

**STATE OF WISCONSIN  
TOWN OF STOCKHOLM**

Pepin County, Wisconsin

**ARTICLE 1A:  
FRAC SAND OPERATIONS**

**INTRODUCTION:** Article 1A of the General Zoning Ordinance, "Frac Sand Operations," is intended to be consistent with the provisions and standards described in Article 1, the General Zoning Ordinance. It incorporates by reference all of the permitted uses of Article 1. Article 1A supplements the conditional uses of Article 1 and also permits the establishment of two frac sand operations in the Town, subject to certain conditions and standards as described below. Because the location of any frac sand operation granted a conditional use permit cannot be anticipated, Article 1A creates a "floating zone" for frac sand operations. If a frac sand operation is approved by the Town Board, the zoning map of the General Zoning Ordinance will be amended to show its location. This approach is not "spot zoning" because the standards and land use planning principles that apply to any frac sand operation approved by the Board are intended to serve the public interest.

**SECTION 1. Findings, Purpose and Authority**

**Subd. 1. Findings.** "Frac Sand" is hydraulic fracture grade industrial silica sand used in the production and recovery of oil and gas. Unlike other nonmetallic mining operations, such as those involving construction grade stone and gravel, the mining, crushing, storage, processing and transportation of frac sand ("frac sand operations") in the Town of Stockholm ("Town") can adversely affect the environment, health, safety and general welfare of Town residents, property owners, and members of the general public who come to the Town. Frac sand operations can involve hundreds of trucks each day transporting industrial silica sand and frac sand to and from mining sites, off-site processing facilities, and rail and barge loading facilities. Frac sand operations can also have adverse effects on the use and enjoyment of the many resources of the Town, including its groundwater, surface water, landscape, natural beauty, public roads and non-mining businesses, including farming and tourism, which exist in the Town. The Town's primary economic bases are farming and tourism. Tourists will not come to the Town to visit, shop, dine and play if they must compete for the use of roads with heavy frac sand truck traffic. The loss of tourism coupled with a decrease in property values in the Town will reduce the Town's and Pepin County's overall tax base and sales tax revenue.

High volumes of truck traffic from frac sand operations can present safety issues and concern for the proper and timely maintenance of County and Town roads. Without Town regulation of frac sand operations, serious and irreparable harms to the health, safety and general welfare of the Town and its citizens, its environment, air and water quality and its economy are substantially certain to occur.



The bases for these findings include numerous relevant economic and health-related studies of the potentially harmful effects of frac sand operations.

**Subd. 2. Purpose.** The purposes of this Article are to protect the public health, safety and general welfare by preserving and protecting the Town's natural beauty, farmland, and natural resources; maintaining a vibrant, rural farm-oriented community; encouraging and supporting a viable economic climate; and insuring that any conditional uses granted for frac sand operations are appropriate in design, character and appearance with the intended and existing character of development in the vicinity of the proposed frac sand operation. These purposes will be achieved through Sections in this Article that do the following:

- a. Describe areas in the Town where certain frac sand operations are prohibited, such as set forth in the County's Great River Road Preservation Zoning Ordinance, and provide for the creation of "floating zones" where frac sand mining is appropriate under a conditional use permit that minimizes conflicts with other land uses.
- b. Establish general and minimum operating standards that prevent or minimize adverse environmental, economic and aesthetic impacts on properties in the Town as a whole.
- c. Establish conditional use requirements to regulate frac sand mining in the Town in coordination with existing County zoning, including Chapter 28, the Great River Road Preservation Zoning Ordinance, and Chapter 19, the Mississippi River Bluffland Zoning Code

**Subd. 3. Authority.** This Article is adopted pursuant to the village and police powers granted to the Town under Article XI, Section 3(1) of the Wisconsin State Constitution, Wis. Stats. §§ 60.10, 60.22, 61.34, and 66.0415, as amended, other authority provided to Towns under state statutes. Any amendment, repeal or recreation of the statutes referenced in this Article made after the effective date of this ordinance is incorporated by reference on the effective date of the amendment, repeal or recreation.

**Subd. 4. Intent.** Article 1A provides the special conditions and standards under which a conditional use permit for frac sand operations may be obtained. This article supplements the general provisions and standards described in Article 1, the General Zoning Ordinance.

## **SECTION 2. Interpretation, Application and Severability**

**Subd. 1. Interpretation.** The provisions of this Article are minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted to the Town by Wisconsin Statutes.

**Subd. 2. Application.** The provisions of this Article shall apply to all nonmetallic frac sand operations proposed for any location or site in the Town, including but not limited to the mining, extraction, storing, processing and transport of industrial silica sand and/or fracture grade frac sand intended for use in the exploration and drilling for oil and gas products.

The zoning provisions of the County's Great River Road Preservation Zoning Ordinance relevant to and in effect for areas within the Town have been officially approved by the Town and are hereby incorporated by reference as part of this Article.

**Subd. 3. Severability.** If any provision of this ordinance or its application to any person or circumstance is adjudged invalid by a court of competent jurisdiction, including an appellate court, such judgment shall 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 3. Definitions.**

**Subd. 1. "Adjoining Landowner"** means any property owner with land within one mile of the proposed frac sand operation, including those along or adjacent to any frac sand truck haul route, whether or not there is a residence or structure on the property.

**Subd. 2. "Floating Zone."** A floating zone is created when the Town Board approves a conditional use permit for a frac sand operation under the provisions of Article 1 and Article 1A. Unlike the designated zoning district in Article 1 (agricultural/residential), a floating zone for a frac sand operation cannot be designated until a conditional use permit is granted in a location consistent with the purposes of the Town's zoning ordinances.

**Subd. 3. "Frac Sand."** "Frac Sand" is hydraulic fracture grade silica sand used in the exploration, drilling, production and recovery of oil and gas.

**Subd. 4.** The term "**frac sand operations**," as used herein, means all of the following:

- a. Operations at a nonmetallic mining site for the extraction from the earth of 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 industrial silica sand (mineral aggregates or nonmetallic minerals) obtained from mining site into frac sand, including but not limited to storage, 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 of any waste materials from the extraction or processing sites.

The term "**frac sand operations**," as used in this Article, does not apply to the extraction or mining from the earth of nonmetallic mineral products used in construction, such as stone, gravel



or other aggregates, or their storage, processing or transportation when the products are not intended to be sold or used as frac sand.

**Subd. 5. "Landowner"** means the person or persons who have title to land in fee simple or who hold a land contract for the land.

**Subd. 6. "Mine site" or "site"** means land from or on which industrial silica sand will be extracted, processed, stored or transported for sale or use as fracture grade frac sand, including all land on which are or will be located any structures, equipment, storage facilities, stockpiles, washing or screening or drying facilities, private roads or haulage routes associated with frac sand mining or frac sand-related operations regardless of whether the materials come from on-site or off-site; and all contiguous lands to the frac sand operations under common ownership, control or possession of the owner or operator.

**Subd. 7. "Operator"** means any person or entity who is engaged in, or who has applied for and been granted a conditional use permit to engage in, frac sand mining, or a frac sand-related operation, whether individually, jointly or through subsidiaries, agents, employees, contractors or sub-contractors.

**Subd. 8. "County"** means Pepin County, Wisconsin.

**Subd. 9. "Town"** means the Town of Stockholm, Pepin County, Wisconsin.

**Subd. 10. "Town Board"** means the Town Board of the Town of Stockholm.

**Subd. 11. "Waste material"** means non-marketable by-products of frac sand operations displaced by extraction, or that are by-products of a manufacturing process, that are scheduled for disposal at the extraction site or some other site as part of a reclamation plan.

#### **SECTION 4. General Standards Required for All Frac Sand Operations, and Prohibited Activities**

**Subd. 1. Size.** No frac sand operations will be permitted for a site larger than 20 acres at any location in the Town. Where underground tunneling is employed to extract industrial silica sand intended for sale or use as frac sand, the below ground extraction shall not extend beyond the 20 acre subsurface property boundaries of any such site.

**Subd. 2. Number of Sites.** No more than two (2) frac sand operations will be permitted in the Town.

#### **Prohibited Activities**

**Subd. 3.** No washing or processing facilities for industrial silica sand intended for sale or use as frac sand, and no rail or barge loading facilities will be permitted in the Town.

**Subd. 4.** No frac sand operations will be permitted closer than 1500 feet to any existing residence in the Town.

**Subd. 5.** No sand piles of frac sand or industrial silica sand intended for sale or use as frac sand will be permitted in the Town higher than 9 feet, or closer than 500 feet to public roads.

**Subd. 6.** No frac sand operator will be permitted to haul industrial silica sand intended for use as frac sand, processed frac sand, or any waste materials from the extraction or processing sites on County and Town roads in the Town in excess of 25 loaded trucks per day.

**Subd. 7.** Because of its adverse effect on tourism businesses in the Village of Stockholm and their property values, no truck hauling of industrial silica sand intended for use as frac sand, processed frac sand, or any waste materials from any frac sand-related mining or processing sites will be permitted on County Road J through Village of Stockholm or on County Road JJ through the Town. This regulation regarding County Roads is adopted by reference in the County's Great River Road Preservation Zoning Ordinance.

**Subd. 8.** No truck hauling of industrial silica sand intended for use as frac sand, processed frac sand, or any waste materials from any mining or processing sites will be permitted on Town roads or County roads in the Town without the frac sand operator first obtaining Town or County Highway Upgrade and Maintenance Agreements covering the proposed haul routes.

**Subd. 9. No Waivers or Exceptions.** There will be no waivers or exceptions granted from the requirements of the General Standards described in this Section.

## **SECTION 5. Conditional Use Permits.**

**Subd. 1.** Owners and operators of any frac sand operation commencing on or after the adoption of this Article shall obtain a conditional use permit from the Town which shall be processed in accordance with this Article and the additional procedures and requirements of this Article. No person shall operate a frac sand operation within the scope of this Article in the Town of Stockholm without first obtaining this conditional use permit from the Town Board. No frac sand operation is allowed in the Town except as provided in this Article. No person or entity shall start work on any frac sand operation without first obtaining a conditional use permit from the Town.

### **Subd. 2. Conditional Use Application Procedures.**

- a. **Application Requirements.** All applicants for a conditional use permit shall submit the information requested on Appendix A. This includes ownership information, site information and maps, operation plan, information demonstrating compliance with minimum standards of operation as described in Section 6, below, and any requested exemptions.
- b. **Application Fee.** The applicant for a conditional use permit shall submit five (5) copies of the application together with the application fee of \$25,000 to the Town Clerk. The fee will be applied by the Town Board to its expenses incurred in the administration, investigation, review and evaluation of the



application including, but not limited to, the costs of professional consultants, engineers, environmental specialists and attorneys as deemed necessary by the Town Board. The Town Clerk will keep an account of the expenses paid from the application fee. Any funds remaining after the Town Board's final decision on the conditional use permit shall be refunded to the applicant.

- c. **Town Review of Application.** Upon receipt of a conditional use permit application, the Town Board may, at its discretion, refer the application to its technical evaluation panel and/or its plan commission for review and comment. The Town Board may undertake further investigation of the conditional use permit application and the applicant, and meet with the applicant and/or its representatives.
- d. **Public Hearing.** A public hearing regarding the conditional use permit application will be held after the required notice. Members of the public and the applicant will be permitted to testify. Following the public hearing, the Town Board will issue a written decision approving or denying the conditional use permit, with or without additional conditions or modifications.
- e. **The Board's Determination.** The Town Board's written decision will state the reasons for its determination. The determination shall be based upon the Town Board's consideration as to whether the proposed frac sand operation described in the application is in the best interests of the Town and its citizens with regard to the health, safety and general welfare of its citizens; whether it meets the general and minimum standards set forth in this article; and whether, in the Town Board's judgment, the applicant has the experience, ability, financial stability and resources, and the commitment to comply with the provisions of this ordinance.
- f. **Request for Review of the Board's Determination.** A person aggrieved by the Board's determination may request a review of the determination. This request must be made in writing within 30 days of the Board's notice to the person of its decision, and must state the ground or grounds upon which the person contends the decision should be modified or reversed.
- g. **Review of the Determination.** **Under the authority set forth in Wis. Stat. section 68.16, the Town Board hereby elects not to be governed by any requirement of Wis. Stat. chapter 68 that requires the Board to appoint a Board of Appeals, Board of Adjustment or any other administrative body to conduct an administrative appeal of the Town Board's final determination of its decision on a conditional use permit.** The 2010 census found the Town's population to be 197 persons. Being a very small town, the Board does not have the resources to employ staff to conduct an administrative review or to support an appointed board for an administrative review of the Town Board's determination. Accordingly, the Board will conduct any review requested by an aggrieved person in a manner that is



consistent with the due process standards and procedures outlined in Wis. Stat. section 68.11

- h. Appeal of Town Board Decision on a Conditional Use Permit. Conditional use determinations of the Town Board may be appealed directly to circuit court.

**Subd. 3. Further Duties and Obligations of Operators Issued a Conditional Use Permit.** Operators issued a conditional use permit under this ordinance must agree in writing to fully comply with all provisions in this ordinance, and with all County, State and Federal laws and regulations that apply to frac sand operations. No conditional use permit for any frac sand operation involving the transport of sand will be approved or issued by the Town Board until the applicant has reached a road maintenance agreement with any County and/or any town on whose roads the operator or its contractors will haul the operator's frac sand products.

**Subd. 4. Term of Conditional Use Permit.** A conditional use permit issued by the Town under this Article will run for a period of two years from its date of issue. It may not be transferred during the first two years of its term. Any proposed transfer will require an application for an amended conditional use permit following the application form and procedure in Section 5, sub. (2). The Town Board shall determine, on a case-by-case basis whether any fee, and the amount thereof, shall be paid by the operator for the transfer of a conditional use permit. In all cases, a conditional use permit may not be transferred without prior written approval of the Town Board.

**Subd. 5. A Conditional Use Permit Amendment.** A conditional use permit may be amended during its term using the same process as required for the original conditional use permit. The Town Board shall determine, on a case-by-case basis whether any fee, and the amount thereof, shall be paid by the operator for the processing of the proposed amendment.

**Subd. 6. Annual Report and Conditional Use Permit Renewal.**

- a. Annual Report. Each year on the anniversary of the Town's grant of a conditional use permit, the operator shall submit a report to the Town Board. This report will describe the activities and operations at the site for the previous year. The report will also demonstrate compliance with all terms and conditions of the conditional use permit and this ordinance, and describe any substantive changes or noncompliance in the operations and conditions approved by the Town Board in granting the conditional use permit.
- b. Conditional Use Permit Renewal. The operator may apply to renew its conditional use permit to operate for an additional two year term every two years following the grant or the renewal of the a conditional use permit. This application must be submitted to the Town Board no later than 60 days prior to the expiration of the conditional use permit. The applicant for a renewal of a conditional use permit shall its request together with the renewal fee of \$5,000 to the Town Clerk. The fee will be applied by the Town Board to its

costs and fees incurred in its review and evaluation of the renewal application including the costs of experts and attorneys as deemed necessary by the Town Board. The Town Board will follow the procedures described in Section 5, Sub. 2, above, in considering the renewal application.

**Subd. 7. Revocation of a Conditional Use Permit.**

- a. Notice of Intent to Revoke a Conditional Use Permit. The Town Board may revoke a conditional use permit issued under this Article based on its reasonable belief and factual finding that a violation of any provision of this Article, and/or a violation of County, State and Federal laws and regulations that apply to frac sand operations has occurred. Upon such belief and finding, the Town Board shall issue a Notice of Intent to Revoke the conditional use permit setting forth the factual basis for the violation alleged to have occurred.
- b. Operator's Right to Public Hearing. Upon receipt of any Notice of Intent to Revoke the operator's conditional use permit, the operator shall cease any and all operations permitted by its conditional use permit. An operator receiving a Notice of Intent to Revoke a conditional use permit may request a public hearing before the Town Board. Said request shall be in writing and shall describe with particularity the factual basis for contesting the allegation of the Town Board that a violation has occurred. Within ten (10) days following the public hearing, the Town Board shall issue a decision either sustaining or withdrawing the Notice of Intent to Revoke the operator's conditional use permit with appropriate factual findings supporting its decision.
- c. Rights and Duties after Revocation. When an operator's conditional use permit is revoked, all rights granted by this Article to the operator under said conditional use permit shall terminate immediately. Following revocation and any subsequent proceedings related to the revocation, the operator shall be obligated to pay to the Town all costs, including expert and consultant fees, and attorneys' fees incurred by the Town Board in the revocation process, including any court proceedings. Notwithstanding revocation of its conditional use permit, the operator of a frac sand operation will still be required to fulfill any duties and obligations imposed by the operator's reclamation permit from Pepin County.

**SECTION 6. Minimum Standards of Operation**

Applicants for a "floating zone" conditional use permit for frac sand operations must agree to comply with the following minimum standards for operations:

**Subd. 1. General Operating Standards**



- a. The operator shall stake or otherwise mark the borders of the entire site of its operation and shall secure the site by fencing or other appropriate measures.
- b. The operator shall demonstrate compliance with all of the other provisions of this ordinance.
- c. No blasting shall occur at any frac sand mining site in the Town unless necessary to remove overburden material lying above the silica sand deposits to be mined. No blasting shall occur without 7 days advance written notice to the Town Board and all property owners within ½ mile of the blasting location.
- d. The operator shall demonstrate that all other applicable federal, state and local permits and approvals required for the frac sand mining or frac sand-related operations have been or will be obtained prior to commencement of the operation.
- e. The operator shall provide prompt notice to the Town of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the frac sand operation within the Town.

**Subd. 2. Standards Regarding Off-Site Impacts**

- a. The operator shall undertake all measures necessary for the control of surface water runoff from frac sand operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under NR 216 and NR 151 as applicable.
- b. In the event that the operations site contains areas adjacent to mining operations that are being used for agricultural, commercial or residential purposes, the operator shall undertake all measures necessary to control surface water runoff from those areas from entering mining operations or otherwise causing contamination of surface water and/or groundwater.
- c. The operator shall provide a buffer area of a minimum of 500 feet along bordering property lines and public roadways.
- d. The operator shall screen the frac sand operation from public view to the maximum extent practicable through the use of berms, additional setbacks or other measures.
- e. The operator shall limit normal hours of operations to 10 hours per day Monday through Friday during daylight hours and not later than 6:00 p.m. to minimize off-site impacts to residents.

- f. The operator shall ensure that trucks from the frac sand operations do not interfere with the safety of children being taken to or returned from school, or the safety of residents and travelers at times when traffic volume from commuters going to work, or tourists and travelers visiting businesses or community events is at its highest levels.
- g. The operator shall limit night lighting on the site of all operations to that level which is minimally necessary for security, and, wherever possible, night lighting shall be shielded from illuminating off-site areas. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky.
- h. The operator shall utilize all relevant dust control measures specified in Wis. Admin. Code § NR 415.075.
- i. The operator shall control off-site noise levels to the maximum extent practicable.

### **Subd. 3. Standards Regarding Groundwater and Surface Water**

#### **a. Impacts to Groundwater Quality**

- (i) All operations involving mining or processing shall have at least one monitoring well for every 2-acre sector of the site, and the operator shall take quarterly samples for lead, arsenic, and any other toxic metal or element that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made, or used in any processing or manufacturing process.
- (ii) No frac sand mining or other frac sand-related operation shall violate groundwater quality standards as set forth in Wis. Admin. Code ch. NR 140.

#### **b. Impacts to Groundwater Quantity**

- (i) Mining operations shall not extract materials at a depth below the point that is 20 feet above the groundwater table.
- (ii) No operation granted a conditional use permit under this ordinance shall cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one mile of the operation site. A significant reduction is a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis under normal water pressure.



c. Impacts to Surface Water Base Flow

No operation granted a conditional use permit under this ordinance shall cause a lowering of the groundwater table that results in adverse effects on surface waters within one mile of the operation site, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of any such operation.

d. Impacts to Surface Water Use

No operation granted a conditional use permit under this ordinance shall cause a lowering of the groundwater table that results in adverse impacts on surface water that serves as a critical source of water for agricultural or municipal functions such as fire protection within one mile of any such operation. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of any such operation.

**Subd. 4. Hazardous Materials**

- a. All hazardous materials shall be stored, used and disposed of in accordance with applicable state and federal law.
- b. The operator shall not use as landfill material or dispose of onsite, any waste material that contains a toxic amount of a hazardous chemical or a toxic residual.
- c. The operator shall have a plan on file with the Town Board for responding to any spills on site that may contain hazardous materials.

**Subd. 5. Waiver or Exemption**

- a. The operator can request a waiver or exemption from the minimum standards of operation set forth in this Section if it can demonstrate that the intent of this ordinance can be achieved through the use of alternative measures and that the public health, safety and general welfare will not be adversely affected thereby.
- b. The Town Board can impose conditions in addition to or exceeding the minimum standards of operation set forth in this Section 5 if it reasonably believes that the public health, safety and general welfare will not be adequately protected without the imposition of additional measures.

**SECTION 7. Access, Observation, Enforcement Procedures and Penalties**

**Subd. 1. Access and Observation of Frac Sand Operations**

Town Board members, their designated representatives, and experts retained to monitor and inspect operations issued conditional use permits by this ordinance, upon producing proper identification, shall have the right to enter and inspect any such operation at any time for the purpose of determining compliance with the minimum standards of operation as set forth in Section 6 of this ordinance.

**Subd. 2. Violations.** The following are violations of this ordinance:

- a. Engaging in any frac sand operation at any location in the Town without a conditional use permit as described in this ordinance.
- b. Noncompliance with the minimum standards of operation or any other provision of this ordinance.
- c. Providing false or misleading information to the Town during the conditional use permit application or renewal process, or in response to any request or inquiry by the Town Board or its representative concerning any matter related to the operations issued conditional use permits under this Article.
- d. Failure to comply with, or take prompt and appropriate remedial action in response to, a notice of violation of this ordinance, or of any violation of federal, state or local law applicable to any operation issued a conditional use permit under this Article.
- e. Any operator issued a conditional use permit under this Article who receives a notice of violation may request a public hearing before the Town Board. The request must state and describe the grounds for requesting the hearing, any factual evidence supporting those grounds and any outcome of the hearing the operator deems justified by the evidence. The request must be submitted to the Town Board within 30 days of the notice of violation. After the public hearing, the Town Board shall vote to sustain, modify or withdraw the notice of violation.
- f. After giving notice of a violation, the Town Board may suspend the conditional use permit operation issued under this ordinance pending the Town Board's disposition of the notice of violation.

**Subd. 3. Penalties**

- a. Any operator issued a conditional use permit under this Article found by the Town Board to have violated this Article shall pay a forfeiture of not less than \$5,000 nor more than \$50,000 per violation and shall not recommence its operations until it has demonstrated to the Town Board that it has fully remedied any part of its operation or conduct found to be in violation of this Article. The amount of the forfeiture imposed by the Town Board shall be reasonably related to the Town Board's assessment of the injury caused by the violation, or by the risk of injury posed by the violation. Any violation found by the Town Board to be a wilful violation shall subject the operator to a penalty of three times the amount of the forfeiture ordered by the Town Board.



b. If an appeal is taken to circuit court and/or other higher court by the operator found liable under this Section, the operator shall pay the Town Board's attorneys' fees and all costs, including expert fees, incurred by the Town Board in defending the appeal.

**SECTION 8. Effective Date.**

Following passage by the Town Board, this Article shall take effect the day after the date of publication as provided by Wis. Stat. § 60.80(2) and (3).

Adopted this 21 day of April, 2014

ATTEST:

By: Patty Scharr, Clerk  
Patty Scharr

TOWN OF STOCKHOLM

By: Joe Edlin, Chairman  
Joe Edlin

Lindsay Bergquist, 1<sup>st</sup> Supervisor  
Lindsay Bergquist

Steve Anderson, 2<sup>nd</sup> Supervisor  
Steve Anderson

Jim Riesgraf, 3<sup>rd</sup> Supervisor  
Jim Riesgraf

Mary Anne Collins-Svoboda, 4<sup>th</sup> Supervisor  
Mary Anne Collins-Svoboda

## **APPENDIX A**

### **APPLICATION FOR FRAC SAND OPERATIONS CONDITIONAL USE PERMIT**

All applicants for a frac sand operator's conditional use permit shall submit the following information:

#### **1. Ownership Information.**

- a. The name, address, phone numbers, and e-mail address of the operator of the frac sand operation. Applicant shall also provide the names and addresses of all persons or entities with a 25% or greater ownership interest in the operator's corporation.
- b. The name, address, phone numbers and e-mail address of all owners or lessors of the land on which the frac sand operation will occur.
- c. If the frac sand operation is subject to a lease or third party agreement relating to any aspect of the operation, a copy of the fully executed lease and/or agreement between the operator, landowner and/or third party.
- d. Proof that all property taxes on the proposed site of the frac sand operation are current.

#### **2. Site Information and Maps.**

- a. Parcel identification numbers of all contiguous parcels owned by the same landowner/lessor on which the proposed frac sand operation will be located.
- b. An aerial photo of the proposed site and extending ½ mile beyond the boundaries of the proposed site, at a scale of not less than 1 inch equals 660 feet signed by both the operator and the landowner of the frac sand operation site.
- c. A topographic map of the frac sand operation site and extending ½ mile beyond the boundaries of the proposed site, at contour intervals no wider than 10 feet showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within one mile of the site.



- d. The location within the site of all existing buildings and other structures, equipment, stockpiles, storage and parking areas.
- e. A map on which all residential, agricultural and municipal wells within ½ mile of the boundaries of the site in all directions are marked and given a numerical identification of the location.
- f. The location and name of all surface waters, including any public or private ponds, streams, drainage ditches, wetlands, drainage patterns and other water features on the site and within ½ mile of the site; and the base flow of the surface waters within ½ mile of the frac sand operation site as determined at the time of the application.
- g. The gradient and depth of the groundwater table shall be determined by existing wells (or other existing data) within ½ mile of the frac sand operation site.
- h. If a mining operation is being proposed, a description of the distribution, depth and type of topsoil not only of the area of the site currently proposed for the frac sand mining operation and for which an operator's license application is being submitted, but also of the entire acreage of land contiguous with the proposed frac sand operation that is owned by the same landowner/lessor, as well as the geological composition and depth and width of the nonmetallic deposit which is proposed for extraction.

### **3. Operation Plan**

- a. Dates of the planned commencement and cessation of the frac sand operation.
- b. If the application is for a frac sand mining operation, a description of mining methods, machinery and equipment to be used for extraction of the industrial silica sand.
- c. If the application is for a frac sand mining operation, the estimated volume of material to be extracted over the life of the mine and for the next calendar year.
- d. Location of road access points. The proposed location within the frac sand operation site of all proposed buildings and other structures, equipment, stockpiles, storage and parking areas.
- e. Identification of all proposed off site trucking routes, together with the frequency of traffic to and from the site, and the common schedule of

travel to be used for transporting extracted materials or products to or from the site.

- f. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the site, including methods used for infiltration and control of run-off.
- g. A listing of any hazardous materials, including fuel supplies that will be stored on-site and a description of measures to be used for securing and storing these materials.
- h. A listing of all flocculent and other chemicals used in the mining, manufacturing, processing operations or in controlling dust, and a detailed description of how said flocculent and chemicals will be used and how they will be disposed or removed from the Town.

#### **4. Information Demonstrating Compliance with Minimum Standards**

- a. Information necessary to demonstrate that the operation will comply with the minimum standards set forth and described in Section 6 of this Article.
- b. Information establishing baseline conditions at the site before operations commence, including the following:
  - (i) The groundwater elevation across the site;
  - (ii) Groundwater quality at the site for lead, arsenic, turbidity, total suspended solids, chlorides and nitrates;
  - (iii) Specific conductivity and any chemical or residual of the chemical used as a flocculent;
  - (iv) Any other toxic substance that may reasonably be believed to be present in the area, or, if a mining operation, in the type of deposit from which the extraction will be made; and
  - (v) The base flow of surface waters within ½ mile of the site.
- c. Information establishing background conditions for air quality at the site before operations commence.

#### **5. Waiver or Exemption.**

The Applicant may request a special exception from the application information requirements of this Appendix A if it can demonstrate that the information required can be provided by alternative means or is not necessary for an evaluation of the particular frac sand operation, and that the public health, safety and welfare of the Town's citizens will not be adversely affected.