

CHAPTER 7

Regulation of Nonmetallic Mining

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SEC. 7-7-1 STATUTORY PROVISIONS ADOPTED.

This Chapter is adopted pursuant to Sec. 66.038, Wis. Stats., which is adopted by reference and made a part of this Chapter as if fully set forth herein.

SEC. 7-7-2 DEFINITIONS.

As used in this Chapter:

- (a) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (d) **Nonmetallic Mining Site or Site.** The location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.
- (e) **Operator.** Any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (f) **Reclamation.** The rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

- (g) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

SEC. 7-7-3 EXISTING NONMETALLIC MINING OPERATIONS.

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this Chapter.

SEC. 7-7-4 EXEMPT ACTIVITIES.

This nonmetallic mining reclamation Chapter shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
- (f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

SEC. 7-7-5 PERMIT REQUIRED FOR NONMETALLIC MINING.

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the Town unless he obtains a nonmetallic mining permit from the Town Board. The fee for such permit shall be Fifty Dollars (\$50.00), plus any actual Town administrative expenses, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.
- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
 - (1) An adequate description of the operation, including a legal description of the property;
 - (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
 - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;

- (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties;
 - (6) Hours of operation;
 - (7) Dust and noise control;
 - (8) Maximum depth;
 - (9) Blasting procedures;
 - (10) Location and height of stockpiles; and
 - (11) Such other information the Town Board deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
- (1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
 - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
 - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
 - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
 - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Town Board;
 - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- (d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the Town and distributed by the Town Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the Town Clerk at least sixty (60) days prior to the licensing period. The Town Clerk shall immediately refer all applications for a license hereunder to the Town Board for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the Town Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Board shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Town Board may approve, approve conditionally or reject the application and reclamation plan.
- (e) **Financial Assurance.** Before a license and reclamation plan is approved by the Town Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Town Board.
 - (2) Guaranteed completion of the required reclamation within a period determined by the Town Board.
 - (3) Payment by the operator for all costs incurred by the Town for review and inspection. This would include preparation and review of plans and specifications by the Town Engineer and Attorney, as well as other costs of a similar nature.
 - (4) The Town may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.

- (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Town Engineer's estimated cost of the required improvements.
- (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Town and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Town Board, at its option, may extend the bond period for additional periods.
- (f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (g) **Inspection.** An authorized agent of the Town may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.122, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.
- (h) **Prohibitions and Orders.** Nonmetallic mining operations within the Town are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

SEC. 7-7-6 PERMIT REVOCATION.

If any permit is revoked, cancelled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him or the reasons proposed for revocation and shall have an opportunity to be heard before the Town Board.