

Town of Troy, Sauk County, Wisconsin

NONMETALLIC MINING ORDINANCE

ORDINANCE NO. _____ 15

SECTION 1.01 PREAMBLE

The purpose of this ordinance is to promote the health, safety, prosperity, aesthetics, and general welfare of the people and communities within the Town of Troy (“Town”), Sauk County, Wisconsin, and set forth the rules and procedures for this municipality regarding nonmetallic mines within the Town. This ordinance is adopted pursuant to the Town’s village powers under Wis. Stat. § 60.10(2)(c) and 61.34.

SECTION 1.02 INTENT

The general intent of this ordinance is to regulate the location, construction, installation, alteration, design, operation, and use of all nonmetallic mines so as to protect the health of residents and transients; secure safety from disease and pestilence; further the appropriate use and conservation of land and water resources; preserve and promote the administration and enforcement of this ordinance and provide penalties for its violations.

SECTION 1.03 INTERPRETATION

In their interpretation and application, the provision of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

SECTION 1.04 DEFINITIONS

1) *Metallic Mining or Mining* means operations or activities for the commercial extraction from the earth of merchantable metallic minerals or the exploration or prospecting for such minerals and includes operations, processes, or activities related to that extraction.

2) *Nonmetallic Mining and Mining* mean all of the following:

a. Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading, and dredging. Nonmetallic mining does not include removal from the earth or products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees, or plant nursery stock.

b. Processes carried out at a nonmetallic mining site that is related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to, stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting grading, crushing, screening, scalping, and dewatering.

SECTION 1.05 NONMETALLIC MINING

1) Nonmetallic mining in the Town shall be allowed only as provided for in this ordinance.

2) The applicant shall apply for a Town permit for a nonmetallic mine prior to starting work on any mining structure or facility and prior to operating any nonmetallic mine in the Town. The application shall be submitted on a form provided to the applicant by the Town Clerk, a copy of which is attached hereto as Appendix A.

3) The Town Board shall be the sole determining body of whether to issue the permit, after review and recommendation by the Town Plan Commission, and after a public hearing has been held by the Town Board, with notice given by U.S. mail to all adjoining landowners to the proposed nonmetallic mine. The Town Board shall grant the permit, either with or without conditions, if it is determined that the development and operation of the nonmetallic mine is in the best interests of the citizens of the Town, and will be consistent with the protection of public health, safety, and general welfare.

4) The Town permit shall be void if the permittee violates any conditions of the permit or any conditions of any required Federal, State, or County permits.

SECTION 1.06 PROCEDURES

1) The applicant shall complete a Town of Troy Nonmetallic Mining Permit Application (See Appendix A) and pay the required application fee of \$1,250.00 to the Town at the time the application is submitted to the Town Clerk. In addition to the required application fee, within thirty (30) days following submission of the application to the Town Clerk, but before the application is reviewed or otherwise considered by the Town, the applicant shall be required to enter into an agreement with the Town under which the applicant shall agree to compensate the Town for all legal services and expert consulting expenses which may be reasonably incurred by the Town as part of its review and processing of the application, regardless of whether or not the application for a permit to mine is subsequently approved by the Town.

2) After receiving the application and the application fee, the Town Clerk shall mail a copy of the application to all adjoining landowners to the proposed nonmetallic mining site with the date and time of the next Town Plan Commission meeting.

(3) The Clerk shall then place the application on the agenda for the next Town Plan Commission meeting.

4) The Plan Commission shall review and consider the application and make a recommendation to the Town Board. After a decision has been rendered by the Plan Commission, the application shall be placed on the agenda of the Town Board for a public hearing and decision.

5) At the public hearing held by the Town Board, the Town Board shall consider the recommendation of the Plan Commission and take public comments on the proposed mine. Before making a decision on the application, the Town Board shall determine whether the application is complete, and whether the applicant has applied for or received any required Federal, State, and county permits for the proposed mine.

6) The Town Board shall grant the permit, either with or without conditions, if it determines that the development and operation of the nonmetallic mine is in the best interests of the citizens of the Town, and will be consistent with the protection of public health, safety, and general welfare. The Town Board shall deny the permit if it determines that the development and operation of the proposed nonmetallic mine is not in the best interests of the citizens of the Town, and will not be consistent with the protection of public health, safety, and general welfare. In making its decision, the Town Board shall consider the location of the proposed nonmetallic mine, the applicant's proposed mining and related operations, the expected impacts of the proposed mining and mining operations on Town roads and road safety, the applicant's experience and track record in operating other nonmetallic mines and related operations, and any other factors relating to the best interest of the citizens of the Town and the protection of public health, safety, and general welfare.

7) The Town Board may conditionally approve the permit and may attach conditions to protect public health and safety and promote the general welfare of the Town. Such conditions may include, but are not limited to, restrictive provisions and proof of financial security for town road maintenance and repair, restrictions on hours of operation, restrictions on truck and traffic volume into and out of the mine site, restrictions to protect groundwater quantity and quality, restrictions to safeguard public and private drinking and agricultural wells, restrictions to control air emissions and dust from the mine and its operations, and any other restrictions deemed necessary or appropriate by the Town Board to protect public health and safety and promote the general welfare of the Town and its citizens.

SECTION 1.07 EFFECTIVE DATE

This ordinance shall take effect upon passage and publication.

SECTION 1.08 EXCEPTIONS FROM ORDINANCE

A nonmetallic mining permit is not required from the Town for nonmetallic mines in existence prior to the effective date of this ordinance or for the activities listed in Wis. Admin. Code § NR 135.02(3). However, if a preexisting nonmetallic mine is expanded after the effective date of this ordinance in a manner that requires a nonmetallic mining reclamation permit from Sauk County, the expansion shall be subject to the permitting requirements of this ordinance.

SECTION 1.09 SEVERABILITY

If any section, sentence, clause, or phrase of this ordinance, or if any section, sentence, clause, or phrase of any permit issued by the Town pursuant to this ordinance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance, or of any other section, sentence, clause, or phrase of any permit issued by the Town pursuant to this ordinance.

SECTION 1.10 ENFORCEMENT AND PENALTIES

Any violation of this ordinance shall be punishable by a forfeiture of not less than \$250.00 or more than \$2,000.00 per day for every day in violation of this ordinance, plus the costs of prosecution for each and every violation. The Town’s attorney shall expeditiously prosecute all such violators. Each day of violation shall constitute a separate offense.

The Town Clerk shall properly post or publish this ordinance as required under Wis. Stat. § 60.80.

Adopted this _____ day of _____, 2015.

Roger Mack, Town Chairman

Donald Meise, Town Supervisor

Jeffrey Lohr, Town Supervisor

Attest:

Mary Zins, Town Clerk