

CHAPTER 11

Regulation of Nonmetallic Mining

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
7-11-1	Purpose of Chapter		
7-11-2	Definitions		
7-11-3	Applicability of Chapter		
7-11-4	Exempt Activities		
7-11-5	Applications for Permits		
7-11-6	Permit Approval and Appeal Process	2001-07	3/9/02
7-11-7	Minimum Reclamation Standards		
7-11-8	Standards Applied to All Permits	2001-07	3/9/02
7-11-9	Renewal of Permit		
7-11-10	Existing Nonmetallic Mining Operations		
7-11-11	Project Site Modification or Enlargement		
7-11-12	Fees		
7-11-13	Inspection		
7-11-14	Enforcement		
7-11-15	Liability		

SEC. 7-11-1 PURPOSE OF CHAPTER.

Nonmetallic mining is recognized as an important industry which contributes to the Town's economic and social well being, but which risks damage to the long-term physical environment and the tax base of the Town. It is the purpose of this Chapter to establish regulations for nonmetallic mining and site reclamation that will protect the environment and the tax base both during and after the conduct of mining operations.

SEC. 7-11-2 DEFINITIONS.

In this Chapter, terms shall mean the following:

- (a) "Abandonment of operations" means the cessation of nonmetallic mining operations for more than three hundred sixty (360) consecutive days where the cessation is not specifically set forth in an operator's application, operation or reclamation plan or permit, or by other written request deemed sufficient by the Town. Abandonment of operations does not include the cessation of activities due to labor strikes or natural disasters.
- (b) "Town" means the Town of Caledonia.
- (c) "Enlargement" means any vertical or horizontal increase beyond dimensions of the original application for the project site.

- (d) "Environmental pollution" means the contaminating or rendering unclean or impure the air, land or waters of the state or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.
- (e) "Modification" means any vertical or horizontal increase or decrease within the dimensions of the original application for the project site.
- (f) "Nonmetallic mining" or "nonmetallic mining operation" means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, gravel and nonmetallic minerals such as asbestos, bell, clay, feldspar, peat, talc and topsoil-related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (g) "Nonmetallic mining refuse" means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable byproducts resulting directly from or displaced by the nonmetallic mining operation.
- (h) "Nonmetallic mining site" or "project site" or "site" means the location where a nonmetallic mining operation is proposed to be conducted or is conducted, including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited, and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or highways.
- (i) "Operator" means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under a nonmetallic mining reclamation ordinance, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (j) "Parties in interest" mean the owner and operator of a proposed or existing nonmetallic mining site and all owners of property located within five hundred (500) feet of the boundaries of a proposed or existing nonmetallic mining site.
- (k) "Permit" means any permit which may be required under this Section of an operator as a condition precedent to commencing or continuing nonmetallic mining at a project site.
- (l) "Reclamation" means the rehabilitation of a nonmetallic mining site, including, but not necessarily including and not limited to removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (m) "Replacement of topsoil" means the replacement of the topsoil which was removed and disturbed by a nonmetallic mining operation or the provision and placement of soil which is at least as adequate, in the opinion of the Town, as the topsoil which was removed or disturbed for the purposes or providing adequate vegetative cover and stabilization of soil conditions.
- (n) "Riprap" means a quantity of durable stones or concrete pieces of varying size and shape, placed as a protective layer over soil in such a manner that the smaller pieces fill the spaces between the larger pieces. Concrete pieces are less desirable than stones for this use, and those with exposed reinforcing rods shall not be used.

- (o) “Topsoil” means that material (normally the A and upper part of the B horizon) which, based upon the official national cooperative soil survey, is acceptable for respreading on the surface of regraded areas to provide a medium which sustains a dense plant growth capable of preventing wind and water erosion of the topsoil and other materials beneath.

SEC. 7-11-3 APPLICABILITY OF CHAPTER.

This Chapter is applicable to all nonmetallic mining sites within the Town of Caledonia. This Section applies to any portion of a nonmetallic mining site, including unreclaimed portions of a site, which was mined prior to the effective date of this Chapter.

SEC. 7-11-4 EXEMPT ACTIVITIES

This Chapter does not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
- (f) Any activities conducted at a soil or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445 or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., provided, however, that section applies to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic mining site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- (g) Any nonmetallic mining site or portion of a site which is subject to permit and reclamation requirements of the Department of Natural Resources under Sections 30.19, 30.195 and 30.20, Wis. Stats.

SEC. 7-11-5 APPLICATIONS FOR PERMITS.

- (a) **General Requirement.** An operator shall obtain a nonmetallic mining permit prior to engaging in nonmetallic mining, the enlargement of a site or site reclamation. Such permit applications are subject to public hearing before the Town Board. Permits shall be denied if the Town Board finds that the project does not conform with the minimum standards set forth in this Chapter or if the applicant has failed or continues to fail to comply with this Section.
- (b) **Application.** The application for a permit shall be submitted to the Town Clerk on forms provided by the Town. The application for a mining permit shall be signed by the

applicant and shall be accompanied by information which shall include, but not be limited to, the following:

- (1) General Information. The name and address of the operator.
- (2) Lease(s). A signed copy of the lease(s) which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this Section. The expiration date of the lease shall clearly be indicated thereon.
- (3) Legal Description. A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.
- (4) Other Permits. A statewide list of all mining permits, by county, held by the applicant. Applicants for legally preexisting operations need not furnish such reformation.
- (5) General Map. Five (5) copies of a general map which shall be drawn at a scale of no less than one (1) inch equals two hundred (200) feet and shall include the following:
 - a. Property boundaries of the operator's owned and/or leased land and all property boundaries within at least five hundred (500) feet of the operator's land.
 - b. Topography of site and lands within one hundred (100) feet thereof, at intervals no larger than two (2) feet.
 - c. Location and names of all streams, roads; railroads, utility lines and pipelines on or immediately adjacent to the site.
 - d. Location of all structures owned by parties in interest and the purpose for which each structure and the land s used.
 - e. Names and addresses of parties in interest.
 - f. Boundaries and elevations of previous excavations on the site.
 - g. Location and description of mining site boundary stakes and permanent reference point.
 - h. Zoning of the site.
- (6) Operation Plan. All horizontal and vertical measurements shall be referenced to a permanent reference point. The operation plan shall include five (5) copies of maps, information about the site, a description of the proposed nonmetallic mining operation, methods and procedures to be used in mining the site and a proposed timetable for completion of the operation or of the various stages of the operation if done in stages, as follows:
 - a. Observed or estimated depth to groundwater.
 - b. Type of mining, processing and transportation equipment to be used.
 - c. Type and estimated volume of materials to be extracted, including total and annual estimates.
 - d. To the extent practicable, a timetable for the commencement, duration and cessation of nonmetallic mining operations and, if seasonal operations are intended, the months of operation shall be identified.
 - e. Anticipated hours and weekdays of operation.
 - f. Primary travel routes to be used to transport material to processing plants or markets.

- g. Soil boring descriptions to the total depth of the proposed excavation describing the thickness in feet, the colors and the textures encountered. Sufficient borings shall be conducted to describe the type of material to be excavated and to indicate that an adequate supply of material is located within the project boundaries to justify the adverse environmental impacts of the operation. Borings shall be referenced to the permanent reference point. In the case of stone quarrying operations, soil borings shall only be required as to overburden overlaying the stone at the site and as to berms. Reports of core borings shall be submitted with respect to rock formations.
- h. Measures to be taken to control noise, dust and vibrations from the operations and/or a written explanation of why such measures are not needed.
- i. Measures to be taken to screen the operation from view of surrounding land uses.
- j. A general statement of the following:
 - 1. The adverse environmental effects which can and cannot be avoided.
 - 2. The beneficial aspects of the proposed operation.
 - 3. The economic advantages and disadvantages of the proposed operation.
- k. If explosives are to be used in the operation, a detailed plan for the storage, handling and use of such explosives. Any such use shall comply with all federal, state and local regulations.
- l. Plan view drawing and a description of the sequential stages of mining or, if no stages are planned, a description of how the operator plans to proceed with the mining operation. The drawing shall show the location of the phase boundary stakes, the location and extent of the nonmetallic mining site to include, but not be limited to, mining refuse dumps, sediment and/or wash ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities and other permanent or temporary facilities used in mining.
- m. Five (5) copies of a plan showing erosion control measures to be used during excavation.
 - 1. Temporary stabilization measures shall describe how such things as haul roads and stockpiles shall be dealt with to prevent erosion and contamination of surface and groundwater.
 - 2. Temporary stabilization measures may be ordered by field directive by the Town Engineer or his designee to correct situations which arise out of the operation of a project site which is likely to cause erosion detriment to adjoining properties or to the public health, safety and welfare.
 - 3. Temporary stabilization may include, but need not be limited to, the following: silt fencing, bale check dams, sod strips, rock riprap, hard surfacing through the use of concrete or blacktop, slope or high wall reduction, temporary seeding, erosion mat placement, mulching and sediment basin construction.
 - 4. If deemed necessary by the Town Engineer for the protection of the waterways, banks and drainages to waterways shall be stabilized

- prior to and during project operations; and drainages shall be filtered where necessary to prevent siltation and water turbidity.
- n. Five (5) copies of a plan showing existing and proposed drainage within and without the site of operations, including, but not limited to, areas to be mined and areas where overburden or waste materials are to be stockpiled or placed.
 - 1. The plan shall show existing and proposed contour lines.
 - 2. The plan shall be accompanied by calculations supporting the reasonableness of the plan.
 - 3. The plan shall provide for the handling of all waters, natural, pumped, surface and groundwaters.
 - 4. The plan shall be reviewed by the Commissioners of the Town Storm Sewer Utility District in which the site is located and their comments thereon submitted to the applicant and the Town Board.
 - o. The estimates, projections and information as to future operations, the supplied hereunder as to the operation plan are for the purpose of general planning and are not to be deemed binding obligations or commitments by the applicant hereunder, unless specifically so provided by the Town Board in the permit approval.
- (7) Reclamation Plan. All horizontal and vertical measures shall be referenced to a permanent reference point. The reclamation plan, including maps, information about the site, a description of the proposed reclamation, including methods and procedures to be used, and a proposed timetable for completion of various stages of reclamation, if any, of the nonmetallic mining site shall be provided as follows:
- a. Five (5) copies of a plan and description of the proposed reclamation, including final slope angles, and high wall reduction, benching, terracing and other structural slope stabilization measures, if applicable.
 - b. Description of topsoil stripping, stabilization and conservation methods, if applicable, that will be used during storage.
 - c. Five (5) copies of a plan and description of anticipated final topography, water impoundments, artificial lakes and anticipated future land use of site. All map plan information may be submitted on a single map plan sheet provided that legibility is not compromised.
 - d. Description of plans for disposition of surface structures, roads and related facilities after cessation of mining.
 - e. The estimated cost of reclamation for the project or for each phase of the project, if applicable.
 - f. A seeding plan which shall include methods of seedbed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
 - g. To the extent practicable, a timetable of the commencement, duration and cessation of reclamation activities.
- (8) Other Information. The Town Board may require the submittal of such other information as may be necessary to determine the nature of the nonmetallic mining operation and proposed reclamation and the effect on the surrounding area. The Town Board may waive portions of the specified information if it is satisfied that,

because of the nature or method of the operation, such information is not relevant or is unnecessary to a full and proper evaluation of the application. In determining what information shall be waived, the Town Board shall take into account, among other things, the nature of the applicant's operation and whether the operation is a legally preexisting operation. It shall be the obligation of the applicant to request any such waiver. Such request shall set forth the justification for such waiver.

SEC. 7-11-6 PERMIT APPROVAL AND APPEAL PROCESS.

- (a) **Standards for Evaluation and Approval.** The Town Board shall review the site plan; existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, the proposed operation, the effects of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, quality of life of the neighborhood and Town and any other pertinent requirements deemed necessary by the Town Board so as to eliminate, alleviate or control any unreasonable hazard, danger, harm, risk or nuisance that exists or could develop as a result of the operation and reclamation for which the application is made. In making such determinations, the Town Board shall consider whether or not the applicant is applying as to a preexisting operation and use and the rights which may have accrued to such applicant as a result thereof.
- (b) **Public Hearing.**
- (1) After receipt of a complete permit application, the Town Clerk shall schedule a public hearing on the application before the Town Board; and the application shall be submitted to the Planning Committee for its recommendation.
 - (2) Notice of the aforementioned public hearing shall be published as a Class 2 notice in a newspaper of general circulation within the Town of Caledonia. In addition, notice of said public hearing shall be mailed to the last-known address of all owners of property within five hundred (500) feet of the subject property. Failure to receive notice shall not invalidate any action taken by the Town Board.
 - (3) At the hearing on an application for a nonmetallic mining permit, the Town Board shall hear and receive any evidence or sworn testimony presented by the applicant or his authorized agent. At the conclusion of the applicant's presentation, the Town Board shall hear first any public comments from those in support of the application, then from those in opposition to the application and finally the recommendation of the Planning Committee. The applicant shall be given an opportunity to respond to any adverse comments, evidence or recommendations.
 - (4) The Town Board may waive the above public hearing requirement if a public hearing involving the same mining activities proposed in the permit application was held by the Town or County within six months before the filing of the permit application.
- (c) **Approval or Denial.** After the hearing, the Town Board shall either grant or deny the application based upon specific findings and conclusions. The Town Board may grant an application conditioned upon meeting certain operational and reclamation provisions and standards, which shall not be less stringent than the minimum standards hereinafter set

forth. In deciding upon an application for a legally preexisting operation, the Town Board shall take into account the preexisting nature and circumstances of the operation. By accepting the permit and operating thereunder, the operator of a new or an illegally preexisting operation is deemed to have consented to such conditions. A legally preexisting operation is deemed to accept such conditions if it does not object to the Town Board in writing within sixty (60) days after notice of the conditions is given to the applicant.

- (d) **Appeal.** Appeals from the decision of the Town Board in granting or denying a license shall be in accord with Title 4 of the Code of Ordinances of the Town of Caledonia. Appeals from other determinations hereunder shall be in accord with Title 4 of the Code of Ordinances, to the extent applicable, and otherwise to the Town Board.

SEC. 7-11-7 MINIMUM RECLAMATION STANDARDS.

The following minimum standards shall be adhered to, provided, however, nothing herein shall be interpreted as being restrictive in the design of a site as long as it can be established to the satisfaction of the Town Board at the time of the application that the site, when fully reclaimed, will not be a threat to the public health, safety or other aspects of the general welfare, for which the burden of proof shall be on the applicant:

- (a) **Slopes.** No site shall exceed a three (3) feet horizontal to one (1) foot vertical incline. This angle of repose shall extend vertically six (6) feet below the lowest seasonal groundwater level. For good cause shown, this angle may be modified by the Town Board; and in any event, such slope requirement shall not apply to stone faces in the stone quarries.
- (b) **Topsoil Storage.**
- (1) All topsoil on a nonmetallic mining site shall be saved for future application unless it can be established to the satisfaction of the Town Board that it is not all needed for reclamation or that it is more reasonable to replace the same when needed.
 - (2) Topsoil shall be stockpiled in accord with the plan of operation approved by the Town Board hereunder.
- (c) **Application of Topsoil to Resloped Excavation Areas or Filled Areas.**
- (1) All resloped excavation areas or filled areas shall be covered with three (3) inches of topsoil.
 - (2) Prior to seeding, fertilizer shall be applied pursuant to Wisconsin Department of Transportation Road and Bridge Standards, 1981 Edition, Section 629.
 - (3) Prior to seeding, but after lime and fertilizer have been applied, the entire portion of the site which is to be seeded shall be worked using ordinary tillage methods or similarly cultivated to a minimum depth of three (3) inches.
- (d) **Seeding/Revegetation/Stabilization.**
- (1) Seeding shall be done in accordance with a Soil Conservation Service Critical Area Plan or Wisconsin Department of Transportation Road and Bridge Standards, 1981 Edition, Section 630, entitled, "Seeding," exceeding rates listed in Subsection 630.3.3.4.2 shall be doubled.
 - (2) Alternative seeding mixtures shall be considered by the Town Engineer 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. Tree and shrub plantings may be required by the Town as a permit condition. If the Town requires such plantings, it shall set forth its reasons for doing so in writing. If the applicant wishes to use only woody vegetation on part or all of a reclamation project, a complete documented explanation of measures to be used to deter erosion shall be submitted with the reclamation plan. Tree and shrub species to be used shall be adapted to the climate of this area.
- (4) Sodding, when required for drainageways, ditch checks, highly erodible areas of a site as shown on the reclamation plan, or as required by the Town to deter or correct a problem on the site, shall be installed pursuant to Wisconsin Department of Transportation, Road and Bridge Standards, Section 631, entitled, "Sodding."
- (5) Riprap, when required for drainageways, ditch outlets, culvert ends or bridge openings, as shown on the reclamation plan, or as required by the Town to deter or correct a problem on the site shall be installed according to Wisconsin Department of Transportation, Road and Bridge Standards, Section 606, entitled, "Riprap."
- (6)
 - a. Mulch shall be applied to all seeded areas pursuant to Wisconsin Department of Transportation, Road and Bridge Standards, Section 627, entitled, "Mulching," unless documentation is provided providing that mulch is not needed to accomplish stabilization.
 - b. Additional nitrogen shall be applied in quantities sufficient to offset the nitrogen demand of mulch decomposition.
- (7) Use of slit fences; sediment basins, filter rock weirs and similar structures and methods which require ongoing maintenance will generally not be accepted for long-term reclamation. The intent of final reclamation is to leave the site in a maintenance-free and stable condition.

SEC. 7-11-8 STANDARDS APPLIED TO ALL PERMITS.

- (a) **Right of Access.** The filing of an application shall grant the Town and its officers and agents the right of access onto the site and contiguous lands owned or leased by the applicant for the purpose of inspecting the site and adjacent lands for pre-permit issuance inspections, for compliance with the permit if issued and for any other purpose relative to this Section. Except in emergencies, access shall be granted during normal business hours. Inspectors shall report to the person in charge of the site and comply with established safety rules and regulations.
- (b) **Failure to Open and Operate.** Failure of an operator to take substantial steps to open and operate in a site during the initial permit period shall be grounds for the Town Board to deny a request for renewal. Such denials may be appealed under Title 4 of the Code of Ordinances of the Town of Caledonia.
- (c) **Financial Assurance.**
 - (1) Notification. The Town Board shall determine the required bonding level of the project and shall notify the applicant. Following approval of the permit and as a condition of the permit, except for governmental units, the Town Board shall require a bond to be filed with the Town equal to the estimated cost to the Town of fulfilling the reclamation plan. Upon notification of required bonding levels by the

Town, but prior to commencing the project, the operator shall file with the Town a bond conditioned on faithful performance in conformance with the approved restoration plan. Upon notification by the Town of bonding approval and conformance with permit conditions, the operator may commence project and reclamation operations.

- (2) Bond Requirements.
- a. Bonds shall be issued by a surety company licensed to do business in Wisconsin. At the option of the operator, a performance bond or a forfeiture bond may be filed. Surety companies may have the opportunity to complete the reclamation plan in lieu of a cash payment to the Town.
 - b. Each bond shall provide that the bond shall not be cancelled by the surety, except after not less than ninety (90) days' notice to the Town, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the operator must deliver to the Town a replacement bond in absence of which all nonmetallic mining shall cease.
 - c. The bond shall be payable to "Town of Caledonia."
 - d. The estimated cost of reclamation of each project shall be determined by the Town on the basis of relevant factors including, but not limited to, topography of the site, project methods being employed, depth of project operations and from data provided in the operation and reclamation plans.
- (3) Security Deposits. Upon written approval of the Town Board, an operator may deposit with the Town cash, certificates of deposit, governmental securities or other security acceptable to the Town Board.
- (4) Financial Assurance Release. The Town shall release the operator's bond or deposit if it finds, after inspection of the project site, that the operator has fully carried out and completed reclamation of the project site in accordance with the operation and reclamation plan and has otherwise complied with this Section. An inspection of the site shall be made prior to the scheduled completion of the operation and reclamation plan, but not more than one (1) year prior to such date. Final inspection shall be made after actual completion of the operation and reclamation plan.
- (c) **Boundary Staking.** All excavation and phase boundaries, if any, shall be staked or otherwise marked by the operator and inspected by the Town prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the Town Engineer.
- (d) **Plans on Site.** A copy of the plans and specifications returned by the Town at the time of permit issuance shall be kept on the project site throughout the entire excavation and reclamation period.
- (e) **Permit Period.** Unless otherwise limited by the Town Board in its discretion, permits shall be granted for a two (2) year period of time and shall expire on June 30th. The initial license shall expire on the second June 30th following issuance of the permit.
- (f) **Limits of Operation.** Projects shall be limited to approved dimensions and depths.
- (g) **Conflicts with Other Regulations.** It is the responsibility of the operator to obtain any local, state or federal permits or approvals.

- (h) **Compliance with Reclamation.** The operator shall comply with progressive reclamation plans, if any, and final reclamation plans for the site.
- (i) **Notification of Commencement and Cessation.** The operator shall notify the Town in writing at least fifteen (15) days prior to initial nonmetallic mining operations and at least thirty (30) workdays prior to final completion of project reclamation. All phases within a site shall also comply with the notification requirements above. When a phase is complete, the operator shall notify the Town Engineer for approval of the reclamation before entering the next phase.
- (j) **Records of Operations.** All records of the permittee regarding the conduct of the nonmetallic mining operation which are reasonably needed for the proper monitoring and evaluation of the operation or the enforcement of this Chapter shall be subject to inspection by the Town officials at all reasonable times, provided, however, that Town personnel, to the extent provided by law, shall take reasonable steps to prevent disclosure of records which the operator advises in writing contain privileged trade secret information. In the event of a dispute concerning the need for or the steps taken to prevent disclosure of any such records, an appeal may be taken under Title 4 of the Code of Ordinances of the Town of Caledonia.
- (k) **Complaints of Violations.** In the event of a complaint of a violation of this Section, the plan of operation or the plan of reclamation, the permittee shall be notified thereof in writing by the Town and shall respond to the Town in writing within ten (10) working days of notification by the Town. In the event the permittee shall fail to respond or shall deny any violation without reasonable grounds, the permittee shall be liable for the reasonable costs of investigation of such complaint, including the cost of any experts.
- (l) **Other Conditions.** The Town may apply such other conditions or requirements as are necessary to ensure the proper operation and the progressive and final reclamation in a manner consistent with this Section and to limit any adverse environmental impacts. Standards contained in Wisconsin Administrative Code Transportation 207 or in State of Wisconsin Department of Transportation Standards Specifications for Road and Bridge Construction may be applied to any appropriate aspect of this Chapter.

SEC. 7-11-9 RENEWAL OF PERMIT.

- (a) Applications for permit renewal must be submitted in writing to the Town Clerk at least sixty (60) days prior to the expiration date of the existing permit. Such applications shall comply with the provisions of this Section, but need not include any items previously submitted with a prior application for a permit for such site. Renewal applications may merely indicate no change in such items. Any previously submitted items which have been changed from the prior applications shall be resubmitted showing any such changes.
- (b) No permit renewal shall be granted unless the project is in reasonable compliance with the terms of the existing permit.
- (c) Permit renewals may be conditioned upon correction of any unanticipated environmental impacts occurring during the original or renewal permits.
- (d) No public hearing shall be required to be held with respect to a renewal application unless the application provides for an enlargement of the previously approved site or otherwise

provides for an alteration or change in the method of operations or reclamation previously approved which might adversely effect the use or enjoyment of nearby properties

SEC. 7-11-10 EXISTING NONMETALLIC MINING OPERATIONS.

All nonmetallic mining operations existing at the effective date of this Chapter (October 17, 1988) shall, within thirty (30) days of said effective date of this Chapter, be provided with a copy of this Section via certified mail. Within ninety (90) days of their receipt of this Section, operators of existing nonmetallic mining operations shall submit the necessary plans to bring said operation into conformity with this Chapter. Such period may be extended for an additional ninety (90) days upon review and approval by the Town Board of said written request for extension. Pending the receipt and review of a timely submitted application by the Town Board, the operation shall be permitted to continue the existing nonmetallic mining operation at the site for which an application was submitted. If a permit is denied, the applicant shall cease nonmetallic mining operations at such site.

SEC. 7-11-11 PROJECT SITE MODIFICATION OR ENLARGEMENT.

- (a) **Site Modification.** An operator may apply for a modification or cancellation of a project permit or for a change in the reclamation plan for a project site. The application for the modification, cancellation or change shall be submitted in writing by the operator and shall identify the site to be removed or affected by a change in the operation and reclamation plans.
- (b) **Transfer of Permit.** When one (1) operator succeeds to the interest of another in an uncompleted site, the Town Board shall release the first operator of the responsibilities imposed by the permit, but only if:
 - (1) Both operators are in compliance with the requirements and standards of this Chapter.
 - (2) The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document and provides financial assurance therefor.
- (c) **Site Enlargement.** Any proposed enlargement shall be processed as a new application pursuant to this Chapter. All provisions of this Section shall apply to the proposal.

SEC. 7-11-12 FEES.

The application for an initial permit hereunder shall be accompanied by a fee of Thirty Dollars (\$30.00) for each acre of horizontal surface area to be mined or restored. An application for a renewal permit hereunder, if no substantial alterations or changes are proposed to be made to the previously approved plans, shall be accompanied by a fee of Fifteen and No/100 Dollars (\$15.00) for each acre of horizontal surface area to be in active use during the two (2) year permit period. If substantial alterations or changes are proposed to be made to the previously approved plans, the application for the renewal permit shall be accompanied by an additional fee of Five and No/100

Dollars (\$5.00) for each acre of horizontal surface area that will be directly affected by such substantial alterations or changes.

SEC. 7-11-13 INSPECTION.

The Town Board or its designee may enter the premises of a nonmetallic mining site in the performance of its or their official duties, or pursuant to a special inspection warrant issued under Sec. 66.122, Wis. Stats., in order to inspect the premises to act on any application hereunder, to ascertain compliance with the nonmetallic mining reclamation ordinance and permit, or to investigate any alleged violation. It shall be a condition of a permit issued hereunder that, upon request, such person shall be granted access to the premises during hours of operation for purposes of any such inspection, provided that applicable safety laws, rules and regulations are adhered to.

SEC. 7-11-14 ENFORCEMENT.

The Town Board or its designee may issue a compliance order, field directive, suspension order or termination order to assure compliance with a permit or the provisions of this Chapter.

SEC. 7-11-15 LIABILITY.

In carrying out any of the provisions of this Chapter or in exercising any power or authority granted to them thereby, there shall be no personal liability upon the Town, its agents and employees.