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January 16, 2025

Houston County Planning and Zoning
Attn: Amelia Meiners
304 S. Marshall St.
Caledonia, MN 55921

RE: Houston County Zoning Ordinance Section 27 – Mineral Extraction

Dear Amelia,

After reviewing Winona and Fillmore Counties Zoning ordinances on Mining and Mineral extraction, we believe the easiest and cleanest way to update the Houston County ordinance would be to add the definition of Construction Minerals and Industrial Minerals under 27.3 Definitions to the Houston County Mineral Extraction ordinance. Both the Winona and the Fillmore ordinances define Construction Minerals and Industrial Minerals similarly and both call out the industrial minerals to be used in hydraulic fracturing and exempt construction minerals from industrial mineral standards.

We recommend adding two definitions to your Section 27.3 DEFINITIONS as follows:

Subdivision 5 Construction Minerals. The term “construction minerals” includes natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding for livestock operations, sewer and septic systems, landfills, and sand blasting. The term “construction minerals” does not include “industrial minerals” as defined below.

Subdivision 6 Industrial Minerals. The term “industrial minerals” includes naturally existing high quartz level stone, silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications, but excluding construction minerals as defined above. Silica sand is categorized as an industrial mineral by the Minnesota Department of Natural Resources and the North American Industry Classification System under classification no. 212322. “Silica sand” has the meaning given in Minnesota Statutes, section 116C.99, subd. 1 (d): “‘Silica sand’ means well-rounded, sand-sized grains of quartz (silicon dioxide), with very little impurities in terms of other minerals. Specifically, the silica sand for the purposes of this section is commercially valuable for use in the hydraulic fracturing of shale to obtain oil and natural gas. Silica sand does not include common rock, stone, aggregate, gravel, sand with a low quartz level, or silica compounds recovered as a by-product of metallic mining.” Minn. Stat. Section 116C.99, subd. 1 (d) “Silica sand project” has the meaning given in Minnesota Statutes, section 116C.99, subd. 1 (e): “‘Silica Sand project’ means the excavation and mining and processing of silica sand; the washing, cleaning, screening, crushing, filtering, drying, sorting, stockpiling, and storing of silica sand, either at the mining site or at any other site; hauling and transporting of silica sand; or a facility for transporting silica sand to destinations by rail, barge, truck, or other means of transportation.” Minn. Stat. Section 116C.99, subd. 1 (e).

Submitted by Applicant

The two county ordinances handle industrial mineral mining differently. Winona outright bans it. Fillmore only allows a certain size and quantity within the county. Your ordinance already has the density statement and a maximum acreage of 20 acres written in your language. Therefore, we suggest applying your density standards to the industrial mineral extraction and not to construction mineral extraction. To accomplish this you need to need to update Section 27.8 Sub. 1 (5) to read:

(5) Mine Density Standards. New ~~sand~~ **industrial mineral** mining permits shall be limited to sites located no closer than ½ mile from all existing permitted or legal non-conforming ~~sand~~ **industrial mineral** mines. Measurements shall be taken from the proposed boundary of the new site to the approved boundary of the existing site.

We utilized Winona County's definitions of Construction Minerals and Industrial Minerals as their ordinance was challenged at the supreme court by Minnesota Sands. The definitions and ordinance held up and they were allowed to separate requirements for the different mineral extraction definitions. I have attached pages 3 and 4 of that ruling for your reference. I have also attached portions of Winona and Fillmore Counties ordinances with pertinent definitions and areas highlighted for your use.

We feel this zoning amendment is compatible and in accordance with the Houston County Land Use plan as the plan outlines the priority of agriculture and safe transportation within the county. The zoning amendment would separate industrial mineral (Frac Sand) mining and construction mineral mining which has the end use of agriculture and construction projects (roads). Currently the cost for sand in the dairy and septic industry is hauled from out of county locations due to the limited ability to find the product within the county. The amendment would allow for shorter hauling routes with making the resource more affordable to the agriculture and construction industries operating in Houston County.

If you have any additional questions, concerns, or need more information feel free to reach out to my office at [REDACTED]

Sincerely,



Chris Priebe,
Senior Vice President


Geoffry G Griffin,
CEO

Attachments: Winona County Zoning Ordinance – Mining and Land Alterations
Fillmore County Zoning Ordinance – Excavation and Mining areas
Supreme Court Ruling on Minnesota Sands Vs. Winona County