

# DRAFT

(Proposed Amendment to extend Moratorium until 9-13-2012)

GOODHUE COUNTY

INTERIM ORDINANCE

2011-1

WHEREAS, the County of Goodhue recognizes increased interest locally that may lead to requests to mine, process and transport industrial sand (silica sand) in Goodhue County; and

WHEREAS, a group of Goodhue County Residents calling themselves "Citizens Against Frac Sand Mining" have requested that Goodhue County adopt an Interim Ordinance to establish a One Year Moratorium to temporarily restrict issuance of any Conditional Use Permit for a new silica/frac sand mining operation (Mineral Extraction Facility) within rural Goodhue County; and

WHEREAS, the "Citizen Against Frac Sand Mining" have expressed concerns that potential silica sand mining in Goodhue County may generate significant negative impacts on the environment, economy, health, and well being of the County's residents; and

WHEREAS, the "Citizen Against Frac Sand Mining" have identified the following reasons to impose a temporary (one year) restriction on the issuance of any Conditional Use Permit for a new silica/frac sand mining operation (Mineral Extraction Facility) within rural Goodhue County:

- A. The best interests of Goodhue County residents would be met by conducting a land use planning study including the holding of hearings on the possible impacts that silica sand mining operations may have on the environment and character of Goodhue County.
- B. Ensuring the health, safety and welfare of County residents and the general public warrants the review and possible modification of criteria for approving conditional use permits for this unique type of mining operation.
- C. A thorough planning study will allow Goodhue County to ascertain the best approach to effectively regulate the development of what could be very numerous large scale silica sand mining operations, similar to what is now occurring in the State of Wisconsin.
- D. A one year moratorium would facilitate an orderly and informed discussion of this very important countywide issue, aided by expert analysis and information from County, State, and Federal agencies, in addition to that offered by mining companies.
- E. A land use planning study should also include a thorough analysis of potential impacts including added maintenance costs and safety improvements on county roads, infrastructure, and other additional public services that may be generated by potential silica sand mining operations in Goodhue County.
- F. A thorough review of the Goodhue County Comprehensive Plan to determine if the land use implications of this new type of mining are sufficiently addressed is necessary to ensure the public's health, safety and welfare as well as protecting the beauty and scenic attributes found throughout the County.

WHEREAS, the "Citizen Against Frac Sand Mining" have identified a need to study the following issues in respect to potential silica sand mining during the proposed one year moratorium period:

- A. Possible Impact on Environment, Economy, Health, and Well Being of Residents including:

# DRAFT

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1. Air quality concerns: Silica sand mining operations generate a great deal of dust from mining activities. Inhalation of Crystalline Silica Sand Dust can cause respiratory problems, heart disease, worsening of asthma symptoms and even a life threatening and disabling lung disease called silicosis. Study of this potential health concern should result in recommendations regarding potential public health impacts and workplace hazards that may be associated with mining, processing and transportation of silica sand; and
  2. Water Quality and Quantity Concerns: Silica Sand Mining may impact the quality and quantity of drinking water in Goodhue County. In addition, impact on surface water quality could impact aquatic life including fish populations. Study and analysis of how water quality and quantity may be impacted by silica sand mining in Goodhue County is necessary to ensure County ground and surface water resources will be sufficiently protected from negative impacts ; and
  3. Economic and Social Impact Concerns: Each year the population of Goodhue County is augmented by over one million visitors. These visitors come to enjoy the many scenic areas and recreational opportunities in the County. Potential alteration of the Goodhue County Landscape could significantly impact tourism and recreational opportunities for visitors and County residents. Study and analysis of potential impacts the silica sand mining operations may have on tourism and recreational uses especially in respect to streams, creeks, rivers and Blufflands located in areas of that may be subject to silica sand mining, processing or transportation.
- B. Possible Modification of Criteria for Approval of Silica Sand Mine Conditional Use Permits:
1. Dust Control Requirements: Refinement of County mineral extraction facility dust control provisions to more clearly specific what constitutes a “public nuisance” and to set acceptable standards for and measurement requirements for ambient emissions of silica sand from silica sand mining operations would help ensure public health and safety; and
  2. Setback Requirements: Clarification of how various setback standards would be applied to silica sand mining including how setbacks from toe or top of bluff for mineral extraction may be applied to subsurface mining activity would provide greater certainty for both potential mining interests as well as County residents/property owners.
- C. Seeking input from relevant State Agencies and other expert parties to properly assess issues and concerns unique to silica sand mining that may impact public health, natural resources, historic and cultural resources, local economic conditions and the use and condition of public infrastructure would help provide information that may be needed to strengthen County plans, policies and ordinances.
- D. Assessing additional County expenditures and responsibilities related to County Highways, Infrastructure, and Public Services that may result from potential Silica Sand Mining Operations would allow the County to more accurately determine how to plan and budget to address such impacts and demands.
- E. Reviewing the Goodhue County Comprehensive Plan to evaluate the compatibility of potential silica sand mining operations especially as may be proposed within Hay Creek and Florence Townships would help address concerns of County residents and other interested parties. In general, an opportunity for dialogue with Goodhue County Townships that may

# DRAFT

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be impacted by silica sand mining would ensure that Township Planning and Land Use concerns are appropriately reflected in County Plans, Policies and Ordinances in regard to potential silica sand mining operations.

WHEREAS, The Planning Advisory Commission held a public hearing on July 16, 2012 where citizens raised a number of concerns that still need addressing.

WHEREAS, The Planning Advisory Commission recognized a need to further study the following areas:

1. Relationship between economic and recreational value
2. Explore statewide study-legislature
3. Existing mines not grandfathered
4. Pros/Cons of banning silica sand mining
5. Hours of operation
6. Setbacks
7. Quantity limits on mining
8. High, medium and low impact mining classification
9. Meeting with Township Officials
10. How to evaluate silica sand differently, based on intensity and size, create a definition and specific rules for that.
11. Disenfranchisement of the landowners who currently own this resource.
12. Land reclamation
13. Defining best practices.
14. Emergency fund
15. Comprehensive Plan and silica sand

WHEREAS, Minnesota Statutes Section 394.34 allows a County that has authorized a land-use planning study to adopt an Interim Ordinance for a period of twelve (12) months from the date it is effective, to allow for such study and adoption of a comprehensive plan, zoning, and/or other official land-use controls.

FURTHERMORE, Minnesota Statutes Section 394.34 allows a County to extend a moratorium for no longer than twelve (12) additional months from the date the original was effective, to allow for additional study.

NOW THEREFORE MAY IT BE RESOLVED, that the Goodhue County Board of Commissioners authorizes a land-use planning study for the purpose of reviewing the County Comprehensive Plan and Zoning Ordinance to determine if various public concerns noted in this "Interim Ordinance" are being sufficiently addressed or if changes may be necessary in order to protect the health, safety and welfare of the public from negative impacts that may be associated with the mining, processing and transportation of silica sand; and

BE IT FURTHER RESOLVED, the Goodhue County Board of Commissioners hereby extends establishes a temporary twelve (12) month moratorium on the issuance of any Conditional Use Permit for a new silica/frac sand mining operation (Mineral Extraction Facility) within rural Goodhue County to allow the above referenced land-use planning study to be completed and any recommended changes in

# DRAFT

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County Plans, Policies or Official Controls to be considered by the County Planning Advisory Commission and County Board of Commissioners; and

BE IT FURTHER RESOLVED, the County Board of Commissioner reserves the right to end the moratorium in less than twelve (12) months upon completion of the land-use planning study and satisfactory resolution of the issues of concerns as determined by the County Board. ~~The County Board also reserves the right as authorized by State Law to extend the moratorium.~~

EFFECTIVE DATE AND TERMINATION, This Ordinance shall take effect upon its passage and publication.

ENACTED by the Goodhue County Board of Commissioners for the County of Goodhue, this 6TH day of September \_\_\_\_\_, 2011.

EXTENDED by the Goodhue County Board of Commissioners for the County of Goodhue until the 6<sup>th</sup> day of September, 2013.

County of Goodhue

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Chair, Goodhue County Board of Commissioners

Attest:

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Goodhue County Administrator