

**ORDINANCE NO. 36  
CITY OF RED WING  
COUNTY OF GOODHUE  
STATE OF MINNESOTA**

***AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 20, FOURTH SERIES, BY EXPANDING THE SCOPE OF THE INTERIM MORATORIUM ON THE ISSUANCE OF PERMITS FOR THE ESTABLISHMENT OF NEW SILICA/FRAC SAND MINING OPERATIONS TO INCLUDE ADDITIONAL LAND USES SUCH AS THE LOADING, UNLOADING, STORAGE, WAREHOUSING, STOCKPILING, AND PROCESSING OF SILICA/FRAC SAND WITHIN THE CITY DURING THE MORATORIUM PERIOD***

**PREAMBLE**

On October 10, 2011, the Red Wing City Council enacted an interim ordinance placing a moratorium on the issuance of permits for the establishment of a new silica/frac sand mining operation (resource extraction land use), and prohibiting their location within the City in order to permit the planning process to take place and to allow the Red Wing Advisory Planning Commission and the City Council to proceed in an orderly fashion to adopt permanent Zoning Ordinance provisions regulating this land use.

The City Council believes that an interim ordinance placing a moratorium on the uses of loading, unloading, storage, warehousing and/or stockpiling of silica/frac sand within the City is also necessary to protect the health, safety, morals, and general welfare of the citizens of the community. The current interim ordinance does not cover these uses, so additional action is necessary. The Council has learned that the additional uses that it wishes to study may begin in the very near future. The Council's process for enacting a non-emergency ordinance may take a month or longer. Thus, that process may not be completed before the uses that the Council wishes to study begin.

Thus, the City Council hereby declares this situation to constitute an emergency as that term is used in Section 5.08 of the Red Wing City Charter.

WHEREAS, pursuant to Section 5.08 of the Red Wing City Charter, the City may enact an emergency ordinance when doing so is necessary for the immediate preservation of the public peace, health, morals, safety or welfare; and

WHEREAS, it would be detrimental to the health, morals, safety and welfare for the citizens of Red Wing to allow the loading, unloading, storage, warehousing and/or stockpiling of silica/frac sand within in the City while the Red Wing Advisory Planning Commission is studying what permanent controls, if any, are recommended.

NOW THEREFORE the City Council of the City of Red Wing does ordain:

**SECTION 1:** Ordinance No. 20, Fourth Series is hereby amended by deleting the ~~overstruck~~ language and inserting the underlined language:

**Ordinance No. 20, Fourth Series**

***AN INTERIM ORDINANCE PLACING A MORATORIUM ON THE ISSUANCE OF PERMITS FOR THE ESTABLISHMENT OF A NEW SILICA/FRAC SAND MINING OPERATIONS (RESOURCE EXTRACTION LAND USE), AND PROHIBITING THEIR LOCATION, AS WELL AS THE LOADING, UNLOADING, STORAGE, WAREHOUSING, STOCKPILING, AND PROCESSING OF SILICA/FRAC SAND WITHIN THE CITY WHILE THE MORATORIUM IS IN EFFECT***

THE CITY COUNCIL OF THE CITY OF RED WING DOES ORDAIN:

Section 1 PURPOSE AND INTENT

The City Council finds that an interim ordinance placing a moratorium on the location and establishment of new silica/frac sand mining operations (resource extraction land use), as well as a moratorium on the loading, unloading, storage, warehousing, stockpiling, and processing of silica/frac sand within the City of Red Wing is necessary to protect the health, safety, morals, and general welfare of the citizens of the community; and

The City Council finds that an interim ordinance placing a moratorium on the location and establishment of new silica/frac sand mining operations (resource extraction land use) as well as a moratorium on the loading, unloading, storage, warehousing, stockpiling, and processing of silica/frac sand within the City of Red Wing is necessary in order to permit the planning process to take place and to allow the Red Wing Advisory Planning Commission and the City Council to proceed in an orderly fashion to adopt permanent Zoning Ordinance provisions regulating this land use.

Section 2 AUTHORITY

This Ordinance is adopted pursuant to that authority granted in Minn. Stat. § 462.355, entitled "Interim Ordinance."

Section 3 DEFINITIONS

For purposes of this Ordinance, "silica/frac sand" is defined as silica/frac sand used for the hydrofracking process. Characteristics of silica/frac sand include: spherical shape,

high silica (quartz) content, hardness (can withstand high pressure), uniform particle shape and larger grain size.

The City Council hereby directs City staff to study and prepare Zoning Ordinance provisions regulating the location and establishment of new silica/frac sand mining operations (resource extraction land use) as well as additional land uses such as the loading, unloading, storage, warehousing, stockpiling, and processing of silica/frac sand within the City of Red Wing. City staff is further directed to report the results of their studies and recommendations along with the recommendations of the Red Wing Advisory Planning Commission as soon as the Commission has completed its studies and recommendations.

#### Section 4 VIOLATION

The City may enforce any provision of this Ordinance by mandamus injunction or other appropriate civil remedy in any court of competent jurisdiction.

#### Section 5 SEVERABILITY

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

#### Section 6 TIME PERIOD AND EXPIRATION~~EFFECTIVE DATE~~

The moratorium enacted by this Ordinance shall be in effect for a period of one year from the effective date of this Ordinance. ~~This ordinance shall be in full force and effect 14 days after its adoption and publication in accordance with the City Charter. This~~ moratorium shall expire at 11:59 p.m. on October 28, 2012.

#### Section 7 EFFECT OF AMENDMENTS

Any amendments made to this Ordinance, including amendments expanding the scope of the moratorium to include additional land uses, are not intended to extend the time period and expiration of the moratorium set forth in Section 6 of this Ordinance.

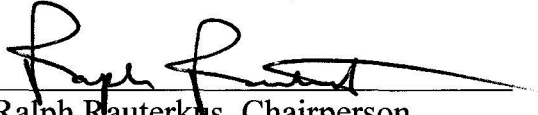
**SECTION 2: Moratorium Time Period Not Extended.** This Ordinance is not intended to extend the 12-month time period and expiration date of the moratorium as set forth in Ordinance No. 20, Fourth Series, as amended.

**SECTION 3: Update to Uncoded Ordinance Provision of City Code.** The City Clerk is hereby directed to update the reference to Ordinance No. 20, Fourth Series contained in

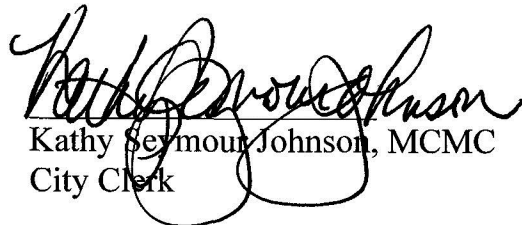
Section 25.21 of the City Code to read: "Ordinance No. 20, Fourth Series, adopted October 10, 2011, as amended by Ordinance No. 36, Fourth Series, adopted June 11, 2012, enacts a 12-month moratorium on the location and establishment of new silica/frac sand mining operations (resource extraction land use), as well as the loading, unloading, storage, warehousing, stockpiling, and processing of silica/frac sand within the City of Red Wing."

**SECTION 4: Effective Date.** This emergency ordinance shall take effect immediately upon its adoption consistent with Sections 5.08 and 5.11 of the City Charter.

Adopted this 11<sup>th</sup> day of June, 2012.

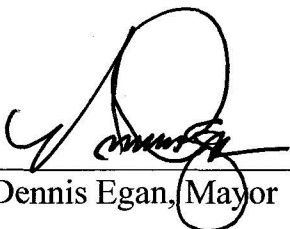
  
Ralph Rauterkus, Chairperson

ATTEST:

  
Kathy Seymour Johnson, MCMC  
City Clerk

(seal)

Presented to the Mayor at 8:52 p.m. on this 11<sup>th</sup> day of June 2012. Approved this 11<sup>th</sup> day of June, 2012.

  
Dennis Egan, Mayor