

# **Conditional Use Permit & Reclamation Plan Application for a Non-Metallic Mining Site**

## **Submittal Requirements**

- 1) Completed Conditional Use Permit & Reclamation application.
- 2) Names and addresses of adjoining property owners.
- 3) A letter from the Town Board regarding the non-metallic mine.
- 4) A narrative description of the proposed operation, together with a time line for commencement and reclamation and the nature and degree of land disturbing activities.
- 5) A listing of the types of equipment and machinery proposed to be utilized in the operation, together with both the types and locations of structures necessary for the operation.
- 6) The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating the non-metallic mine. If required by the Environment and Land Use Committee, information on impacts on surrounding wells shall be generated and supplied for review.
- 7) A topographic map of the site of proposed operations showing existing contours with minimum vertical contour interval of 10 feet or an alternative vertical contour interval approved by the Environment and Land Use Committee. The topographic map shall show the pre-existing vegetation, including but not limited to tree cover, the locations of existing and proposed access highways or driveways and the depth of all pre-existing and proposed excavations.
- 8) The Committee reserves the right to request additional or further information or materials from the applicant beyond that submitted by him/her/it so as to enable it to adequately analyze the proposed operation in light of the standards imposed in the section.
- 9) A Conditional Use Permit & Reclamation plan meeting the requirements of the Trempealeau County Chapter 13: Non-Metallic Mining & Chapter 20: Non-Metallic Mining Reclamation Ordinances.
- 10) Public hearing and permit application fee.

**CONDITIONAL USE PERMIT:  
NON-METALLIC MINING APPLICATION**

Permit# \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_ Rec.# \_\_\_\_\_

Zoning Administrator: The undersigned hereby applies for a conditional use permit to do work herein described and located as shown below; the undersigned agrees that all work will be done in accordance with the Zoning ordinance and all other ordinances of the County of Trempealeau and with the laws of the State of Wisconsin applicable to said premises and the information hereon. The Trempealeau County Board assumes no responsibility for damages caused to structures allowed in the floodway area in variance with the Trempealeau County Integrated Shoreline-Floodplain Protection Ordinance or installation under county enforced ordinance.

**Section 1 – Property Owner & Operator Information**

Property Owner: _____	Operator: _____
Address: _____	Address: _____
City, State: _____	City, State: _____
Telephone: _____	Telephone: _____
Email: _____	Email: _____
Signature: _____	Signature: _____
Date: _____	Date: _____

**Section 2 – Property Description**

Township(s) of: \_\_\_\_\_

**Complete the following information:**

<p><b>Please check:</b></p> <p><b>New Building/Structure</b></p> <p><b>Vacant Land</b></p> <p><b>Rail Load-out</b></p> <p><b>Other</b> _____</p>	<p align="center"><b>NON-METALLIC MINE SITE</b> (Please choose &amp; write-in the information)</p> <p align="center"><b>CONSTRUCTION AGGREGATE or INDUSTRIAL SAND</b></p> <p><b>Type:</b> _____</p> <p><b>Mineable Acreage:</b> _____</p> <p><b>Total Acreage:</b> _____</p>
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Present Use: \_\_\_\_\_ Zoning District(s): \_\_\_\_\_

Town Letter(s) provided? (Please circle)      **YES**                      **NO**

1. Location:

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section\_\_\_\_, T\_\_\_\_N, R\_\_\_W, Acres\_\_\_\_\_

(If more room is needed, please attach additional pages)

2. Name of Site (i.e., "Hanson Quarry"): \_\_\_\_\_

3. Estimated total life of mine \_\_\_\_\_ years/months

4. Project Information: Please provide a brief description of the general location (including surrounding land use & buildings/structures present) and the nature of the non-metallic mine site.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PLEASE ANSWER THE FOLLOWING WITH **YES** or **NO**

5. Are there any wetlands within or near the site? \_\_\_\_\_

6. Are there any navigable waters within or near the site? \_\_\_\_\_

7. Are you within or near the floodplain? \_\_\_\_\_

8. Are the parcel(s) enrolled within Farmland Preservation? \_\_\_\_\_

9. Are you aware of any cultural or historical resources at the site? \_\_\_\_\_

10. Are you aware of any threatened or endangered species at the site? \_\_\_\_\_

*\*If any of the above questions are answered **YES** please provide additional information*

*The Department of Land Management may consult The Wisconsin Department of Natural Resources, The Mississippi Valley Archaeology Center or other appropriate organization(s) or government entities on whether the approval of this permit will affect a listed or endangered species, historical/cultural resource(s) or other subjects of interest.*

I hereby certify that the information contained herein is true and accurate. I also certify that I am the applicant or that I am the duly authorized representative of an applicant who is authorized to apply for a permit.

X \_\_\_\_\_  
Signature of Applicant or Duly Authorized Representative

X \_\_\_\_\_  
Date Signed

X \_\_\_\_\_  
Signature of Applicant or Duly Authorized Representative

X \_\_\_\_\_  
Date Signed

# TREMPEALEAU COUNTY NON-METALLIC MINING RECLAMATION PLAN FORM

## PROPOSED RECLAMATION PLAN FOR:

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### GENERAL INFORMATION:

*Owner/Lessee: _____	Operator: _____
Address: _____	Address: _____
City, State: _____	City, State: _____
Telephone: _____	Telephone: _____
Email: _____	Email: _____
Signature: _____	Signature: _____
Date: _____	Date: _____

\*Attach the above-information for all additional owners and lessees who have an interest in the proposed mining site property.

### Location:

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

Tax Parcel \_\_\_\_\_, \_\_\_ 1/4 \_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Acres \_\_\_\_\_

(If more room is needed, please attach additional pages)









# TREMPEALEAU COUNTY NON-METALLIC MINING RECLAMATION PLAN FORM

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Handling of Topsoil:

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Proposed Slopes and Grades:

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Description of Grading Methods: *(Including equipment, methods, etc)*

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Proposed Final Features: *(Including items such as ponds, wetlands, woodlands, etc)*

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# TREMPEALEAU COUNTY NON-METALLIC MINING RECLAMATION PLAN FORM

## **RE-VEGETATION MEASURES:**

*(Describe activities for re-vegetation of the property including grading, seed mixes, seeding rates, soil amendments, when seeding will occur, erosion control methods, etc.)*

Seed Mixes, Seeding Rates and Schedule: *(Include discussion on proposed time-frame for seeding to achieve best results. Seed mixes and rates may be submitted as an attachment)*

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Seed Bed Preparation Methods:

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Erosion Control Methods:

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**\*Attach a copy of your approval from the Wisconsin Department of Natural Resources Notice of Intent Permit; High Capacity, School or Wastewater Treatment Plant Well Application; and Air Permit.**

# TREMPEALEAU COUNTY NON-METALLIC MINING RECLAMATION PLAN FORM

## Certification of Mining & Restoration Plan

### Operator:

I, \_\_\_\_\_, as an authorized representative of  
\_\_\_\_\_,

certify that the reclamation of the site referenced in this document will be carried out in accordance with the approved reclamation plan and the requirements of NR135.40 Wis. Adm. Code and Chapter 20 of the Trempealeau County Comprehensive Zoning Ordinance.

\_\_\_\_\_  
Operator (Signature)

\_\_\_\_\_  
Date

### Owner:

I, \_\_\_\_\_, as Owner certify that I concur with the reclamation plan and will allow its implementation.

\_\_\_\_\_  
Owner (Signature)

\_\_\_\_\_  
Date

# TREMPEALEAU COUNTY NON-METALLIC MINING RECLAMATION PLAN FORM

**Lessee:**

I, \_\_\_\_\_, as Lessee certify that I concur with the reclamation plan and will allow its implementation.

\_\_\_\_\_  
Lessee (Signature)

\_\_\_\_\_  
Date

**\*If multiple Owners (and Lessees), please attach additional Certification of Mining & Restoration Plan sheets**

# **Site Information:**

## **A. Maps**

<b>Existing Mines: Current Site Delineation</b>	
<b>General Location</b>	
<b>Property Boundaries</b>	
<b>Aerial Extent</b>	
<b>Geologic Composition &amp; Depth of Deposit</b>	
<b>Distribution, Thickness &amp; Type of Topsoil</b>	
<b>Approximate Elevation of Groundwater</b>	
<b>Location of Surface Waters</b>	
<b>Existing Drainage Patterns</b>	
<b>Existing Topography-Contour Maps</b>	
<b>Man-made Features On or Near Site</b>	

# MINING EROSION CONTROL PLAN

CONTACT PERSON \_\_\_\_\_ Phone \_\_\_\_\_ TOWNSHIP \_\_\_\_\_

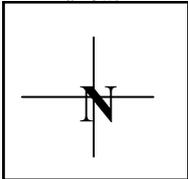
PROJECT LOCATION \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 Sec. \_\_\_\_\_ T \_\_\_\_\_ N R \_\_\_\_\_ W

ANTICIPATED MINING START DATE \_\_\_\_\_

In completing this diagram, give consideration to potential erosion that may occur before, during, and after grading. Water runoff patterns can change significantly as a site is reshaped. Please include the following:

- Access road
- Location of disturbed areas
- Slope % on cuts and fills
- North arrow
- Drainage Patterns
- Streams/wetlands onsite

Please indicate north by completing the arrow.



**EROSION CONTROL PLAN LEGEND**

- PROPERTY LINE
- EXISTING DRAINAGE
- TD TEMPORARY DIVERSION
- FINISHED DRAINAGE
- LIMITS OF GRADING
- SILT FENCE
- STRAW BALES
- ▣ GRAVEL
- ① VEGETATION SPECIFICATION
- ▣ TREE PRESERVATION
- ▣ STOCKPILED SOIL

Erosion control procedures must be installed upon initial land disturbance and maintained until the site is stabilized and revegetated.

**EROSION CONTROL MEASURES** (check all that apply)

<input type="checkbox"/> Phasing of Construction	<input type="checkbox"/> Diversion of Clean Water	<input type="checkbox"/> Phased Revegetation
<input type="checkbox"/> Sediment Traps and/or Basins	<input type="checkbox"/> Stabilizing Channelized Flow	<input type="checkbox"/> Vehicle Tracking
<input type="checkbox"/> Erosion Control Matting and/or Mulch	<input type="checkbox"/> Silt Fencing	<input type="checkbox"/> Other

## NONMETALLIC MINING CONDITIONAL USE PERMIT & RECLAMATION PLAN CHECKLIST

<b>1. Site Information:</b>		
	<b>YES/NO</b>	<b>Notes</b>
<b>A. Maps</b>		
<b>Current Site Delineation</b>		
<b>General Location</b>		
<b>Property Boundaries</b>		
<b>Aerial Extent</b>		
<b>Geologic Composition &amp; Depth of Deposit</b>		
<b>Distribution, Thickness &amp; Type of Topsoil</b>		
<b>Is there adequate topsoil on site for reclamation?</b>		
<b>Approximate Elevation of Groundwater</b>		
<b>Location of Surface Waters &amp; Wetlands</b>		
<b>Existing Drainage Patterns</b>		
<b>Existing Topography-Contour Maps</b>		
<b>Man-made Features On or Near Site</b>		
<b>Proposed man-made features</b>		
<b>Location of all Exploratory Boreholes (Include all documentation of proper abandonment of boreholes)</b>		
<b>B. List the Biological Resources, Plant Communities &amp; Wildlife Uses at &amp; adjacent to Proposed or Operating Mine Site</b>		
<b>C. List of adjacent property owners with mailing addresses</b>		
<b>D. Town Letter(s)</b>		

<b>E. All State and or Federal Permits submitted to appropriate entities</b>		
<b>F. All haul routes &amp; number of loads per day identified</b>		
<b>2. POST-MINING LAND USE:</b>		
<b>A. Complies with Local land use Plans</b>		
<b>B. Complies with Zoning Regulations</b>		
<b>C. Complies with applicable federal, state or local laws (ex. Water regs, Farmland Preservation)</b>		
<b>D. Other</b>		
<b>3. RECLAMATION MEASURES</b>		
<b>A. Proposed Reclamation Schedule</b>		
<b>B. Description of Proposed Earthwork &amp; Reclamation</b>		
<b>-Adequate Final Slopes</b>		
<b>-Slope Stabilization Methods</b>		
<b>C. Topsoil Removal, Stabilization &amp; Conservation</b>		
<b>D. Plan Sheet w/Final Topography &amp; Remaining Water Bodies</b>		
<b>E. Plan Sheet w/Surface Structures, Roads, Etc.</b>		
<b>F. Re-vegetation Plan:</b>		
<b>-Methods of Seed Bed Preparation</b>		
<b>-Rates &amp; Kinds of Soil Amendment</b>		
<b>-Seed Application Timing</b>		
<b>-Methods &amp; Rates of Seeding</b>		
<b>-Stabilization Techniques (Mulching, Netting)</b>		
<b>G. Standards for Re-Vegetation</b>		



TREMPEALEAU COUNTY DEPARTMENT OF LAND MANAGEMENT

—NON-METALLIC MINING BLASTING FORM—

DATE \_\_\_\_\_

OWNER/OPERATOR \_\_\_\_\_

ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_

LOCATION \_\_\_\_\_

BLASTER \_\_\_\_\_ BLASTER'S STATE # \_\_\_\_\_

Time of Blasting: All blasting must be done within hours of operation.

Frequency of Blasting: \_\_\_\_\_

Blasting Notes:

\_\_\_\_\_  
\_\_\_\_\_

- Any person conducting blasting operations shall notify the Dept. of Land Management 24 hours prior to blasting.
- Blasting logs shall be maintained and available to the Department upon request.
- Seismographic and airblast records must be submitted to the DLM within 24 hours after each blast, which shall include all of the following:
  - Type of instrument and last laboratory calibration date.
  - Exact location of instrument and the date, time, and distance from the blast.
  - Name of the person and firm taking the reading.
  - Trigger levels for ground and air vibrations.
  - The vibration and airblast levels recorded.

It is \_\_\_\_\_ intent that blasting be conducted within the limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to persons or property outside any controlled blasting site area. I agree to comply with all regulations set forth under Chapter Comm 7-Explosives and Fireworks and Chapter Comm 8-Mines, Pits and Quarries, Wisconsin Department of Commerce.

Submitted by

\_\_\_\_\_  
Signature of Operator

## Subchapter III — Use of Blasting Materials

**Comm 7.30 General.** The use of explosive materials for blasting shall be executed in accordance with NFPA 495 chapter 10.

**History:** CR 06–120: cr. Register February 2008 No. 626, eff. 3–1–08.

**Comm 7.31 Changes, additions or omissions to NFPA 495.** (1) Changes, additions or omissions to NFPA 495 chapter 10 are specified in this subchapter and are rules of the department and are not requirements of the NFPA 495 standard. (2) These are department rules in addition to the requirements in NFPA 495 section 10.1.3:

(a) *Blaster requirements.* When blasting operations are conducted in communities, the shots shall be designed and initiated by a properly licensed Class 5, 6 or 7 blaster.

**Note:** See ch. Comm 5 for blaster license requirements and classifications.

(b) *Notifications.* Any person conducting blasting operations in a community shall notify the department, the local fire department and the local law enforcement agency of the date and location of the blasting operation. Notification to the department shall be made on forms provided by the department.

**Note:** Copies of the notice of blasting in a community (form SBD–7336) are available

at no charge from the Safety and Buildings Division, P.O. Box 7302, Madison, WI 53707, telephone (608) 261–8466, or on the Internet at [www.commerce.wi.gov/SB](http://www.commerce.wi.gov/SB).

(3) These are department rules in addition to the requirements in NFPA 495 section 10.2:

(a) Explosive materials used in underground blasting shall be fume class 1; however, fume class 2 and fume class 3 may be used if adequate ventilation has been provided as determined by the blaster in charge.

**Note:** Fume class 1 explosives produce less than 0.16 cubic feet of poisonous gases per 1–1/4 x 8” cartridge when detonated in the Bichel Gauge.

(b) All blast holes in open work shall be stemmed to the collar or to a point which will confine the charge.

(4) These are department rules in addition to the requirements in NFPA 495 chapter 10:

(a) *Required log.* A blasting log shall be required for each blast fired.

(b) *Filing and availability.* All blasting logs shall be kept on file by the blaster for a minimum period of 3 years, and shall be made available to the department upon request.

(c) *Information.* Each blasting log shall contain at least all of the following information:

1. Name, signature and license number of the blaster in charge of the blast.
2. Specific blast location, including address, bench and station number if applicable.
3. Type of blasting operation.
4. Date and time of the blast.
5. Weather conditions at the time of the blast.
6. Diagram of the blast layout and the delay pattern.
7. Number of holes.
8. Hole depth and diameter.
9. Spacing.
10. Burden.
11. Maximum holes per delay.
12. Maximum pounds of explosives per delay.
13. Depth of top stemming used.
14. Number, type and length of stemming used between decks.
15. Total pounds and type of explosives used.
16. Distance to nearest inhabited building not owned by the operator.
17. Type of initiation used.
18. Seismographic and airblast records, which shall include all of the following:
  - a. Type of instrument and last laboratory calibration date.
  - b. Exact location of instrument and the date, time, and distance from the blast.
  - c. Name of the person and firm taking the reading.
  - d. Trigger levels for ground and air vibrations.
  - e. The vibration and airblast levels recorded.

**History:** CR 06–120: cr. Register February 2008 No. 626, eff. 3–1–08.

## Subchapter IV — Blasting Resultants

**Comm 7.40 Regulation of blasting resultants.** Pursuant to s. 101.15 (2) (e), Stats., the purpose of this subchapter is to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to persons or property outside any controlled blasting site area.

**History:** CR 06–120: cr. Register February 2008 No. 626, eff. 3–1–08.

## Comm 7.41 Preblasting notification.

(1) **PREBLASTINGSURVEY.** At least 24 hours prior to initial blasting at a blast site, the blaster in charge shall make a reasonable effort to notify in writing or verbally all residents or owners of affected dwellings or other structures, as determined under sub. (2), that a blasting operation is to begin. The blaster in charge shall offer to perform a preblasting survey for the residents or owners. If a resident or owner requests a copy of the preblasting survey, the blaster in charge shall provide a copy for not more than the actual cost of the copy within 48 hours of the request.

**Note:** A preblasting survey provides a baseline record of the pre-existing condition of a structure against which the effects of blasting can be assessed, and it should include the interior and exterior of the buildings.

(2) **AFFECTED BUILDINGS.** Affected dwellings or other structures shall be determined based on the scaled-distance equation,  $W = (D/D_s)^2$ . Using a scaled-distance factor  $D_s$  of 55, affected dwellings or other structures shall be those located within the distance  $D$  of the controlled blasting site area for the weight per delay  $W$  of explosives to be used.

**Note:** An example calculation to determine  $D$  is as follows: For 4 pounds of explosives,

$$D = D_s(W)^{1/2} = 55 (4)^{1/2} = 110 \text{ feet.}$$

**History:** CR 06–120: cr. Register February 2008 No. 626, eff. 3–1–08.

**Comm 7.42 Blasting schedules.** All surface blasting shall be conducted between sunrise and sunset, unless one of the following conditions applies:

(1) More restrictive time periods are specified by the department.

(2) The blasting is approved by the department based on a showing by the operator that the public will not be adversely affected by noise and other impacts.

**History:** CR 06–120: cr. Register February 2008 No. 626, eff. 3–1–08.

**Comm 7.43 Instrumentation.** All seismographs used to determine compliance with this subchapter shall meet the following minimum specifications:

(1) Seismic frequency range: 2 to 200 Hz ( $\pm 3$  Hz).

(2) Acoustic frequency range: 2 to 200 Hz ( $\pm 1$  Hz).

**Note:** Due to an error in CR 06–120, dB was changed to Hz in sub. (2).

(3) Velocity range: 0.02 to 4.0 inches/second.

(4) Sound range: 110 to 140 dB linear.

(5) Transducers: Three mutually perpendicular axes.

(6) Recording: Provide time–history of waveform.

(7) Calibration: Be laboratory calibrated as often as necessary, but at least once every 12 months according to manufacturer’s recommendations.

**History:** CR 06–120: cr. Register February 2008 No. 626, eff. 3–1–08.

**Comm 7.44 Control of adverse effects.** (1) **GENERAL REQUIREMENTS.**

Blasting shall be conducted so as to prevent injury and unreasonable annoyance to persons and damage to public or private property outside the controlled blasting site area.

(2) **FLYROCK.** Flyrock traveling in the air or along the ground shall meet all of the following conditions:

(a) Remain within the controlled blasting site area.

(b) Not be cast more than one–half the distance to the nearest inhabited building within or outside of the controlled blasting site area.

(3) **AIRBLAST.** (a) An airblast may not exceed 133 peak dB at the location of any dwelling, public building or place of employment outside the controlled blasting site area.

(b) The blaster shall conduct monitoring of every blast to determine compliance with the airblast limit. The measuring system used shall have a lower–end flat frequency response of not more than 2 Hz and an upper–end flat frequency response of at least 200 Hz.

(4) **GROUND VIBRATION.** (a) 1. The maximum ground vibration at the location of any dwelling, public building or place of employment outside the controlled blasting site area shall be established in accordance with the blasting–level chart of par. (b).

2. All structures in the vicinity of the controlled blasting site area, not listed in subd. 1., such as water towers, pipelines and other utilities, tunnels, dams, impoundments and underground mines, shall be protected from damage by establishment by the blaster of a maximum allowable limit on the ground vibration.

The blaster shall establish the limit after consulting with the owner of the structure.

(b) The blaster shall use the ground vibration limits specified in Figure 7.44 to determine the maximum allowable ground vibration. Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in 3 mutually perpendicular directions.

(c) The blaster shall make and keep a seismograph record including both particle velocity and vibration frequency levels for each blast. The method of analysis shall be subject to discretionary review by the department.

(d) For quarry operations, the blaster shall report any ground vibration levels to the department that are above 0.75 inch per second with frequencies less than 40 Hz.

**Note:** Local municipalities may have more restrictive regulations than the department.





## *Trempealeau County DLM*

Courthouse, P.O. Box 67  
Whitehall, WI 54773

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Phone: (715) 538-2311 ext 277

Fax: (715) 538-4132

Email: [jakeb@trempealeaucounty.com](mailto:jakeb@trempealeaucounty.com)

October 18, 2012

Web Page: [www.trempealeaucounty.com/landmanagement](http://www.trempealeaucounty.com/landmanagement)

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Public Hearing Notices for Conditional Use Permits must be met in accordance with Wisconsin State Statutes. A public hearing notice must be publicized for two weeks in the official local paper and the public hearing will take place at least ten days after the second publication.

In order for a Conditional Use Permit Application to be published it must be deemed complete by DLM staff before it will be submitted to the papers for publication. The review period, depending on the scope of the mine site, may take one to three weeks, or longer if additional time or information is needed. A CUP application will not be publicized until it is complete.

The Trempealeau County Comprehensive Zoning Ordinance states that a requirement of a CUP application is a letter from the town. A person/company wishing to complete their application to the county must meet with the town in order to receive a letter that shows that the town is either in favor or not of the proposed application. A permit application may be turned into the county for review, but it will not be deemed complete until the county has received a letter from the appropriate town. Town policy and town meeting requirements are controlled by the towns and not by the county. These policy and meeting timelines may vary from town to town.

If a Conditional Use Permit is issued it will be done so with conditions attached. These conditions must be met before mining activity may commence. The DLM staff will notify the applicant when all the proper conditions are met and they may start to mine. Additional permits may be needed from the Wisconsin Department of Natural Resources, the Wisconsin Department of Transportation, Federal Emergency Management Act, United States Army Corp of Engineers, Trempealeau County, Trempealeau County Highway Department, Town Highway Departments, or others.

**Trempealeau County  
Non-Metallic Mining Reclamation Ordinance Fee Schedule**

**Fee Schedule for Annual Fees and Plan Review**

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**Annual Fee for Existing Automatically Permitted Mines  
\$170 per unreclaimed acre.**

**Annual Fee for Newly Permitted Mines  
\$170 per unreclaimed acre.**

**Annual Fee for Permitted Mines with no Land Disturbance  
\$75.00**

**Conditional Use Application**

		<u>PH</u>	<u>CU</u>
Conditional Use Application (0 –5 acres) .....	\$ 300	\$200	\$ 100
Conditional Use Application (6 –10 acres) .....	\$ 500	\$200	\$ 300
Conditional Use Application (11– 15 acres) .....	\$ 1,000	\$200	\$ 800
Conditional Use Application (16 –25 acres) .....	\$ 1,500	\$200	\$ 1,300
Conditional Use Application (26 –50 acres) .....	\$ 2,000	\$200	\$ 1,800
Conditional Use Application (51 – 100 acres) .....	\$ 4,000	\$200	\$ 3,800
Conditional Use Application (101 – 200 acres) .....	\$ 7,000	\$200	\$ 6,800
Conditional Use Application (201 + acres) .....	\$12,000	\$200	\$11,800
All Processing Plants and Rail Load Out Applications ..	\$ 2,000	\$200	\$1,800

Average review time is 60 days. Expedited review time is 30 days with fees doubled.

In addition to the fee, applicants shall be responsible for the payment of all reasonable expenses of the committee for retaining outside expert assistance in analyzing the applicants' application and its conformity to the requirements of the Non-Metallic Mining Reclamation Ordinance.

**\*\* 3<sup>rd</sup> party review fee when applicable - \$1,500.00**

## CHAPTER 13

### NON-METALLIC MINING

**13.01 Non-metallic Mining.** Non-metallic mining is a conditional use of land in the EA, EA-2, PA and TA districts. In addition to taking into consideration the general criteria governing the granting of conditional use permits under Sec. 10.04, the County shall specifically analyze non-metallic mineral mining proposals in light of the County's interest in providing for the wise use of the natural resources of the county, aesthetic implications of the siting of such a mine at a given location and the impacts of such a mining operation on the general health, safety and welfare of the public. Each application shall be judged on its own merits. Subject only to the standards set forth in this section and in the zoning ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case. A mining site may be permitted for Industrial Sand or Construction Aggregate, or both. If a mining site is permitted for both, then two separate conditional use permits shall be obtained and shall be enforced separately.

- (1) Permit Application. The application for a conditional use permit shall include:
  - (a) A narrative description of the proposed operation, together with a time line for commencement and reclamation and the nature and degree of land disturbing activities.
  - (b) A listing of the types of equipment and machinery proposed to be utilized in the operation, together with both the types and locations of structures necessary for the operation.
  - (c) The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating the non-metallic mine. If required by the County, information on impacts on surrounding wells shall be generated and supplied for review.
  - (d) A topographic map of the site of proposed operations showing existing contours with minimum vertical contour interval of 10 feet or an alternative vertical contour interval approved by the County. The topographic map shall show the pre-existing vegetation, including but not limited to tree cover, the locations of existing and proposed access highways or driveways and the depth of all pre-existing and proposed excavations.
  - (e) County approved documents as specified within 13.02 (7) of this Ordinance.

- (f) The County reserves the right to request additional or further information or materials from the applicant beyond that submitted by him/her/it so as to enable the County to adequately analyze the proposed operation in light of the standards imposed in this section.
- (g) The appropriate permit fee.
- (h) A statement whether the permit application is for Industrial Sand mining or Construction Aggregate mining.

**13.02 Standard Conditional Use Permit Requirements.**

- (1) Hours of operation for non-metallic mining shall be limited based upon the defined activities of Extraction and Processing.
  - (a) Extraction. Extraction shall be allowed Monday through Friday between 6:00 a.m. and 8:00 p.m. during Daylight Savings time and between 6:00 a.m. and 6:00 p.m. during Standard Time. Extraction shall be allowed Saturday between 7:00 a.m. and 3:00 p.m. No Extraction shall be allowed on Sundays or Holidays, as defined in section 13.05 of this ordinance.
  - (b) Processing. Processing may be allowed between Monday at 6:00 a.m. through Saturday at 3:00 p.m. No Processing shall be allowed between Saturday at 3:00 p.m. and Monday at 6:00 a.m. No Processing shall be allowed on Holidays, as defined in section 13.05 of this ordinance.
  - (c) Emergency Extraction. If a non-metallic mine operator conducts non-metallic mining Extraction outside of the stated hours of operation due to an emergency and at the request of the Governor of the State of Wisconsin, Sheriff of Trempealeau County, Emergency Management Director of Trempealeau County, Zoning Administrator of Trempealeau County, Highway Commissioner for Trempealeau County, or any Chairperson of a Town in Trempealeau County on behalf of their respective Town, then such operator shall give notice to the Zoning Administrator within 48 hours of the emergency Extraction. If the Zoning Administrator is unable to verify the emergency requiring the Extraction outside of the stated hours of operation, the operator shall be deemed to have violated the conditional use permit. If after a second occurrence when the Zoning Administrator is unable to verify the emergency, then the conditional use permit may be revoked by the Zoning Administrator.
- (2) Noise. Audible noise emitted during any Non-metallic Mining is limited to the standards set forth in this provision:

- (a) Processing During Extraction Hours. Noise due to Processing during Extraction hours of operation is not limited by this ordinance.
- (b) Processing During Non-Extraction Hours. Noise due to Processing during Non-Extraction hours of operation shall not exceed forty-five (45) decibels (dB) measured at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, unless the owner/operator of the non-metallic mine obtains a written waiver from the affected property owner(s). Affected Property Owner(s) shall be defined as the fee owner(s) of real estate where noise at such building or structure is measured exceeding 45 dB and the non-metallic mine Processing contributes to the measured noise.
- (c) Phase-One Noise Survey. If the owner/operator of a non-metallic mine, or applicant thereof, desires to conduct Processing at the non-metallic mining site during Non-Extraction hours of operation, then a phase-one noise survey shall be conducted. Processing during Non-Extraction hours shall not commence until a phase-one noise survey is complete and the survey indicates that the proposed Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.
  - 1. Phase-one noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of a non-metallic mine, or applicant thereof.
  - 2. A phase-one noise survey shall duplicate the level of noise that will be produced by the Processing during Non-Extraction hours of operation. While the duplicated Processing noise is being produced, the phase-one noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the duplicated Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-one noise survey shall also determine whether duplicated Processing noise contributes to the measured noise levels at any such buildings or structures.
  - 3. The purpose of the phase-one noise survey is to identify any potential Affected Property Owner(s), and to afford the owner/operator of a non-metallic mine, or applicant thereof, the opportunity to mitigate the measured noise levels to achieve compliance with the noise limitations in section (2)(b) above.

- (d) Phase-Two Noise Survey. Within 24-hours after commencement of actual Processing during Non-Extraction hours of operation, a phase-two noise survey shall be completed. Processing during Non-Extraction hours shall not continue until a phase-two noise survey is complete and the survey indicates that the actual Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.
1. Phase-two noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of the non-metallic mine.
  2. The phase-two noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the actual Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-two noise survey shall also determine whether the actual Processing noise contributes to the measured noise levels at any such buildings or structures.
  3. The purpose of the phase-two noise survey is to measure the actual Processing noise and to determine whether the actual Processing noise exceeds the limits in section (2)(b) above. The phase-two noise survey shall identify any Affected Property Owner(s).
- (e) Waivers. The owner/operator of the non-metallic mine may obtain a waiver from an Affected Property Owner(s). Such waiver shall be in writing and shall be signed by all fee owners of the affected real estate, and shall be recorded in the Trempealeau County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the noise limitations imposed by this ordinance and that consent is granted to allow noise levels to exceed the maximum noise limits in section (2)(b) above.
- (f) Noise Complaints. Any complaint of excessive noise due to Processing during Non-Extraction hours shall be made in writing and shall state the name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the owner/operator of the non-metallic mine. Within 72-hours of the owner/operator of the non-metallic mine receiving the noise complaint, the owner/operator of the non-metallic mine shall install a decibel meter at the building or structure on the property of the complaining party at the sole expense of the owner/operator of the non-metallic mine.

1. If the measured noise at the building or structure of the complaining party exceeds the limits stated in section (2)(b) above, then all Processing during Non-Extraction hours of operation shall immediately cease. The owner/operator shall conduct a phase-one and phase-two noise survey prior re-commencing any Processing during Non-Extraction hours of operation.
  2. If the measured noise does not exceed the limits stated in section (2)(b) above, then the installed meter shall continue to measure and record noise levels for a period of forty-five (45) days. If after forty-five (45) days no noise violations occur, the meter may be removed.
- (g) Extraction. Noise due to Extraction is not limited by this section, but may be regulated through the conditions of the conditional use permit.
- (2) Notification must be provided to the County as to the specific non-metallic mining site location of equipment used to crush or separate non-metallic mining products. Notification of the re-location of crushing or separation equipment from one non-metallic mining site to another must be provided to the Zoning Administrator within twenty-four hours of the re-location of such equipment.
  - (3) Notification must be provided to the Zoning Administrator and adjacent neighbors at least 24 hours prior to any blasting.
  - (4) Public roadways must be scraped clean of materials at the end of the working day where non-metallic mining equipment leaves a non-metallic mining site and enters a public road.
  - (5) Non-metallic mining operations must at all times remain at least (10) feet above the water table level, unless an alternative level proposed by the applicant and established by water table elevation monitoring is approved by the County. The County may require monitoring wells to establish the groundwater level prior to the commencement of non-metallic mining operations on a site. Non-metallic mining within 10 feet of the water table level or within the water table may be permitted provided the applicant receives a favorable letter from the Town Board regarding the mining proposal and receives the approval of the County. In addition the applicant must demonstrate that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area.
  - (6) A 50-foot setback from the mining site boundary shall be maintained where no mining activity shall be allowed. In the event two adjoining property owners are permitted for non-metallic mining activity, the Zoning Administrator may review the mining and reclamation plans of the two sites and may authorize a setback less than 50-feet.

- (7) Any non-metallic mining boundary shall be setback at least 250 feet from any building or structure used for human habitation or for the housing of farm animals and from any potable water source, unless such setback is waived, in writing, by the fee owner(s) of the applicable building/structure or potable water source.
- (8) Non-metallic mining sites of less than one acre must attach County approved erosion control and non-metallic mining reclamation plans to a non-metallic mining Conditional Use Permit application. The reclamation plan shall meet the requirements as set forth in Section 13.04 of this Ordinance. Non-metallic mining sites of one acre or greater must attach a County approved erosion control plan, storm water management plan and a non-metallic mining reclamation permit issued through Chapter 20 of the County Comprehensive Zoning Ordinance.
- (9) Verification that the applicant has requested that a Cultural Resource Site Review be performed by the Department of Natural Resources and that the site review has been completed. A copy of the site review report must be provided the County prior to the issuance of a Conditional Use Permit.
- (10) The County upon its review of the conditional use permit application may require screening from adjacent public highways and adjacent non-compatible land uses. Existing vegetation shall be taken into consideration provided it is of sufficient height and density.

**13.03 Term of Conditional Use Permit.** Subject only to reclamation activities which may take place after the end of a permit term with the permission of the County, a conditional use permit for non-metallic mining operation shall be established by the County based on the information submitted by the applicant. Applicants may apply for extensions of a non-metallic mining permit for a period not to exceed an additional two (2) years at a time. Upon the filing of a request for an extension of a permit the County shall review the conformity of the applicant's operations/reclamation activities to date with the conditional use permit in effect, together with the current degree of compatibility of the non-metallic mining operation with surrounding land uses for the purpose of determining to what extent that further or additional permit conditions should be imposed in accord with this section and the ordinance in general. There shall be no limitation upon the number of permit extensions which may be applied for subject only to the right of the County to deny extensions on a case by case basis.

- (1) Non-metallic mining operations shall be inspected as needed, but at a minimum annually, by the Zoning Administrator to ensure compliance with the requirements of the conditional use permit. An inspection fee is required to be paid by the operator. To determine the amount of the inspection fee, refer to 13.06 of this Ordinance.

- (2) **Permit Modifications.** In the event that during the life of a permit the operator seeks to have permit conditions modified or, in the event that the County recommends further or additional permit conditions as being required to meet with concerns of the County under this section or under the ordinance in general, upon request of either the operator or the Zoning Administrator the County shall hold a public hearing in the matter of altering the original permit conditions for the remaining life of the permit. Upon the basis of the public hearing and information received and reviewed, the County shall have the discretion to either impose additional and further permit conditions, to remove permit conditions or to allow the original permit conditions to stand.
- (3) **Factors to be Considered for Adopting Conditions.**
  - (a) When considering an application for a non-metallic mineral mine permit, the County shall consider, among other factors, the following: the effect or impact of the proposed operation upon; (1) public infrastructure, including but not limited to streets and highways, schools and other public facilities; (2) present and proposed uses of land in the vicinity of the proposed operation; (3) surface water drainage, water quality and supply; (4) soil erosion; (5) aesthetics, including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness; (6) the market value of lands in the vicinity of the proposed operation; (7) the physical practicality of reclamation of the site after the operation has been concluded; and (8) the public interest from the standpoints of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and the operation of heavy machinery and equipment.
  - (b) In order to grant a conditional use permit for non-metallic mineral mining, the County shall find that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of non-metallic mineral deposits; proximity of site to transportation facilities and to markets; and the ability of the operator to avoid harm to the public health, safety and welfare and to the legitimate interests of properties in the vicinity of the proposed operation.
- (4) **County Empowered to Reject Permit Application.** The county reserves the right to deny an application for conditional use permit with which to engage in non-metallic mineral mining upon application of the standards of this section or of this zoning code in general. In the event that the County decides to deny permit application it shall do so only in writing, setting forth the reasons for such denial.
- (5) **Lapsing of Permits: Conditions Causing and Effect Of.**
  - (a) The County may preliminarily approve a conditional use permit if the County requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use

permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependant upon the satisfaction of all identified preliminary conditions.

- (1) The applicant shall be allowed twelve (12) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions. The preliminary approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twelve (12) month period.
  - (2) The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time in the discretion of the County. In order to seek such an extension, the applicant must submit a written request to the Department of Land Management prior to the expiration of the 12-month period.
- (b) After a conditional use permit has been issued and if no activity has taken place at a Industrial Sand mining site, or rail load out facility under the permit whatsoever or, alternatively, where activity was originally commenced but then has been terminated and such condition of non-activity, exclusive of required, ongoing reclamation under such a permit, has continued for a period of twelve (12) months in succession, the permit shall lapse as a matter of law and no further or other activities in operating the site other than reclamation will be allowed. Conditional use permits for Construction Aggregate mining sites shall not lapse regardless of whether activity is taking place or not. The County shall identify at the time of permitting whether a site is Industrial Sand or Construction Aggregate.
- (1) The Zoning Administrator shall determine whether activity or non-activity has taken place at a mining site. Activity shall include, but is not limited to: Blasting, Construction, Crushing, Drying, Extraction, Hauling (truck/rail load out), Washing, Screening, Stripping, Non-metallic Mining, Operation, and Processing, all as defined in this chapter. Upon the premise that the ultimate goal of non-metallic mining is to sell and/or remove non-metallic minerals from a given mining site, the Zoning Administrator shall consider whether progress is being made at a mining site to produce a finished product intended to leave the site in determining whether a mining site is active.

- (2) The legislative purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product, and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mine sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate.
- (c) In order to seek to engage in further operations pertaining to a non-metallic mineral mine whose permit has lapsed, it shall be required that the applicant file a new application for operation as if no permit had been granted in the first place and such permit application shall be processed in accord with all of the requirements of this action.
- (d) Upon the lapsing of a permit under this section the Zoning Administrator shall immediately inform the permit holder of the lapsing of the permit and notify of their obligation to engage in reclamation activities to the extent that they are required under and in order to fulfill the requirements of the original permit.
- (e) Should a permit holder wish to contest the conclusion of the Zoning Administrator that no activity on site has taken place during the 12 month period immediately preceding notice to that effect, the holder may request a public hearing before the County to present evidence of activity at the site. At such hearing the burden shall be upon the permit holder to establish to the satisfaction of the County that allowable activity did take place within that 12 month period of time other than site restoration or reclamation efforts. The permit holder shall be responsible for all costs associated there with. In the event the County shall conclude that the Zoning Administrator was in error, it shall continue the permit for the period of time remaining under the original permit commencing with the date of notice of its decision.
- (6) **Impact of Lapsed or Expired Permits Upon Application for New Permit.** No permit holder shall have a right to a new permit based upon their faithful performance under a lapsed or expired permit. In the event that a permitted operation has been completed and the site reclaimed in accord with the original permit or if it has been terminated due to a cessation of operations and the lapsing of the permit, future applications for operation of a non-metallic mineral mine at the same site shall be required to comply with and shall be subject to all of the terms and conditions of this section. With respect to future permit applications, the County may, however, take into consideration the nature and degree of

cooperation and compliance of the permit holder with a previous conditional use permit for such activity on the site in question and may take such information into account in the process of either granting or refusing to grant a permit and in establishing permit conditions.

- (7) Affect of Ownership transfer on conditional use permit. A conditional use permit issued under this chapter shall be transferable to a new owner or operator upon compliance with the terms and conditions of the existing conditional use permit.

**13.04 Reclamation Plans.** For non-metallic mining sites of less than one acre, the reclamation requirements as specified in 13.04 (2) and (3) shall apply. For sites of one acre or greater or in the event that a non-metallic mining site permitted under the reclamation requirements of this Ordinance expands to one acre or greater, the owner/operator of the non-metallic mining site must comply with the non-metallic mining reclamation requirements of Chapter 20 of the County Comprehensive Zoning Ordinance.

- (1) Goals or Purposes of Reclamation. In deciding upon the appropriateness of a reclamation plan for sites under one acre the County shall at a minimum, base its determination upon the following goals or purposes. It shall be the intent of the County that upon reclamation the site shall be restored as closely as possible to its physical condition immediately prior to the commencement of construction and operation of the non-metallic mineral mine but for the removal of the non-metallic minerals. To this extent topsoil and overburden shall be stockpiled for use in restoring the site, all buildings and structures erected and used in the course of the operations and reclamation shall be destroyed, access driveways or roads shall be removed and through means of appropriate soil conservation and vegetation practices erosion shall be prevented and the site shall be restored to a vegetative state which is consistent with sound land management practices. The County may approve alternative final designs that enhance property values and/or natural habitat through wetland development and/or surface water creation.
- (2) Required reclamation plan contents for non-metallic mining operations of less than one acre are as follow:
  - (a) Two (2) copies of a map of the site described in the original application showing the final, proposed contours of all restored excavations including but not limited to final slope angles and measures to be taken to stabilize all slopes.
  - (b) A description of the methods used during the course of operations and reclamation for topsoil stripping, stabilization and conservation and the process proposed to be utilized for its replacement during site restoration efforts.

- (c) Two (2) copies of a plan and description of proposed revegetation and anticipated future land use of the site.
  - (d) A description of the proposed means of destruction of or other disposition of surface structures and related facilities and restoration of access roads after mining operations have ceased.
  - (e) The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned. Include in the estimate the number of man-hours and equipment hours needed for the reclamation.
  - (f) A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
  - (g) An estimated timetable of the commencement, duration, and cessation of reclamation activities.
  - (h) The County may require additional or further information, data or materials so as to enable it to adequately analyze the proposed operation in light of the standards imposed in this section.
- (3) Minimum reclamation standards for sites under one acre are as follows:
- (a) Slopes. Final reclaimed slopes may not be steeper than a 3:1 horizontal to vertical incline. The County may approve final slopes steeper than 3:1 horizontal to vertical ratio, such as existing stable slopes or rock faces that do not require final grading and seeding, if the applicant demonstrates to the County's satisfaction that the proposed final slope is not a safety or environmental hazard.
  - (b) Groundwater. Upon completion of reclamation of the site it must be established to the satisfaction of the County that the finished grade is at least ten (10) feet above the water table level. This condition may be waived by the County if the applicant demonstrates to County satisfaction that a finished grade which is closer to or below the water table level will not adversely impact upon the quality of the groundwater.
  - (c) Topsoil storage and reapplication.
    - 1. All topsoil on a nonmetallic mining site shall be saved for future application, unless it can be proven that it is not all needed for reclamation.
    - 2. Topsoil shall be reapplied to the slopes as uniformly as possible. Sites which lack stored topsoil in amounts sufficient to restore all disturbed areas shall have the topsoil preferentially applied to the sloped areas; nonetheless, the County reserves the option to require

that alternative means of surface restoration be engaged in if topsoil reserves are insufficient.

(d) Seeding/re-vegetation/stabilization.

1. Seeding shall be done in accord with a specific Soil Natural Resource Conservation Service Critical Area Plan or the most recent edition of the “State of Wisconsin, Department of Transportation Standard Specification for Road and Bridge Construction”, standards at Sec. 630, entitled “Seeding”, whichever is determined to be more appropriate for the site in question by the County.
2. Alternative seeding mixtures shall be considered by the County on a case by case basis. Evidence must be provided showing that the proposed mix will be sufficient to deter erosion on the site.
3. Planting of woody vegetation may be accepted in combination with other stabilization techniques if approved by the County.
4. Drainage ways, ditches or other highly erodible areas shall be protected by sod or riprap as approved by the County.

**13.05 Definitions.** The following definitions shall apply in the interpretation of an application of this chapter.

- (1) “Applicant” shall mean the person, corporation, partnership or other legal entity which makes application for a conditional use permit under this section.
- (2) “Blasting” is the act of using a set charge of dynamite or other explosive at one firing to free up, loosen, or dislodge a desired product at the permitted mine site.
- (3) “Construction” shall mean the process involved in preparing a site for non-metallic mineral extraction activities, including but not limited to the stripping of topsoil and overburden, the destruction of tree cover and other vegetation, the building of access roads and the construction of accessory structures and buildings to be used in the course of mining activities.
- (4) “County” shall mean the standing committee of the County Board of Supervisors that is assigned the responsibility for the implementation of the County Non-metallic Mining Ordinance.
- (5) “Crushing” is the act of breaking down, squeezing, pressing and pounding an object or material so that the action destroys or deforms the object into a usable or desired form.
- (6) “Drying” is the action to remove moisture from the intended marketable material.

- (7) “Extraction” shall mean obtaining the raw material from the permitted site following the permitted conditions. This also includes the acts of “Blasting”, “Stripping,” “Hauling,” and “Construction.”
- (8) “Hauling” is the action of carting or transporting of any material on public roadways, either raw or processed, from the original location of the raw or processed material to another location not on the permitted grounds.
- (9) “Holiday” shall mean those legal holidays recognized by the State of Wisconsin on which no work is performed by employees of the State. These shall include; New Years Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Year’s Eve Day.
- (10) “Non-Metallic Mineral-Mining” or “Non Metallic Mining” shall mean all or any part of the process involved in the mining of non-metallic minerals including but not limited to the commercial extraction, agglomeration, beneficiation, removal of overburden and the production of refuse. It does not mean exploration, or prospecting, or mining of non-metallic minerals for a property-owner’s sole use on the property-owner’s property.
- (a) “Industrial Sand” is a high purity silica sand product sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, and oil and gas recovery (i.e. “frac sand”). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System) Standard Industrial Classification (SIC) System.
- (b) “Construction Aggregate” is either sand and gravel or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes (i.e., asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, roofing granules, and other similar uses) or used for agricultural uses such as aglime and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting.
- (11) “Operation” shall mean the conducting of all activities associated with the mining of non-metallic minerals from the site, their removal from the ground and their processing on site.
- (12) “Permit Holder” shall mean that person to whom a permit has been issued under this section.

- (13) “Processing” shall mean to convert raw material into a marketable form, on site, by a special process that includes the actions of “crushing”, “washing”, “screening”, “drying” and “rail-load out”. Processing shall also include moving material by way of conveyor system or other forms of transportation, but shall not include moving material on public roadways.
- (14) “Rail-load out” means to load the marketable material at a rail site and transport the material to the necessary location by train.
- (15) “Reclamation” shall mean the restoration efforts required to be engaged to restore the Site pursuant to Wisconsin Statutes Chapter 295, Wisconsin Administrative Code NR 135, Trempealeau County Comprehensive Zoning Ordinance Chapter 20, a reclamation permit, and/or any approved reclamation plan.
- (16) “Screening” is sorting or sizing of material into a marketable product size.
- (17) “Site” shall mean the entire legally described location of a non-metallic mining operation including but not limited to the actual sites of land disturbing activities, non-metallic mineral extraction, storage, access roadways and associated structures, buildings and other facilities.
- (18) “Stripping” is to take away or remove soil, rock, or other overburden materials from Nonmetallic minerals and use that material in the reclamation process, where applicable.
- (19) “Washing” is the action that involves water or some other liquid for the purpose of cleansing by removing impurities or undesirables from the intended product.
- (20) “Water table” shall mean the upper surface of the unconfined saturated zone where the pore pressure is equal to the atmospheric pressure. It is measured by installing wells extending a few feet into the zone of saturation and then measuring the water level in those wells.
- (21) “Zoning Administrator” shall mean the person(s) designated by the County to administer the County Zoning Ordinances.

**13.06 Fees.** Permit fees which apply to this chapter are established annually by Trempealeau County and are listed in the Trempealeau County fee schedule. Copies of the current fee schedule shall be kept on file at the Trempealeau County Department of Land Management.

## CHAPTER 20

### NON-METALLIC MINING RECLAMATION

- 20.1 Title.** Nonmetallic mining reclamation ordinance for the County of Trempealeau.
- 20.2 Purpose.** 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 Trempealeau County after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.
- 20.3 Statutory Authority.** This chapter is adopted under authority of Section 295.13(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 59.51, Wisconsin Statutes.
- 20.4 Restrictions Adopted Under Other Authority.** The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.
- 20.5 Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.
- 20.6 Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- 20.7 Applicability.**
- (1) Overall Applicability. The requirements of this chapter apply to all operators of nonmetallic mining sites within Trempealeau County and as provided in Sections NR135.02 (1) and (2), Wisconsin Administrative Code except where exempted in sub. 20.7(2) and for nonmetallic mining sites located in a city, village or town within Trempealeau County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code

(2) Exemptions. This chapter does not apply to exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

**20.8 Administration.** The provisions of this chapter shall be administered by the Standing Committee of the County Board of Supervisors so assigned this responsibility by the Trempealeau County Board of Supervisors.

**20.9 Effective Date.** The provisions of this chapter shall take effect upon publication.

**20.10 Definitions.** All definitions for the purposes of this chapter are contained in Section NR135.03, Wisconsin Administrative Code.

**20.11 Standards.** All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the general performance standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

(1) GENERAL STANDARDS.

(a) **REFUSE AND OTHER SOLID WASTES.** Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.

(b) **AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION.** 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.

(c) **PUBLIC HEALTH, SAFETY AND WELFARE.** All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) **HABITAT RESTORATION.** When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(e) **COMPLIANCE WITH ENVIRONMENTAL REGULATIONS.** 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.

(f) **SURFACE WATER AND WETLANDS PROTECTION.** Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site

to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(2) **GROUNDWATER PROTECTION.**

(a) **GROUNDWATER QUANTITY.** A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) **GROUNDWATER QUALITY.** Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application defined in that chapter.

**20.12 Nonmetallic Mining Reclamation Permit Application Required.** No person may engage in nonmetallic mining involving one acre or greater 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. 20.7(1), 20.7(2) or NR135.03 (16) (b), Wisconsin Administrative Code.

(1) **Required Submittal.** The operator of all nonmetallic mining sites of one acre or greater shall apply for a reclamation permit from Trempealeau County. All applications for reclamation permits under this section shall be accompanied by information required by section NR 135.18 (1), Wisconsin Administrative Code.

(2) **Reclamation Permit Application Contents.** The operator of any nonmetallic mine site shall submit an application that meets the requirements of Sections NR135.18 (2), Wisconsin Administrative Code and the submittals required under sub. 20.12(1) to the County prior to beginning operations.

**20.13 Reclamation Plan.**

(1) **Reclamation Plan Requirements.** All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

(2) **Existing Plans and Approvals.** To avoid duplication of effort, the reclamation plan required by sub. 20.13(1) may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

(3) **Approval of Reclamation Plan.** Trempealeau County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with sub. 20.16(2). Conditional approvals of reclamation plans shall be made according to sub. 20.16(5) and denials of reclamation plans shall be made pursuant to sub. 20.17. The operator shall keep a copy of the reclamation plan required by this Section, once approved by Trempealeau County under this

Chapter at the mine site or, if not practicable, at the operator's nearest place of business.

**20.14 Financial Assurance.**

- (1) Financial Assurance Requirements. All operators of nonmetallic mining sites in Trempealeau County that are subject to this Chapter shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code.
- (2) Private Nonmetallic Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sub. 20.12 shall submit the proof of financial assurance required by sub. 20.14(1) as specified in the reclamation permit issued to it under this chapter.
- (3) Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

**20.15 Public Notice and Right of Hearing.**

- (1) Reclamation Plan Hearing. Trempealeau County shall, provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies sub. 20.12. is received.
- (2) Local Transportation-Related Mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 20.16(3).

**20.16 Issuance of a Nonmetallic Mining Reclamation Permit.**

- (1) Permit Required. No person may engage in nonmetallic mining involving one acre or greater or nonmetallic mining reclamation in Trempealeau County without obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter as provided in sub. 20.7(2).
- (2) Permit Issuance. Applications for reclamation permits for nonmetallic mining sites that satisfy sub. 20.12. shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms to sub. 20.13(1) and provision by the applicant of financial assurance that conforms to sub. 20.14. payable to Trempealeau County prior to beginning mining.
- (3) Automatic Permit for Local Transportation-Related Mines. Trempealeau County shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(a) through (j), Wisconsin Administrative Code.

- (4) Expedited Review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in sub. 20.26(4). The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to sub. 20.15.
- (5) Permit Conditions. Permits issued under this section may include conditions as provided in Section NR 135.21(2), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

**20.17 Permit Denial.** An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

**20.18 Alternative Requirements.**

- (1) Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may submit to the County a written request for County consideration of an alternative requirement to any reclamation standard established in sub. 20.11. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.
- (2) Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in sub. 20.18(1) shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Zoning Administrator. The Zoning-Administrator shall evaluate and act upon the request. The request may be granted, granted with conditions, or the request may be denied pursuant to factors specified in Section NR 135.22, Wisconsin Administrative Code. Decisions of the Zoning Administrator, as rendered under this section, may be appealed to the County Committee established under S.59 and acting under the authority of 59.69
- (3) Transmittal of Decision on Request for Alternative Requirement. The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.
- (4) Notice to Wisconsin Department of Natural Resources. Trempealeau County shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.

**20.19 Permit Duration.** A nonmetallic mining reclamation permit issued under this chapter shall last through operation and final reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sub. 20.32(2), or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner

**20.20 Permit Transfer.** A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

**20.21 Previously Permitted Sites.** 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 Trempealeau County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Trempealeau County pursuant to sub. 20.23(1).

**20.22 Review.** Any permitting decision or action made by Trempealeau County under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

**20.23 Permit Modification.**

(1) By Trempealeau County. A nonmetallic mining reclamation permit issued under this chapter may be modified by Trempealeau County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this Chapter. Such modification shall be by an order modifying the permit in accordance with sub. 20.32. and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

(2) At the Operator's Option. If the operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, such modification may be requested by submitting a written application for such modification to Trempealeau County. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

(3) Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if required under the circumstances set out in Section NR135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

(4) All actions by Trempealeau County on permit modifications requested or initiated under this section are subject to review under sub. 20.22.

**20.24 Permit Suspension and Revocation**

(1) Grounds. Trempealeau County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

(2) Procedures. If Trempealeau County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 20.24(1), it may issue a special order suspending or revoking such permit as set forth in sub. 20.32(2).

(3) Consequences. The consequences of a reclamation permit suspension or revocation order under sub. 20.24(2) shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

**20.25 Annual Operator Reporting.**

- (1) Contents and Deadline. Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year to Trempealeau County. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 20.29.
- (2) Inspection in Lieu of Report. Trempealeau County may, at its discretion, obtain the information required in sub. 20.25(1) by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.
- (3) Retention of Annual Reports. Annual reports submitted under this Section or inspection records that replace them shall be retained by Trempealeau County for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

**20.26 Plan Review Fees.**

- (1) Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 20.12. shall submit a non-refundable plan review fee based upon a plan review fee schedule approved by the Trempealeau County Board of Supervisors. No Plan review fee may be assessed under this Section for any Local Transportation –Related Mine issued an automatic permit under sub. 20.16(3). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to sub. 20.23.
- (2) Plan Review Fee. The plan review fee shall be established to equal as closely as possible the County’s cost of administering the permitting and plan review processes established in sections 20.12 – 20.18 of this ordinance.
- (3) Annual Fee Review. The plan review fee shall be reviewed annually by the County and shall be adjusted to account for changes in the cost of public administration.
- (4) Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 20.12 may obtain expedited reclamation plan review by paying a double fee. This expedited plan review process shall be completed within 30 days instead of the normal 60 days.
- (5) Relation to Annual Fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under sub. 20.27.

**20.27 Annual Fees.**

- (1) Areas Subject to Fees, Procedures, Deadline and Amount. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall submit an annual fee to Trempealeau County. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under sub. 20.27(2) and a share for Trempealeau County under sub. 20.27(3) that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on amount of unreclaimed acres of each site, as defined in Section NR 135.39(1)(a), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under sub. 20.29. Fees shall be paid no later than January 31 for the previous year.
- (2) Wisconsin Department of Natural Resources Share of Fee. Fees paid under this section shall, except where provided in sub. 20.27(3), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in the permit fee schedule. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be the amount specified in the permit fee schedule. Trempealeau County shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31.
- (3) Trempealeau County's Share of Fee.
  - (a) Fees paid under this section shall also include an annual fee due to Trempealeau County which shall be the amount specified in the permit fee schedule.
  - (b) The annual fee collected by Trempealeau County under this subsection for local transportation-related mines issued permits under sub. 20.16(3) may not exceed the amounts set forth in Table 2 of Section NR 135.39 and shall include both a share for the Wisconsin Department of Natural Resources and Trempealeau County.
- (4) Reduced Fee for Inactive Construction Aggregate Mines. Any Construction Aggregate site, as defined in Chapter 13.05(10)(b) of the County Comprehensive Zoning Ordinance, on which no nonmetallic mining activity has taken place in a calendar year, and where no activity is planned for the following calendar year, shall be assessed at a reduced fee as specified in the permit fee schedule.
- (5) Documentation of Trempealeau County's Share of Fee. If the annual fee in sub. 20.27(3) is greater than that established in Section NR135.39(4)(c), Wisconsin Administrative Code, Trempealeau County shall document in writing its estimated program costs and the need for its annual fees established in sub. 20.27(3). This documentation shall be available for public inspection.

**20.28 Regulatory Reporting and Documentation.**

- (1) Reporting. Trempealeau County shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code by May 31<sup>st</sup> of each calendar year.
- (2) Documentation. Trempealeau County shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Trempealeau County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

**20.29 Completed Reclamation - Reporting, Certification and Effect**

- (1) Reporting. The operator of a nonmetallic mining site may provide written certification to the County of completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code.
- (2) Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 20.29(1).
- (3) Certification of Completed Reclamation. Trempealeau County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with sub. 20.13, Trempealeau County shall issue the mine operator a written certificate of completion.
- (4) Effect of Completed Reclamation. If reclamation is certified by Trempealeau County as complete under sub. 20.29(3) for part or all of a nonmetallic mining site, then:
  - (a) No fee shall be assessed under sub. 20.27 for the area so certified.
  - (b) The financial assurance required by sub. 20.14 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.
  - (c) For sites which are reported as interim reclaimed under sub. 20.29(2) and so certified under sub. 20.29(3), financial assurance for reclaiming the certified area may be reduced upon inspection of the site by Trempealeau County to assure compliance with the approved reclamation plan.
- (5) Effect of Inaction Following Report of Completed Reclamation. If no written response as required by sub. 20.29(3) for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request,

any annual fee paid to Trempealeau County for it under sub. 20.27 shall be refunded.

**20.30 Permit Termination.** When all final reclamation required by a reclamation plan conforming to sub. 20.13 and required by this chapter is certified as complete pursuant to sub. 20.29(3), Trempealeau County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

**20.31 Right of Entry and Inspection.** For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of Trempealeau County may inspect any nonmetallic mining site subject to this chapter as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

**20.32 Orders and Citations.**

- (1) Enforcement Orders. Trempealeau County may issue orders as set forth in Section 295.19(1)(a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.
- (2) Special Orders. Trempealeau County may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to sub. 20.24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.
- (3) Review of Orders. An order issued under sub. 20.32(1) or sub. 20.32(2) may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.
- (4) Citations. Trempealeau County may issue a citation in accordance with the Trempealeau County Citation Ordinance and collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- (5) Enforcement. Trempealeau County may submit any order issued under sub. 20.32 to abate violations of this chapter to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney,

corporation counsel, municipal attorney or the attorney general may enforce those orders.

**20.33 Penalties.** Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

- (1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under sub. 20.32 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under sub. 20.32 is suspended, stayed or enjoined, this penalty does not accrue.
- (2) Except for the violations referred to in sub. 20.33(1), any person who violates subchapter I of Ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to sub. 20.32 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under sub. 20.32 is suspended, stayed or enjoined, this penalty does not accrue.