

A. Excavation, Mining, and Processing of Sand and Gravel

1. Definitions

- a. General Sand and Gravel Materials. Includes sand, gravel, and frac sand as defined herein.
- b. Sand and Gravel. Includes a mix of various minerals and is generally angular in shape. Material is processed to lesser standards than frac sand as defined herein.
- c. Frac Sand. Generally spherical in shape, and undergoes intensive washing, drying, and precise screening/sorting to meet strict mesh size requirements. Primary use is propping fractures in oil/gas wells.

2. All mining and excavation sites shall be located so as to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impacts on adjoining uses, and disruption of known water sources. The provisions of this section shall not apply to any excavations for agricultural purposes or for uses requiring less than 5,000 cubic yards of aggregate.

3. Provide the Land Use Administrator with a site plan for operation and reclamation of the area proposed for mining and processing, including maps showing the location of the land to be used; the location of roads and points of access to the site; adjacent properties and residences within one mile of the site; maps showing the existing and proposed contours after the land is used; and a timetable for operation of the site. The following additional site plan details shall be provided:

- a. Pit Opening Plan, including a required inspection prior to opening of the pit and processing operations;
- b. Overburden Material Stockpile Plan;
- c. Active Pit Mining and Processing Plan;
- d. Buffer Zone Area Plan;
- e. Mine Area Reclamation Plan; and
- f. Spring (May / June) and Fall (August / September) Inspection Proposal Plan which would include inspections by the County Weed Officer.
- g. Weed control measures to prohibit the overgrowth of weeds in excess of twelve inches.

4. Provide the Land Use Administrator with evidence of written agreement between the applicant and property owner that mining or processing shall not take place within 500 feet of an adjacent property line or 1,250 feet of an existing residence, unless a waiver has been executed by the owner of the existing residence. All material piles and processing and handling facilities shall comply with the following standards:
 - a. Sand and Gravel material piles and processing and handling facilities must be located at least 1,250 feet from an adjacent property line and 500 feet from any public roadway.
 - b. Frac Sand material piles and processing and handling facilities must be located at least 1,250 feet from an adjacent property line and 1,250 feet from any public roadway.
5. Lighting must be fully shielded, unless otherwise required by law. To qualify as a "fully shielded" fixture, a light fixture must have the top and sides made of completely opaque material such that light only escapes from the bottom of the fixture. Fixtures with translucent or transparent sides, or sides with perforations or slits, do not qualify as fully shielded. Any glass or diffuser on the bottom of the fixture must be flush with the fixture (no drop lenses). Merely placing a light fixture under an eave, canopy, patio cover, or other similar cover does not qualify as fully shielded.
6. Provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Control Officer or a North Dakota Certified Weed Seed Free Forage (WSFF) Inspector before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Control Officer. The Weed Control Officer shall provide the applicant with documentation of the inspection and the applicant shall submit such documentation with the conditional use permit application. If during the inspection it is determined that the site is infested with invasive and/or noxious weeds, the applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Control Officer. The plan shall, at a minimum, follow the below requirements.
 - a. Pit Opening Plan, which would include an inspection prior to opening of the pit;
 - b. Overburden Material Stockpile Plan;
 - c. Active Pit Mining and Processing Plan;
 - d. Buffer Zone Area Plan;
 - e. Mine Area Reclamation Plan; and
 - f. Spring (May / June) and Fall (August / September) Inspection Proposal Plan which would include inspections by the County Weed Officer.

- c. Time leaving the facility
- d. Post load inspection certifying the truck and trailer are compliant with all applicable local, state, and federal regulations involving the transportation aggregate materials.

The log shall be made available upon request to the Planning and Zoning Commission Chair, Land Use Administrator, or County Compliance Officer.

Any and all related State Department of Transportation rules shall be followed.

- 16. The conditional use permit may be revoked or suspended at any time in the event that any of the following conditions occur:
 - a. Failure to permit onsite inspections of the premises;
 - b. Failure to permit onsite inspections of any commercial vehicles and / or trailers to determine the roadworthiness of such vehicles and / or trailers.
 - c. Three or more moving violations within the county within a 90-day period.
 - d. Failure to maintain appropriate sloping for all aggregate piles.
 - e. Failure to comply with any weed treatment plans.
- 17. The permit must include a written plan to limit blowing of materials from entering and crossing any public roadway or third-party's property.
- 18. Standard for Frac Sand Mining Only: All operations must cease during the issuance of a high wind warning for Mercer County.