture grade frac sand.

B. Manufacturing processes carried out either at a mining site or at other non-mining off-site locations, related to the preparation or processing of the industrial silica sand (mineral aggregates or nonmetallic minerals) obtained from the mining site into frac sand, including but not limited to stockpiling, blending, washing, blasting, grading, crushing, screening, scalping and dewatering of said industrial silica sand.

C. Transport of the industrial silica sand or the processed frac sand to and from any site, and any waste materials from the extraction or processing sites.

6. **Penalties.** Any person, corporation or other entity that violates the provisions of this ordinance shall be subject to civil forfeitures and injunctions as provided by sec. 25.04, Pepin County Code of Ordinances.

7. **Severability.** If any portion of this ordinance is found invalid by a court, that finding shall not affect the applicability or any remaining portions of the ordinance which can be applied without reference to the portion of this ordinance found invalid.

8. **Effective Date.** This ordinance shall become effective upon its enactment by the Pepin County Board of Supervisors and publication.

Enacted by the Pepin County Board of Supervisors this 19th day of December, 2012.

Date published:

ORDINANCE COMMITTEE:

Effective Upon Publication

James K. Kraft, Chairman

Attest: _____
Marcia R. Bauer
Pepin County Clerk

Bill Mavity, Vice-Chairman

Norman (Mike) Murray

Bill Ingram