

ST. CROIX COUNTY CODE OF ORDINANCES

CHAPTER 14 NONMETALLIC MINING RECLAMATION ORDINANCE

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ST. CROIX COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
GOVERNMENT CENTER
1101 CARMICHAEL ROAD
HUDSON, WI 54016
715-386-4680

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**ST. CROIX COUNTY LAND USE AND DEVELOPMENT
CODE OF ORDINANCES**

CHAPTER 14 – ST. CROIX COUNTY NONMETALLIC MINING RECLAMATION ORDINANCE

14.1 INTRODUCTION

A. TITLE, AUTHORITY AND EFFECTIVE DATE

1. TITLE

- a. This chapter shall be cited as the "St. Croix County Nonmetallic Mining Reclamation Ordinance" and hereinafter referred to as the "chapter."

2. AUTHORITY

- a. This chapter is authorized by Wisconsin Statute §§295.13(1), 59.51, 59.69, 59.692, 59.694, and Wisconsin Administrative Code Chapter NR Ch. 135.
- b. Any amendment, repeal or recreation of the statutes relating to this ordinance are incorporated into this ordinance by reference as of the effective date of the amendment, repeal or recreation.

3. EFFECTIVE DATE

- a. This chapter shall be effective on March 3, 2026.

B. PURPOSE AND OBJECTIVES

1. PURPOSE

- a. The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the county after the effective date of the chapter from which this chapter is derived, in compliance with Wis. Adm. Code Ch. NR 135 and Wis. Stats. Ch. 295, subch. I.

C. APPLICABILITY

1. APPLICATION OF THIS CHAPTER

- a. This chapter is applicable to any nonmetallic mining site within St. Croix County that commenced nonmetallic mining operations after April 11, 1989, except a site within a municipality which has a nonmetallic mining ordinance that complies with Wisconsin Administrative Code Chapter NR 135. This chapter does not apply to any nonmetallic mining site that permanently ceased operations prior to April 11, 1989.
- b. The reclamation provisions of this chapter supersede the reclamation provisions of any town nonmetallic mining ordinance which are less restrictive than the reclamation provisions of this chapter.
- c. This chapter applies to nonmetallic mining conducted by or on behalf of a county, municipality or for the benefit or use of the state or any state agency, board, commission or department, except that financial assurances are waived.
- d. All nonmetallic mining operations and/or sites must comply with the St. Croix County Zoning Ordinance.

D. INTERPRETATION**1. ABROGATION**

- a. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date.

2. LIBERAL CONSTRUCTION

- a. The provisions of this chapter shall be liberally construed in favor of St. Croix County and shall not be construed to be a limitation or repeal of any other power now possessed or granted to St. Croix County.

3. SEVERABILITY AND NON-LIABILITY

- a. If any section, clause, provision or portion of this chapter is deemed unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

E. EXEMPT ACTIVITIES**1. ACTIVITIES NOT SUBJECT TO THIS CHAPTER**

- a. The following are not subject to this chapter:
 - 1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Department of Natural Resources under Wisconsin Statutes §§30.19, 30.195 or 30.20 and complies with Wisconsin Administrative Code Chapter NR 340.
 - 2) Excavation subject to the permit and reclamation requirements of Wisconsin Statutes §30.30 or §30.31.
 - 3) Excavation or grading by a person solely for domestic or farm use at that person's residence or farm.
 - 4) Excavation or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
 - 5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
 - 6) Excavations for building construction purposes conducted on the building site.
 - 7) Any mining for which reclamation is required by a permit obtained under Wisconsin Statute Chapter 293.
 - 8) Any activities required to prepare, operate or close a solid waste disposal facility under Wisconsin Statute Chapter 289 or a hazardous waste disposal facility under Wisconsin Statute Chapter 291 that are conducted on the property where the facility is located. This chapter applies to activities related to solid or hazardous waste disposal that are conducted at a nonmetallic mining 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.
 - 9) Nonmetallic mining with a limited purpose and duration through a contract with the Wisconsin Department of Transportation (WisDOT) that imposes reclamation requirements. The duration of the exemption shall be specific to the length of the WisDOT contract for construction of a specific transportation project. Such nonmetallic mining sites may also provide material for non-transportation projects during the duration of the contract.
 - 10) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from

these activities.

- 11) Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.

F. DEFINITIONS

1. NR 135.03

- a. All definitions for the purposes of this chapter are those contained in Wisconsin Administrative Code NR § 135.03.
- b. When not defined in Wisconsin Administrative Code NR § 135.03, all other term's definitions shall be those found in other St. Croix County ordinances or the standard dictionary.

14.2 STANDARDS

A. GENERAL STANDARDS

1. PUBLIC HEALTH SAFETY AND WELFARE

- a. All nonmetallic mining sites shall be operated and reclaimed in compliance with all applicable federal, state and local laws, rules and regulations in a manner that protects the public health safety and welfare.

2. AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION

- a. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

3. REFUSE AND OTHER SOLID WASTES

- a. Nonmetallic mining refuse shall be reused in accordance with the reclamation plan. Other solid waste shall be disposed of in accordance with applicable rules of the WDNR adopted pursuant to Wisconsin Statutes Chapters 289 and 291.

4. HABITAT RESTORATION

- a. When the reclamation plan requires plant, fish or wildlife habitat to be restored the restoration shall be done, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by the nonmetallic mining operation.

5. COMPLIANCE WITH ENVIRONMENTAL REGULATIONS

- a. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

6. SURFACE WATER AND WETLANDS PROTECTION

- a. Nonmetallic mining operations and reclamation shall be conducted and completed in a manner that assures compliance with the DNR's water quality standards for surface waters and wetlands contained in Wisconsin Administrative Code Chapters NR 102 to NR 105.
- b. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diverting and draining runoff from the site must be taken to prevent pollution and erosion. Runoff from nonmetallic mining operations and reclamation may not adversely affect neighboring properties.

7. GROUNDWATER PROTECTION

- a. Nonmetallic mining operations and reclamation shall be conducted in a manner that does not cause groundwater quality standards in Wisconsin Administrative Code Chapter NR 140 to be exceeded at a point of standards application defined in that chapter.
- b. Nonmetallic mining operations and reclamation shall be conducted in a manner that does not cause a permanent lowering of the groundwater table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater available for reasonable use to future users.

8. TOPSOIL MANAGEMENT

- a. During operation, topsoil and topsoil substitute material shall be provided as specified in the reclamation plan to achieve the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material, when specified in the reclamation plan, shall be performed prior to any mining activity associated with any specific phase of the mining operation.
- b. The operator shall obtain the amount of topsoil or topsoil substitute required to perform final reclamation on-site and/or by obtaining material off-site.

- c. Once removed, on-site topsoil or topsoil substitute material shall, as required by the reclamation plan, either be used in progressive reclamation or stored in an environmentally acceptable manner. The location of stored topsoil or topsoil substitute material shall protect the material from washing away, eroding, or disturbing or contaminating the area. Runoff shall be diverted around stored topsoil or topsoil substitute material.

B. RECLAMATION STANDARDS

1. FINAL GRADING AND SLOPES

- a. All areas affected by mining shall be addressed in the approved reclamation plan to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the Land Use Administrator may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.
- b. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under this chapter; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.
- c. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

2. TOPSOIL REDISTRIBUTION

- a. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan in a manner which minimizes compaction and prevents erosion.
- b. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is environmentally undesirable or impractical.
- c. Topsoil or topsoil substitute material shall not be redistributed during or immediately after a precipitation event that leaves the topsoil or topsoil substitute material too wet to be redistributed effectively.

3. REVEGETATION AND SITE STABILIZATION

- a. Except for permanent roads or other surfaces identified in the reclamation plan, all surfaces affected by nonmetallic mining shall be restored, reclaimed and/or restabilized by revegetation or other means.
- b. Revegetation and site stabilization shall be completed in accordance with the reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in that area of the site.

4. ASSESSING COMPLETION OF SUCCESSFUL RECLAMATION

- a. The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to

this chapter. Criteria to evaluate reclamation success shall be quantifiable.

- b. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:
 - 1) On-site inspections by St. Croix County or its agent;
 - 2) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo-documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
 - 3) A combination of inspections and reports.
- c. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
- d. Revegetation success may be determined by:
 - 1) Comparison to an appropriate reference area;
 - 2) Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 - 3) Comparison to an approved alternate technical standard.Revegetation using a variety of plants indigenous to the area is favored.

5. INTERMITTENT MINING

- a. Intermittent mining may be conducted provided that intermittent cessation of the operation is addressed in the nonmetallic mining permit, no environmental pollution or erosion will occur or is occurring, and financial assurance for reclamation pursuant to sub. 14.5 is maintained on all affected areas of the nonmetallic mining site that have not been reclaimed.

6. MAINTENANCE

- a. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

14.3 PERMITTING

A. NONMETALLIC MINING RECLAMATION PERMIT APPLICATION

1. GENERAL INFORMATION

- a. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 14.1C and 14.1E.
- b. All operators of nonmetallic mining sites shall apply for a reclamation permit from St. Croix County.
- c. To avoid duplication, the application may reference information already on file with the Zoning Administrator.

2. CONTENT OF APPLICATION

- a. All applications for reclamation permits under this section shall be accompanied by the following information:
 - 1) A brief description of the general location and nature of the nonmetallic mine.
 - 2) The name, address, telephone number and e-mail address of all persons or entities who are owners or lessors of the property on which the nonmetallic mining site is located.
 - 3) The name, address, telephone number and e-mail address of any operator of the nonmetallic mining operation.
 - 4) The legal description and parcel identification number of the property on which the nonmetallic mining site is located.
 - 5) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by sub. 14.2.
 - 6) The plan review and annual fees required.
 - 7) A reclamation plan conforming to sub. 14.4.
 - 8) A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by sub. 14.5 upon granting of the reclamation permit and before mining begins.

3. NOTICE AND HEARING

- a. St. Croix County shall provide public notice and the opportunity for a public informational hearing.
- b. When St. Croix County receives a completed application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt.
- c. The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to s. 985.07(1), Stats., in the official newspaper of St. Croix County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.
- d. Copies of the notice shall be forwarded to applicable municipality, local planning organization, county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.
- e. If St. Croix County conducts a zoning-related hearing on the nonmetallic mine site, the County shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. St. Croix County shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this chapter.
- f. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as

described above, opportunity for a public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. St. Croix County shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice. This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

- g. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine.

4. DECISION ON APPLICATION

- a. A decision on an application for a nonmetallic mining permit issued by the Zoning Administrator shall be made within 60 days of the public hearing or within 30 days of the last day for requesting a public hearing. The decision shall be in writing. If the decision is a denial, the reasons for denial shall be stated. A decision of the Zoning Administrator may be appealed to the Board of Adjustment.
- b. Any application shall be denied if the operator or the operator's agent, principal or predecessor has, within 10 years of filing an application for a nonmetallic mining permit, shown a pattern of serious violations of this or a predecessor ordinance or of federal, state or local environmental laws, rules, regulations or ordinances related to nonmetallic mining. Serious violations include, but are not limited to:
 - 1) Rulings or adjudications against an operator or the operator's agent, principal or predecessor in administrative or judicial proceedings.
 - 2) Suspensions or revocations of nonmetallic mining permits pursuant to this or a predecessor ordinance, other ordinances or Wisconsin Administrative Code Chapter NR 135.
 - 3) Forfeitures of financial assurances.

5. AUTOMATIC PERMIT FOR LOCAL TRANSPORTATION-RELATED MINES

- a. St. Croix County shall automatically issue an expedited permit under this subsection to any borrow site that:
 - 1) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months.
 - 2) Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality.
 - 3) Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
 - 4) Is not a commercial source.
 - 5) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any.
 - 6) Is not otherwise exempt from the requirements of this chapter.
- b. In this subsection, "municipality" has the meaning defined in s. 299.01(8), Stats. Automatic permits shall be issued under this subsection in accordance with the following provisions:
 - 1) The applicant shall notify St. Croix County of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.

- 2) The applicant shall provide evidence to St. Croix County to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
- 3) St. Croix County shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan.
- 4) St. Croix County shall accept the contractual provisions in lieu of the financial assurance requirements.
- 5) The public notice and hearing provisions do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.
- 6) Mines permitted under this subsection shall pay an annual fee to St. Croix County but shall not be subject to the plan review fee.
- 7) St. Croix County shall issue the automatic permit within 7 days of the receipt of a complete application.
- 8) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.
- 9) The operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

6. EXPEDITED REVIEW

- a. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application as follows:
 - 1) The operator may submit a request for expedited permit review with payment of the expedited review fee. This request shall state the need for such expedited review and the date by which such expedited review is requested.
 - 2) The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.
 - 3) Following receipt of a request under this subsection, the County shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under sub. 1 shall be returned.
 - 4) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

7. PERMIT CONDITIONS

- a. Any decision under this section may include conditions as provided below:
 - 1) St. Croix County may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this chapter. The approvals may not include conditions that are not related to reclamation.
 - 2) One required condition of the issued permit shall be that the new mine obtain financial assurance prior to beginning mining.

8. ALTERNATIVE REQUIREMENTS

- a. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standards. St. Croix County may approve an alternative requirement to the

reclamation standards established in this chapter if the operator demonstrates and the County finds that all of the following criteria are met:

- 1) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.
- 2) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.
- 3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

9. PERMIT DURATION

- a. A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked.
- b. If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee.

10. PERMIT TRANSFER

- a. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the following conditions:
 - 1) A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to St. Croix County of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.
 - 2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the county and St. Croix County makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

11. PERMIT MODIFICATION

- a. A nonmetallic mining permit may be modified. The notice and hearing procedures for an application shall be followed for permit modification.
- b. A nonmetallic mining permit modification procedure may be commenced by the Land Use Administrator if a nonmetallic mine is alleged to be out of compliance with a law, rule, regulation or ordinance, or is a threat to the public health or safety. The operator shall submit new information relating to operation, reclamation or financial assurances if requested by the Zoning Administrator.
- c. An operator may request a modification to his/her nonmetallic mining permit by following the nonmetallic mining permit application procedure. A modification requested by an operator may be granted only if it is in the public interest.
- d. An operator shall request a modification to his/her nonmetallic mining permit if changes occur to the mining site which make modifications to the reclamation plan necessary to protect the public interest.

12. REVOCATION OF PERMIT

- a. Every applicant for a nonmetallic mining permit is charged with knowledge of the requirements of all state laws, rules and regulations and St. Croix County ordinances relating to or affecting nonmetallic mining and/or the land upon which a mine is located. Any incorrect or false statement made by an applicant, or issuance of a nonmetallic mining permit contrary to a law, rule, regulation or ordinance, is grounds for revocation of the permit.

13. PERMIT TERMINATION

- a. A nonmetallic mining permit shall terminate when reclamation is completed.

14. PREVIOUSLY PERMITTED SITES

- a. For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of St. Croix County, the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by St. Croix County.

15. REVIEW

- a. Any permitting decision or action made by St. Croix County under this chapter may be reviewed as set forth in this section. Notwithstanding ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of s. 227.42 (1), Stats., may obtain a contested case hearing under s. 68.11, Stats., on St. Croix County 's decision to issue, deny or modify a nonmetallic mining reclamation permit.

14.4 RECLAMATION

A. RECLAMATION OF NONMETALLIC MINING SITE

1. GENERAL INFORMATION

- a. Nonmetallic mining sites shall be reclaimed in accordance with a written reclamation plan. A reclamation plan shall be submitted with the application for a nonmetallic mining permit.
- b. The reclamation plan shall specify a post-mining land use for the nonmetallic mining site. The post-mining land use shall be consistent with local land use plans, the county zoning ordinance, and all applicable federal, state and other local plans, ordinances, rules and regulations.
- c. Nonmetallic mining conducted on land zoned for agricultural use pursuant to Wisconsin Statute Chapter 91 shall be restored to an agricultural use.
- d. After the operator has stated that reclamation is complete but prior to the release of the financial assurance, the operator shall maintain the reclaimed site as may be necessary to prevent erosion, sedimentation or environmental pollution, or meet the requirements of the reclamation plan.

2. RECLAMATION PLAN

- a. The reclamation plan shall contain the following:
 - 1) The name of the operator and the location of the nonmetallic mining site.
 - 2) An overview of the reclamation plan, including the post-mining land use and the methods and sequence for completion.
 - 3) Maps of the nonmetallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the location of surface waters and the existing drainage patterns, the approximate elevation of ground water, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.
 - 4) Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.
 - 5) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
 - 6) Existing topography as shown on contour maps of the site at 1 and 5 foot contour intervals.
 - 7) For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.
 - 8) A drawing or map which shows roads, buildings and other structures remaining after reclamation.
 - 9) A drawing or map which shows the topography of the site and any water impoundments or artificial lakes needed to support the land use after reclamation.
 - 10) A description of and the volume of topsoil and/or topsoil substitute material and other earth materials, to be used to complete reclamation, and the methods for stripping, storing, stabilizing, reapplying and conserving these materials during reclamation. If off-site material is used, a description of the source, type and volume of that material shall

- be included.
- 11) A description of the earthwork and related activities, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures, and if necessary a site-specific engineering analysis performed by a professional engineer.
 - 12) An estimate of the total cost of reclamation and, if applicable, the cost of each stage of reclamation.
 - 13) A description of erosion control measures to be employed during reclamation activities.
 - 14) A description of the disposition of man-made features and related facilities after cessation of mining.
 - 15) An estimate of the total cost of reclamation and the cost for each phase of reclamation if it is to be done progressively.
 - 16) A description of revegetation, including: timing and methods of seedbed preparation; types and rates of soil amendments; timing, methods and rates of seeding; mulching, netting and/or other methods of soil and slope stabilization.
 - 17) A timetable for reclamation activities.
 - 18) A description of any area which will be temporarily reclaimed but subsequently mined again for which the operator will request a partial waiver of annual fees and financial assurance.
 - 19) Quantifiable standards for revegetation that show the vegetation will support the post-mining land use, including percent of vegetative cover, plant productivity, plant density and diversity.
 - 20) If the post-mining land use returns the nonmetallic mining site to a pre-mining condition, baseline data on the existing plant community for use in evaluating the success of the reclamation.
 - 21) A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses. Safety measures may include but are not limited to visual warnings, physical barriers, slope modifications such as reclamation blasting, scaling of the rock face, creation of benches. Other measures may be employed if found to be equivalent by a professional engineer.
 - 22) The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. In cases where the operator is not the landowner, then the operator shall either obtain a signed certification of the landowner that they concur with the reclamation plan and will allow its implementation or the operator shall provide written evidence that the landowner has been provided with a written copy of the reclamation plan.
 - 23) Criteria for successful reclamation. The reclamation plan shall contain criteria for assuring successful reclamation.
- b. The operator shall keep a copy of the reclamation plan at the nonmetallic mine or, if not practicable, at the operators nearest office.
 - c. Approval of Reclamation Plan. St. Croix County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing. Conditional approvals and denials of reclamation plans shall be made according to this chapter.

14.5 FINANCIAL ASSURANCE

A. FINANCIAL ASSURANCE

1. FINANCIAL ASSURANCE REQUIRED

- a. Prior to commencing any mining activities, the operator shall file a financial assurance with the Land Use Administrator which guarantees a specified amount of money available to St. Croix County for reclamation if the operator fails to reclaim, in whole or in part, the nonmetallic mining site.
- b. St. Croix County Shall provide written notification to the operator of the amount of financial assurance required.
- c. If the operator fails to complete reclamation as required, the Land Use Administrator shall arrange for completion of reclamation utilizing whatever amount of the financial assurance is necessary to pay for the reclamation.
- d. A financial assurance is not required for nonmetallic mining conducted by the state, a state agency, board, commission or department, municipality or other governmental unit.

2. FORM, AMOUNT, AND DURATION OF FINANCIAL ASSURANCE

- a. The financial assurance shall be in the form of a bond or an alternate form, including cash, certificate of deposit, net worth, irrevocable letter of credit, irrevocable trusts, escrow account, and government securities. The financial assurance may be a combination of forms.
- b. The amount of financial assurance shall equal as closely as possible the cost of the regulatory authority hiring a contractor to complete reclamation according to the approved reclamation plan.
- c. The financial assurance shall be available or payable exclusively to St. Croix County.
- d. Interest earned on the financial assurance shall be payable to the operator without restriction.
- e. The financial assurance shall allow the county to utilize it for progressive and final reclamation.
- f. The Land Use Administrator shall periodically review the financial assurance to ensure it is sufficient to cover current reclamation costs.
- g. The period of financial assurance is dictated by the period of time required to establish the post mining land use, and shall be released upon successful completion of the reclamation plan. A portion of the financial assurance shall be released in an amount equal to the cost of a progressive reclamation stage successfully completed.

3. MULTIPLE SITES

- a. The operator of two or more nonmetallic mining sites subject to this chapter may elect to provide a single financial assurance for those sites in lieu of separate financial assurances for each site.
- b. If an operator elects to provide a single financial assurance for multiple nonmetallic mining sites, no financial assurance previously provided shall be released until a new financial assurance has been approved.

4. MULTIPLE JURISDICTIONS

- a. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

5. CERTIFICATION OF COMPLETION AND RELEASE

- a. The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. St. Croix County shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. St. Croix County may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete, St. Croix County shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.
- b. St. Croix County shall make a determination of whether or not the certification in par. a can be made within 60 days that the request is received.
- c. St. Croix County may make a determination under this subsection that:
 - 1) Reclamation is not yet complete;
 - 2) It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
 - 3) Reclamation is complete in a part of the mine; or
 - 4) Reclamation is fully complete.

6. FORFEITURE

- a. Financial assurance shall be forfeited if any of the following occur:
 - 1) A permit is revoked and the appeals process has been completed.
 - 2) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

7. CANCELLATION

- a. A financial assurance may not be canceled by the issuer or guarantor unless the financial assurance provides for cancellation. Notice of intent to cancel shall be given not less than 90 days prior to cancellation. Written notice of intent to cancel shall be delivered to the Land Use Administrator personally or by registered or certified mail. If cancelled, written notice of cancellation shall be given immediately.
- b. Not less than 30 days prior to the expiration date stated in the notice of cancellation, the operator shall provide a new financial assurance acceptable to the Land Use Administrator.
- c. In the absence of an approved financial assurance, all nonmetallic mining shall cease and shall not resume until an approved financial assurance is obtained by the operator. Reclamation activities are not affected by this paragraph.

8. CHANGE IN FORM

- a. The operator may change the form of financial assurance with the written approval of the Land Use Administrator. The form may not be changed more than once a year unless necessitated by par. c below.
- b. The operator shall give the Land Use Administrator at least 60 days prior written notice of intent to change the form of the financial assurance.
- c. The Land Use Administrator may adjust the amount of the financial assurance based on changes in estimated costs of reclamation. The Land Use Administrator shall notify the operator in writing of such required change and explain the basis for the change.

9. INTERIM RECLAMATION REDUCTION OR REMOVAL

- a. If the Land Use Administrator determines that an area within a nonmetallic mining site has been successfully reclaimed on an interim basis in accordance with the reclamation plan, the Land Use Administrator may reduce the financial assurance requirement for that area.

10. BANKRUPTCY

- a. The operator of a nonmetallic mine named as a debtor in a voluntary or involuntary bankruptcy proceeding commenced pursuant to 11 U.S.C. §§101 et seq. shall notify the Land Use Administrator within 10 days of commencement of the proceeding.

11. ADJUSTMENT OF FINANCIAL ASSURANCE

- a. Financial assurance may be adjusted when required by St. Croix County. St. Croix County may notify the operator in writing that adjustment is necessary and the reasons for it. St. Croix County may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

12. NET WORTH TEST

- a. Only an operator that meets the definition of “company” in Wis. Stat. § 289.41 (1)(b), may use the net worth method of providing financial assurance.
- b. The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of Wis. Stat. § 289.41 (4), Stats. The criteria in Wis. Stat. §§289.41(6)(b), (d), (e), (f), (g), (h) and (i) shall apply.
- c. An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with Wis. Stat. § 289.41 (6).
- d. Determinations under the net worth test shall be done in accordance with Wis. Stat. § 289.41 (5)
- e. In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.

14.6 ANNUAL FEES

A. ANNUAL FEES

1. PURPOSE OF ANNUAL FEES

- a. Pursuant to Wisconsin Administrative Code NR § 135.39, a nonmetallic mining operator shall pay two annual fees to St. Croix County. One annual fee is collected for the Department of Natural Resources; its annual fee shall be equal to the department's costs to inspect, enforce, consult with and audit the activities of the St. Croix County Community Development Department relating to nonmetallic mining site reclamation. The second annual fee is retained by the county; its annual fee shall as closely as possible equal the county's expenses to administer the program, including but not limited to the examination and approval of plans, costs to ensure compliance, and inspecting nonmetallic mining sites.

2. AREAS SUBJECT TO FEES

- a. Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mining site.
- b. Unreclaimed acres include unreclaimed areas in which nonmetallic mining has occurred after April 11, 1989 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed.
- c. Unreclaimed acres do not include:
 - 1) Those areas where reclamation has been completed and certified as reclaimed under §14.10 B.
 - 2) Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after April 11, 1989.
 - 3) Those portions of nonmetallic mining sites which are included in an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.
 - 4) Areas previously mined but used after April 11, 1989 for a non-mining activity, including stockpiling of materials, provided the stockpiles are associated with on-site industrial processes, used for an industrial activity unrelated to nonmetallic mining such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
 - 5) Those areas within a nonmetallic mining site which have been determined to have been successfully reclaimed on an interim basis by the Land Use Administrator.

3. AMOUNT OF ANNUAL FEE

- a. The Department of Natural Resources' annual fee is shown in Table 1 in Wisconsin Administrative Code NR § 135.39(3) and in a fee schedule published by the Land Use Administrator.
- b. The County's annual fee is shown in the Community Development Department fee schedule.
- c. The annual fees shall be paid no later than January 31st for the previous year.
- d. If reclamation has occurred on a portion of a nonmetallic mining site and the operator has filed a notice of completion, but certification of completion has not been issued by the Land Use Administrator at the time the annual fee is due, the payment shall be made and the operator may request that the payment be held by the Land Use Administrator pending certification of completion. Within 60 days of the request, the Zoning Administrator shall, in writing: 1) certify completion; 2) make a finding that reclamation is not complete; or 3) make a finding that completion cannot be determined due to weather conditions, snow cover or other relevant factors, and indicate when a determination will be made. If the Land Use Administrator certifies completion, or fails to take any of the required actions within 60 days, that portion of the annual fee shall be returned to the operator.

- e. The Land Use Administrator may reduce the annual fees for a nonmetallic mining operation that was inactive in the previous calendar year. In such an event, the Department of Natural Resources annual fee shall be \$15.
- f. The annual fee collected under this subsection for local transportation-related mines that were issued permits under §14.3. A.2. may not exceed the amounts set forth in Wisconsin Administrative Code NR § 135.39 (4)(c), Table 2. The amount listed shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the Wisconsin Department of Natural Resources and St. Croix County.

14.7 ANNUAL REPORT

A. OPERATOR ANNUAL REPORT

1. SUBMISSION

- a. Every operator shall submit an annual report for each nonmetallic mining site to the and Use Administrator. The annual report shall include the following:
 - 1) The name and mailing address of the operator.
 - 2) The location of the nonmetallic mining site, including legal description and tax key number or parcel identification number, if available.
 - 3) The nonmetallic mining permit number, if applicable.
 - 4) The number of unreclaimed acres.
 - 5) The number of acres permanently reclaimed.
 - 6) The number of acres reclaimed on an interim basis.
 - 7) A map or drawing accurately showing the areas described under pars. 4-6.
 - 8) If mining into groundwater, actual pumping rates and times, actual groundwater discharge locations and quantities, and groundwater monitoring results.
 - 9) The following certification, signature of the operator, and date of signature:

I certify that the information contained in this annual report is true and correct to the best of my knowledge, and that the nonmetallic mining site complies with the nonmetallic mining permit, this ordinance, and Wis. Adm. Code Ch. NR 135.

- b. The annual report shall cover activities on unreclaimed acreage for the previous calendar year and shall be submitted by January 31st.
- c. Annual reports shall be submitted for all active nonmetallic mining sites and intermittent nonmetallic mining sites. Annual reports shall be submitted until final reclamation of the site is certified as complete or the financial assurance is released by the Land Use Administrator.
- d. The Land Use Administrator, at his/her discretion, may obtain the information required for an annual report through an inspection and written report of the nonmetallic mining site in lieu of the annual report. If the Zoning Administrator substitutes an inspection report for the annual report, he/she shall notify the operator in writing at least 30 days prior to the end of the year that an annual report need not be submitted for that year. The operator shall still submit the certification required in par. 8.
- e. The Land Use Administrator shall retain an annual report, or substitute annual report, for 10 years.

14.8 ADMINISTRATION AND ENFORCEMENT

A. ADMINISTRATION

1. ZONING ADMINISTRATOR

- a. The St. Croix County Land Use Administrator shall be responsible for the administration and enforcement of this chapter. The responsibilities of the Land Use Administrator may be delegated by him/her to personnel employed by or assigned to the Community Development Department.

2. RIGHT OF ENTRY AND INSPECTION

- a. The Land Use Administrator may inspect any existing or proposed nonmetallic mining site subject to this chapter for the purpose of ascertaining compliance with the chapter.
- b. Any authorized officer, agent, employee or representative of the Department of Natural Resources may inspect any existing or proposed nonmetallic mining site subject to this chapter for the purpose of ascertaining compliance with the reclamation provisions of this chapter.
- c. No person may refuse an authorized person access to an existing or proposed nonmetallic mining site.

3. DOCUMENTATION

- a. The Land Use Administrator shall, to the best of his/her ability, maintain the information required below, and make it available to the Department of Natural Resources' audit of St. Croix County's reclamation program:
 - 1) Documentation of operator compliance with Wisconsin Administrative Code Chapter NR 135 and this chapter.
 - 2) The procedures employed by the Land Use Administrator to review reclamation plans, and to issue and modify permits.
 - 3) The method of review of operator annual reports.
 - 4) The method and effectiveness of fee collection.
 - 5) The procedures used to forward the Department of Natural Resource's annual fee in a timely fashion.
 - 6) The methods used for conducting on-site compliance inspections, creating attendant reports and records, and taking enforcement actions.
 - 7) Responses to citizen complaints.
 - 8) The method of determining and the accuracy of the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
 - 9) The number and type of approvals for alternate standards issued.
 - 10) The methods of maintaining and making available the reclamation records.
 - 11) The method of determining the success of a reclamation plan and subsequently releasing financial assurance.
 - 12) Any changes in local regulations, chapters, funding, staffing or any other factor which might affect the ability of the Land Use Administrator to administer the nonmetallic mining reclamation program under this chapter.
 - 13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
 - 14) Any other performance criteria reasonably deemed necessary by the Wisconsin Department of Natural Resource to ascertain compliance with Wisconsin Administrative Code Chapter NR 135.

4. COUNTY ANNUAL REPORT REQUIREMENTS

- a. The Land Use Administrator, on behalf of the county, shall submit an annual program report. The annual program report shall include the following:
 - 1) The total number of active nonmetallic mining permits.
 - 2) The number of new permits issued in the reporting year.
 - 3) The total number of acres being mined. (Un-reclaimed acres)
 - 4) The total number of acres approved for mining.
 - 5) The number of acres approved for mining in the reporting year.
 - 6) The number of acres reclaimed in the reporting year for which the financial assurance has been released.
 - 7) The number of acres reported to be reclaimed in the reporting year for which the financial assurance has not yet been released.
 - 8) The number and description of alternate standards granted, permit modifications for reclamation, public hearings, reclamation violations, reclamation enforcement actions, reclamation forfeitures, and amount of financial assurances used by the county for reclamation.

B. RECLAMATION RELEASE**1. RECLAMATION PLAN CERTIFICATION**

- a. The operator shall notify the Land Use Administrator at the time that he/she determines that reclamation of any portion of the mining site or the entire site is complete.
- b. The Land Use Administrator shall inspect the mining site or portion thereof to determine if reclamation has been carried out in accordance with the reclamation plan.

2. ASSESSING RECLAMATION

- a. The criteria for determining when reclamation is complete shall have been specified in the reclamation plan.
- b. Compliance with the revegetation success standards of the reclamation plan shall be determined by:
 - 1) On-site inspections.
 - 2) Reports of reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria of the reclamation plan for ascertaining success have been met.
- c. Revegetation success may be determined by:
 - 1) Comparison to an appropriate reference area.
 - 2) Comparison to baseline data acquired at the nonmetallic mining site prior to its being affected by mining; or
 - 3) Comparison to an approved alternate standard.
- d. Within 60 days of receiving notice of reclamation, the Land Use Administrator shall inspect and provide a written determination that:
 - 1) Reclamation is not yet complete;
 - 2) It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
 - 3) Reclamation is complete in a part of the mine; or
 - 4) Reclamation is fully complete.
- e. If reclamation is complete for part or all of a nonmetallic mining site, then:
 - 1) No annual fee shall be assessed for the area so certified.
 - 2) The financial assurance shall be released or appropriately reduced.
- f. If the Land Use Administrator does not provide a written response within 60 days of receiving

notice of reclamation, the annual fee paid for that portion of the nonmetallic mining site shall be refunded.

C. ENFORCEMENT

1. PROCEDURES

- a. The Land Use Administrator may institute any appropriate action or proceeding against violators of this chapter as provided by law or this chapter, including issuing citations under St. Croix County Chapter 1 – Citation and General Provisions or commencing a lawsuit seeking forfeitures and/or injunctive relief.
- b. In general, the Land Use Administrator shall use the following, in the order listed, to address violations of this chapter:
 - 1) Issue a notice of violation and order that specifies the corrective action to be taken.
 - 2) Issue a citation for a violation.
 - 3) Refer the matter to the legal counsel for evaluation and commencement of a lawsuit when the violation merits such action.
- c. The Land Use Administrator is not mandated to follow the order of possible action if, in the Land Use Administrator's discretion, a situation requires different action.
- d. A reclamation permit may be suspended or revoked by the Land Use Administrator if the conditions of the permit are violated. Any failure to take action on past violations shall not operate as a waiver of the right to take action on present violations. Violations justifying suspension or revocation of a nonmetallic mining permit include the following:
 - 1) Failure to submit a satisfactory reclamation plan within the time frames specified in this chapter.
 - 2) Failure to submit or maintain financial assurance as required by this chapter.
 - 3) Failure to follow the conditions of the nonmetallic mining permit.
 - 4) Failure to comply with this chapter.

2. PENALTIES

- a. Any person, firm or corporation who is adjudicated for violating this chapter shall pay a forfeiture of not less than \$25 per violation nor more than \$1,000 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation.
- b. Additionally, the person adjudicated for violation of this chapter shall pay court costs and reasonable attorney's fees. The remedies provided herein shall not be exclusive of other remedies.