

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

**CHAPTER 14  
NONMETALLIC MINING**

**ENACTED FEBRUARY 20, 2004  
AMENDED 7-1-07  
AMENDED 10-1-14**

ST. CROIX COUNTY ZONING DEPARTMENT  
GOVERNMENT CENTER  
1101 CARMICHAEL ROAD  
HUDSON, WI 54016  
715-386-4680  
715-386-4686 FAX  
[WWW.CO.SAINT-CROIX.WI.US](http://WWW.CO.SAINT-CROIX.WI.US)



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**ST. CROIX COUNTY LAND USE AND DEVELOPMENT  
CODE OF ORDINANCES****CHAPTER 14 – ST. CROIX COUNTY NONMETALLIC MINING**

*The Board of Supervisors of St. Croix County, Wisconsin, does ordain as follows:  
The nonmetallic mining ordinance, no. 226(89) as amended [Ord. Am. 301 (92), May 19, 1992: Ord. Am. 461  
(98), March 17, 1998], is repealed and  
recreated as follows:*

**14.1 INTRODUCTION****A. TITLE, AUTHORITY AND EFFECTIVE DATE****1. TITLE**

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

**2. AUTHORITY**

- a. This ordinance is authorized by Wisconsin Statutes §§59.692, 59.694 and subchapter I of Chapter 295, and Wisconsin Administrative Code Chapter NR 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 ordinance shall be effective on February 20, 2004. Ordinance No. 652/(2004) Replacing Ordinance No. 226(1989) with Chapter 14. Amended by Ordinance No. 758/(2007) effective on July 1, 2007.

**B. PURPOSE AND OBJECTIVES****1. PURPOSE**

- a. Nonmetallic mining is recognized as an important industry that contributes to the county's economic well-being. However, there is a substantial likelihood of short-term and long-term damage to the physical environment and tax base from nonmetallic mining if it is not regulated. This ordinance establishes regulations for nonmetallic mining to minimize or prevent damage to the public and to restore mining sites to a useful and stable condition after mining ceases.

**C. APPLICABILITY****1. APPLICATION OF THE ORDINANCE**

- a. This ordinance 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 ordinance does not apply to any nonmetallic mining site that permanently ceased operations prior to April 11, 1989.
- b. Any application for a nonmetallic mining operation permit submitted on or after the effective date of this ordinance shall comply with this ordinance.

- c. Any nonmetallic mining operation permitted prior to the February 20, 2004 effective date of this ordinance that requests a permit renewal or modification after the February 20, 2004 effective date of this ordinance shall be processed in the same manner as an initial application and shall comply with this ordinance.
- d. After this ordinance becomes effective on February 20, 2004, the County shall review the reclamation plans of all existing nonmetallic mining operations for substantial compliance with this ordinance. If an existing reclamation plan does not substantially comply with this ordinance, the reclamation plan shall be brought into compliance with this ordinance within two years, or when the permit is renewed, whichever is earlier.
- e. The reclamation provisions of this ordinance supersede the reclamation provisions of any town nonmetallic mining ordinance which are less restrictive than the reclamation provisions of this ordinance.
- f. This ordinance 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.
- g. All nonmetallic mining operations and/or sites must comply with the St. Croix County Zoning Ordinance.
- h. Property owners and operators, builders and contractors are responsible for complying with this ordinance.

#### **D. INTERPRETATION**

##### **1. ABROGATION**

- a. It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any easements, covenants, deed restrictions or agreements created prior to the 1989 effective date.

##### **2. LIBERAL CONSTRUCTION**

- a. The provisions of this ordinance 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 ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- b. If any application of this ordinance to a particular parcel of land, building, structure, water or air is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other land, building, structure, water or air not specifically included in said judgment.

#### **E. LIMITATION OF ACTION CHALLENGING VALIDITY OF ORDINANCE**

##### **1. CLAIMS**

- a. Pursuant to §59.69(14), Wisconsin Statutes, a land owner, occupant or other person affected by this ordinance or amendment thereto who claims that this ordinance or amendment is invalid because procedures prescribed by the statutes or the ordinance were not followed shall commence a court action within six months after adoption of this ordinance or be forever barred.

## **F. EXEMPT ACTIVITIES**

### **1. ACTIVITIES NOT SUBJECT TO THIS ORDINANCE**

- a. The following are not subject to this ordinance
  - 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 or immediately adjacent to the property boundaries of the transportation facility.
  - 5) Excavation or grading conducted for the construction, reconstruction, maintenance or repair of a highway or railroad immediately adjacent to the right-of-way.
  - 6) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
  - 7) Excavations for building construction purposes conducted on the building site.
  - 8) Any mining for which reclamation is required by a permit obtained under Wisconsin Statutes Chapter 293.
  - 9) Any activities required to prepare, operate or close a solid waste disposal facility under Wisconsin Statutes Chapter 289 or a hazardous waste disposal facility under Wisconsin Statutes Chapter 291 that are conducted on the property where the facility is located. This ordinance 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.
  - 10) 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.
  - 11) 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.

## **G. DEFINITIONS**

### **1. NR 135.03**

- a. All definitions for the purposes of this ordinance 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 the Geological Society Engineering Geology Special Publication No 9, titled Aggregates or, if not there, 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. OPERATION AND PROGRESSIVE RECLAMATION

- a. Nonmetallic mining operations and reclamation shall be conducted simultaneously, to the extent practicable, to restore areas no longer mined as soon as possible.

#### 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. OTHER STANDARDS

- a. The Zoning Administrator may impose or request from the Board of Adjustment, as appropriate, such other standards as are reasonably necessary to ensure proper operation and progressive and final reclamation in a manner consistent with this ordinance.

#### 5. 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.
- b. Where applicable, the restoration plan shall incorporate native grass and forb species where habitat restoration can be achieved to meet the goals and objectives of the Western Prairie Habitat Restoration Area (WPHRA).

#### 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. BUFFER ZONE

- a. A buffer zone of at least one hundred (100) feet, measured horizontally, shall be maintained along adjoining property lines and public roads and highways. Areas within the buffer zone may be used for earthen berms, fencing, egress/ingress (except for internal haul roads), planting of trees and other uses that help create a buffer between the nonmetallic mining operation and neighboring properties.

#### 8. 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.
- c. Wash ponds and settling ponds shall have five feet of separation distance to bedrock.
- d. For sites with planned excavation lower than the groundwater table, the operator shall submit a detailed hydrogeologic report. The operator shall be required to reimburse the county for the expense of professional work or opinions in review of a hydrogeologic report if recommended by staff or the Board of Adjustment. The hydrogeologic report shall provide the following information, as well as a description and justification of all hydrologic methods used:
  - 1) Existing conditions to establish baseline data, including but not limited to:
    - a) Analysis of groundwater quality on the mining site consistent with Wisconsin Administrative Code Chapter NR 140.20.
    - b) Identification of all known contaminated groundwater resources within one-half mile of the mining site.
    - c) Identification of all karst features such as sink holes, stream sinks, springs, caves, joints, or fractures within one-half mile of the mining site.
    - d) Identification and elevation of all surface waters and headwaters within a minimum of one-half mile of the mining site. Elevations must include the existing water level, as well as the ordinary high water mark where applicable.
    - e) Identification of all existing groundwater users (neighboring private water-supply wells, well head protection areas, municipal wells, irrigation wells, and etc.) within 1200 feet of the mining site consistent with Wisconsin Administrative Code Chapter NR 812. Well construction reports including well location, well depth, depth of casing, depth to water, and aquifers penetrated should be identified.
    - f) Elevation of the groundwater table, groundwater flow directions, and groundwater velocities.
    - g) All information in b) – e) above shall be presented in the form of contour maps and multiple geologic cross-sections passing through the proposed excavation and all areas of concern. All horizontal and vertical measurements shall be referenced to a permanent reference point of the St. Croix County Coordinate System.
  - 2) Proposed operational data, including but not limited to:
    - a) Elevation of the lowest point of mining and dewatering activities below groundwater.
    - b) Description of the means planned to prevent surface water running into the excavation.
    - c) Where dewatering is proposed, provide pumping rates and times; elevation of the groundwater draw down level; and identification of groundwater discharge locations and quantities.
    - d) A groundwater monitoring program to ensure compliance with a. and b. above. Such program should include the installation of monitoring wells near the site perimeter of the proposed area of excavation to measure groundwater elevations, quality, flow directions, and velocities.
  - 3) The Board of Adjustment may require the applicant to provide additional relevant hydrogeologic studies such as groundwater modeling, when:
    - a) Dewatering is proposed at the mining site,
    - b) Known contaminated groundwater resources exist within one-half mile of the mining site,
    - c) Known karst features such as sink holes, stream sinks, springs, caves, joints, or fractures exist within one-half mile of the mining site,
    - d) Exceptional, outstanding, and/or 303d WDNR-listed waters exist within one-half mile of the mining site, or

- e) Existing wells using the same or a shallower aquifer exist within 1200 feet of the mining site.
- 4) If groundwater modeling is required, the following minimum information shall be provided:
  - a) Description and justification of all input data to groundwater models.
  - b) Calibration of all groundwater models.
  - c) Sensitivity analysis for all groundwater models.
  - d) Detailed output from the hydrologic methods including the elevation of the water, elevation of the cone of depression caused by dewatering, groundwater flow directions, groundwater velocities, mounding elevations, and any potential effects on nearby surface water, springs, or users of surface and groundwater.
  - e) Description of the possible existence of fractures or solution cavities in the geologic material and their effect on groundwater flow and land stability.
- e. As a condition of approval, the operator shall accept responsibility for remediation or the permit may be revoked.

#### **9. 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 may 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.

#### **10. BOUNDARY STAKING**

- a. The perimeter area to be mined shall be staked or otherwise marked in a way acceptable to the Zoning Administrator. If a site has been permitted to be mined in stages, each area shall be staked or otherwise marked in a way acceptable to the Zoning Administrator. Stakes shall be at least 4 feet above grade and made of steel, fiberglass or other material acceptable to the Zoning Administrator.
- b. Painted wood lath may be used for operations of one year or less.
- c. Staking may be waived by the Zoning Administrator if the boundary of an area to be mined is the same as an existing fence line or other easily identifiable feature noted on the project plans.
- d. Staking shall be completed and notice of staking given to the Zoning Administrator at least 2 working days prior to commencing nonmetallic mining operations.

#### **11. ON-SITE FUEL STORAGE**

- a. All petroleum products kept onsite and related to the mining operation shall be stored in state approved fuel storage containers and shall be in accordance with federal standards for storage and fueling areas.

**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 Zoning 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 §14.2 B.4. of this ordinance; 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.
- 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.
- c. Revegetation shall consist of a variety of grasses and/or plants indigenous to the area.

**4. ALTERNATE RECLAMATION STANDARDS**

- a. An operator of a nonmetallic mining operation may request an alternate standard to the reclamation standards.
- b. A request for an alternate standard may be incorporated into an application for a nonmetallic mining permit or may be requested as a modification to a nonmetallic mining permit.

- c. All requests for an alternate standard, whether for a land use permit or a conditional use permit, may only be allowed by the Board of Adjustment following the procedures in §17.70 (5)-(8) of the St. Croix County Zoning Ordinance.
- d. The Zoning Administrator shall provide written notice to the Department of Natural Resources within 10 working days of receiving a request for an alternate reclamation standard.
- e. An alternate reclamation standard may be established if the operator demonstrates that all of the following are met:
  - 1) The nonmetallic mining site, the surrounding property, the operation plan or the reclamation plan has a unique characteristic that requires an alternate standard;
  - 2) Unnecessary hardship to the landowner and/or operator will result unless the alternate standard is approved; and
  - 3) Reclamation using the alternate standard 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.
- f. A specific decision on a request for an alternate reclamation standard will be made. It shall be in writing and shall explain why the alternate standard is or is not approved.
- g. A copy of the decision on an alternate reclamation standard shall be submitted to Department of Natural Resources within 10 working days of issuance.

## **C. INTERMITTENT MINING**

### **1. INTERMITTENT MINING ALLOWED**

- 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 §14.6 is maintained on all affected areas of the nonmetallic mining site that have not been reclaimed.

## 14.3 NONMETALLIC MINING PERMIT

### A. PERMIT CONDITIONS

#### 1. PERMIT REQUIRED

- a. A nonmetallic mining operation subject to this ordinance shall obtain a nonmetallic mining permit before commencing operations and maintain the permit during operations. The permit is obtained through the application procedures in §14.3.
- b. Nonmetallic mining may be permitted in any zoning district, except in the residential and conservancy districts. Nonmetallic mining may be permitted in the AG-2 district only if the mining is for agricultural or governmental purposes.
- c. A nonmetallic mining permit may be issued by the Zoning Administrator in the form of a land use permit if the nonmetallic mining operation: (1) will remove less than 10,000 cubic yards of material from the site, will be conducted for no more than 60 days and will not be conducted in a major subdivision; or (2) for a borrow site used in connection with a municipal contract for the construction, reconstruction, maintenance or repair of a public highway, railroad, airport facility or other transportation facility when the borrow site is not adjacent to the transportation facility property.
- d. Nonmetallic mining that does not fall within criteria in par. c may be permitted only by the Board of Adjustment in the form of a conditional use permit. The Board of Adjustment shall follow the procedures in §17.70 (5)-(8) of the St. Croix County Zoning Ordinance when considering an application.
- e. If an operator is not the owner of a nonmetallic mining site, the term of the nonmetallic mining permit shall not exceed the term of the lease and/or agreement between the operator and the owner of the nonmetallic mining site.

#### 2. BORROW SITES

- a. The Zoning Administrator shall issue within 7 days of receipt of a complete application a nonmetallic mining permit for a borrow site if the borrow site:
  - 1) Will be mined in connection with a municipal agreement for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility;
  - 2) Will be mined and reclaimed within 36 months;
  - 3) Will be reclaimed in accordance with Wisconsin Department of Transportation requirements for the restoration of nonmetallic mining sites;
  - 4) Is not otherwise exempt from the requirements of this ordinance
- b. The notice and hearing requirements in §14.4 A.4. are not applicable to borrow sites qualifying for a nonmetallic mining permit under this section.
- c. In lieu of a reclamation plan, the applicant may provide the Zoning Administrator with a copy of the municipal contract reclamation requirements for a borrow site qualifying for a nonmetallic mining permit under this section.
- d. No financial assurance will be required for a borrow site qualifying for a nonmetallic mining permit under this section.
- e. No fee shall be charged for review of a reclamation plan for a borrow site qualifying for a nonmetallic mining permit under this section.
- f. The annual fees in §14.8 shall be paid for borrow sites qualifying for a nonmetallic mining permit under this section. However, the amount of the annual fees (both county and state) shall not exceed the amount shown in Wisconsin Administrative Code Chapter NR 135.39(4)(c), Table 2.

- g. Material from a borrow site qualifying for a nonmetallic mining permit under this section may be obtained for other purposes, provided the other purposes are identified in the nonmetallic mining permit application.
- h. In lieu of the annual report required in §14.9, the operator of a borrow site qualifying for a nonmetallic mining permit under this section is required to submit only information necessary to identify the borrow site and to determine the annual fee.

### **3. PERMIT MODIFICATION**

- a. A nonmetallic mining permit may be modified. The notice and hearing procedures for an application contained in §14.4 A.4. shall be followed for permit modification.
- b. A nonmetallic mining permit modification procedure may be commenced by the Zoning 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.

### **4. 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.

### **5. PERMIT TERMINATION**

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

### **6. MINE AREA AND PERMIT DURATION**

- a. Mines of up to 20 acres in area and operation periods of up to five years may be permitted. Expansions of existing mines of up to 20 acres in area and/or renewals of operating permits for periods of up to five years may be granted in the same manner as initial permits.
- b. To accommodate larger nonmetallic mines, a long range comprehensive plan may be applied for and approved for nonmetallic mines sites for more than 20 acres in area provided they operate in accordance with their approved mining plan, but in no case shall an area greater than 20 acres be open for mining at one time. Permits for such operations shall be subject to an annual review and may be modified based on changes in law, rules, regulations, ordinances or industry standards.

### **7. PERMIT TRANSFER**

- a. A nonmetallic mining permit may be transferred to a different operator if the new operator provides a financial assurance and receives approval from the Zoning Administrator or the Board of Adjustment (whoever issued the permit initially). The existing financial assurance shall remain in effect until the new operator's financial assurance is approved.

### **8. FINANCIAL ASSURANCE**

- a. Following the granting of a nonmetallic mining permit, and before commencing any mining activities, the operator shall file a financial assurance with the Zoning Administrator as set out in §14.7.

**9. ANNUAL FEE**

- a. Annual fees will be assessed on the number of unreclaimed acres at nonmetallic mining sites as set out in §14.8.

## 14.4 APPLICATION

### A. NONMETALLIC MINING PERMIT APPLICATION

#### 1. GENERAL INFORMATION

- a. Every owner, and operator that isn't the owner, of a proposed or existing nonmetallic mining site subject to this ordinance shall submit an application for a nonmetallic mining permit or permit renewal to the Zoning Administrator pursuant to this section.
- b. No application for a nonmetallic mining permit or permit renewal shall be considered complete unless all the information required by this section is provided
- c. The application for a nonmetallic mining permit or permit renewal shall be made on forms provided by the Zoning Administrator and be signed by the landowner and the operator if not the landowner or his/her agent. Agent does not include a prospective purchaser of the property. Town deputy zoning administrators are not authorized to issue nonmetallic mining permits.
- d. No application shall be accepted by the Zoning Administrator if the parcel for which a nonmetallic mining permit is being requested is not in compliance with any provision of this ordinance or other St. Croix County land use and development ordinances.
- e. A nonmetallic mining permit issued in violation of any provision of this ordinance is null and void.
- f. To avoid duplication, the application may reference information already on file with the Zoning Administrator.
- g. Upon receipt of a completed application, the Zoning Administrator shall notify in writing the Deputy Zoning Administrator of the town in which the nonmetallic mining site is located.

#### 2. CONTENT OF APPLICATION

- a. An application shall contain the following:
  - 1) 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.
  - 2) The name, address, telephone number and e-mail address of any operator of the nonmetallic mining operation.
  - 3) The legal description and parcel identification number of the property on which the nonmetallic mining site is located.
  - 4) A copy of a fully executed lease between the operator and the owner of the property on which the nonmetallic mining site is located and/or an agreement between the operator and owner to conduct a nonmetallic mining operation on the owner's property.
  - 5) An aerial photo at a scale of 1 inch = 660 feet, showing the name of the operator and boundaries of the nonmetallic mining site.
  - 6) A map drawn to a scale of not less than 1 inch = 200 feet showing (all horizontal measurements shall be referenced to a permanent reference point of the St. Croix County coordinate system):
    - a) The name of the operator.
    - b) The town within which the nonmetallic mining site is located.
    - c) The boundaries of the nonmetallic mining site.
    - d) The total acres of the nonmetallic mining site.
    - e) The location and name of all roads in and within one mile of the nonmetallic mining site boundaries including temporary roads.
    - f) The location and name of all lakes, ponds and flowages, rivers, streams, wetlands, drainage patterns and other water features in and within 1200 feet of the nonmetallic mining site boundaries.

- g) The location of all private and municipal wells within 1200 feet of the nonmetallic mining site boundaries.
  - h) The components of the operation, including buildings, other structures, equipment, stockpiles, storage areas and parking areas. For existing nonmetallic mining sites, show the boundaries of previous excavations, stockpiles, sediment basins, wash plants and areas previously mined.
  - i) The location and identity of all man-made features on or adjacent to the site.
- 7) A topographic map of the nonmetallic mining site and 200 feet beyond the site boundaries at contour intervals no wider than 10 feet.
  - 8) The length, width and depth of the excavation, and the elevation of observed or estimated groundwater within and adjacent to the site 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. All horizontal and vertical measurements shall be referenced to a permanent reference point of the St. Croix County coordinate system.
  - 9) The distribution, thickness and type of topsoil on the site.
  - 10) The geological composition and depth of the nonmetallic deposit.
  - 11) Information about the biological resources, plant communities and wildlife use on and adjacent to the nonmetallic mining site.
  - 12) An operation plan. See §14.5 for operation plan requirements.
  - 13) A reclamation plan. See §14.6 for reclamation plan requirements.
  - 14) All required fees. Fees are listed in a fee schedule maintained by the Zoning Administrator.
  - 15) Additional relevant information deemed necessary by the Zoning Administrator to apply all applicable ordinance requirements and standards.

### **3. APPLICATION FEE**

- a. An application fee shall be paid at the time an application for a nonmetallic mining permit is submitted. The fee's purpose is to contribute to or cover the cost of processing and reviewing the application, publishing public notices, conducting public hearings and inspecting nonmetallic mining sites prior to permitting.
- b. The amount of the application fee shall be established by the Zoning Administrator with the approval of the St. Croix County Planning and Zoning Committee. The amount of the fee shall be modified from time to time to reflect current costs. The fee shall be published by the Zoning Administrator in a current fee schedule.
- c. An additional fee shall be paid when a request to modify an existing permit is made by the operator. The fee shall be for the same purposes and in the same manner as stated in par. a.
- d. If a nonmetallic mining permit application is submitted and subsequently withdrawn before any review actually begins, the application fee shall be refunded. No portion of the application fee shall be refunded after actual review of the application begins.

### **4. NOTICE AND HEARING**

- a. Within 30 days of receipt of a complete application for a nonmetallic mining permit, the Zoning Administrator shall publish in the official county newspaper a class 2 notice of the receipt of the application and:
  - 1) If the permit is one issued by the Zoning Administrator, the notice shall state that any person residing within, owning property within or conducting business within 300 feet of the nonmetallic mining site may, within 30 days of the date of publication of the notice, request a public hearing on the application for the nonmetallic mining permit. A hearing will be held by the Zoning Administrator no sooner than 30 days nor later than 60 days from the date of the request. Another class 2 notice shall be published for the hearing; or

- 2) If the permit is one issued by the Board of Adjustment, a hearing shall be conducted. Notice of the time, place and subject matter of the hearing shall be given in the manner normally used for all other applications heard by the Board of Adjustment.
- b. A copy of the public notice shall be forwarded to:
  - 1) The Planning and Zoning Committee.
  - 2) The Land and Water Conservation Department.
  - 3) The town within which the nonmetallic mine is located.
  - 4) Owners of land within 300 feet of the nonmetallic mining site.
  - 5) The Wisconsin Department of Natural Resources.
- c. Failure to forward a copy of the public notice as required shall not invalidate the public hearing or a subsequent decision.

## **5. DECISION ON APPLICATION**

- a. A decision on an application for a nonmetallic mining permit issued by the Zoning Administrator shall be made within 30 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 pursuant to St. Croix County Zoning Ordinance §17.70 (5)-(8).
- b. A decision on an application for a nonmetallic mining permit issued by the Board of Adjustment shall be made in accordance with St. Croix County Zoning Ordinance §17.70 (5)-(8). A decision made by the Board of Adjustment may be appealed pursuant to Wisconsin Statutes §59.694(10).
- c. 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.

## 14.5 OPERATION

### A. NONMETALLIC MINING OPERATION

#### 1. GENERAL INFORMATION

- a. Nonmetallic mining shall be conducted in accordance with a written operation plan. An operation plan shall be submitted with the application for a nonmetallic mining permit.
- b. 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, and financial assurance is maintained for areas of intermittent mining not reclaimed.

#### 2. OPERATION PLAN

- a. An operation plan shall contain the following:
  - 1) The name of the operator and location of the nonmetallic mining site.
  - 2) The dates of commencement and cessation of the operation.
  - 3) A description of the mining methods that will be used to extract and process the material.
  - 4) A description of the machinery and equipment to be used.
  - 5) The estimated volume of material to be removed on an annual basis.
  - 6) The estimated total volume to be removed throughout the duration of the mine.
  - 7) Proposed travel routes.
  - 8) Days and hours of operation.
  - 9) Measures to be taken to screen the operation from view of adjacent land, temporary erosion control measures, and measures to be taken to minimize noise and dust during operation.
  - 10) Method of topsoil stripping and storage.
  - 11) The estimated daily quantity of water required, water source, and method of disposing of water.
  - 12) Where mining into groundwater is proposed, additional operational data as required in §14.2 A.8.d.2).
  - 13) Any other information deemed necessary owing to the uniqueness or other special circumstances of a site, site owner, operator or application.

## 14.6 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 comply with 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 Statutes § 91.71 – 91.79 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) A drawing or map which shows roads, buildings and other structures remaining after reclamation.
  - 4) 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.
  - 5) 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.
  - 6) 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.
  - 7) An estimate of the total cost of reclamation and, if applicable, the cost of each stage of reclamation.
  - 8) A description of erosion control measures to be employed during reclamation activities.
  - 9) A description of the disposition of man-made features and related facilities after cessation of mining.
  - 10) An estimate of the total cost of reclamation and the cost for each phase of reclamation if it is to be done progressively.
  - 11) 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.
  - 12) A description of erosion control measures to be utilized during reclamation.
  - 13) A timetable for reclamation activities.
  - 14) 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.
  - 15) 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.

- 16) 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.
  - 17) 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.
  - 18) A description of the financial assurance. Details of the financial assurance are in §14.7.
  - 19) 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.
- b. The operator shall keep a copy of the reclamation plan at the nonmetallic mine or, if not practicable, at the operators nearest office.

## 14.7 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 Zoning 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. If the operator fails to complete reclamation as required, the Zoning Administrator shall arrange for completion of reclamation utilizing whatever amount of the financial assurance is necessary to pay for the reclamation.
- c. 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, irrevocable letter of credit, escrow account, and government securities. If the Zoning Administrator grants the nonmetallic mining permit he/she shall approve the form of the financial assurance. If the Board of Adjustment grants the nonmetallic mining permit it shall approve the form of the financial assurance. The financial assurance may be a combination of forms.
- b. The financial assurance shall be available or payable exclusively to St. Croix County.
- c. Interest earned on the financial assurance shall be payable to the operator without restriction.
- d. The financial assurance shall allow the county to utilize it for progressive and final reclamation.
- e. The Zoning Administrator shall periodically review the financial assurance to ensure it is sufficient to cover current reclamation costs.
- f. The financial assurance 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 ordinance 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. 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 Zoning 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 Zoning Administrator or the Board of Adjustment.
- 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.

**5. CHANGE IN FORM**

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

**6. INTERIM RECLAMATION REDUCTION OR REMOVAL**

- a. If the Zoning 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 Zoning Administrator may reduce the financial assurance requirement for that area.

**7. 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 Zoning Administrator within 10 days of commencement of the proceeding.

## 14.8 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 Zoning 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 Zoning 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 Zoning Administrator.
- b. The County's annual fee is shown in a fee schedule published by the Zoning Administrator.
- c. The annual fees shall be paid no later than January 31<sup>st</sup> 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 Zoning 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 Zoning 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 Zoning 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 Zoning 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.

## 14.9 ANNUAL REPORT

### A. OPERATOR ANNUAL REPORT

#### 1. SUBMISSION

- a. Every operator shall submit an annual report for each nonmetallic mining site to the Zoning 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 31<sup>st</sup>.
- 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 by the Zoning Administrator.
- d. The Zoning 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 Zoning Administrator shall retain an annual report, or substitute annual report, for 10 years.

## **14.10 ADMINISTRATION AND ENFORCEMENT**

### **A. ADMINISTRATION**

#### **1. ZONING ADMINISTRATOR**

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

#### **2. RIGHT OF ENTRY AND INSPECTION**

- a. The Zoning Administrator may inspect any existing or proposed nonmetallic mining site subject to this ordinance for the purpose of ascertaining compliance with the ordinance.
- 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 ordinance for the purpose of ascertaining compliance with the reclamation provisions of this ordinance.
- c. No person may refuse an authorized person access to an existing or proposed nonmetallic mining site.

#### **3. DOCUMENTATION**

- a. The Zoning 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 ordinance.
  - 2) The procedures employed by the Zoning 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.
  - 12) Any changes in local regulations, ordinances, funding, staffing or any other factor which might affect the ability of the Zoning Administrator to administer the nonmetallic mining reclamation program under this ordinance.
  - 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 Zoning 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.
- 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 Zoning 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 Zoning 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 Zoning 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 Zoning 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 Zoning Administrator may institute any appropriate action or proceeding against violators of this ordinance as provided by law or this ordinance, including issuing citations [St. Croix County Chapter 1 - Citation Ordinance] or commencing a lawsuit seeking forfeitures and/or injunctive relief.
- b. In general, the Zoning Administrator shall use the following, in the order listed, to address violations of this ordinance:
  - 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 Zoning Administrator is not mandated to follow the order of possible action if, in the Zoning Administrator's discretion, a situation requires different action.
- d. After notice and a hearing, a nonmetallic mining and reclamation permit may be suspended or revoked by the Zoning 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 ordinance.
  - 2) Failure to submit or maintain financial assurance as required by this ordinance.
  - 3) Failure to follow the conditions of the nonmetallic mining permit.
  - 4) Failure to comply with this ordinance.

### 2. PENALTIES

- a. Any person, firm or corporation who is adjudicated for violating this ordinance shall pay a forfeiture of not less than \$10 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 ordinance shall pay court costs and reasonable attorney's fees. The remedies provided herein shall not be exclusive of other remedies.