

TOWN OF LINCOLN NONMETALLIC MINING ORDINANCE

SECTION 1. PURPOSE AND AUTHORITY

A. Purpose. The purpose of this Chapter is to promote the health, safety, prosperity, aesthetics, and general welfare of the people and communities within the Town of Lincoln ("Town"), Monroe County, Wisconsin, and set forth minimum standards, rules and procedures for this municipality regarding nonmetallic mines within the Town.

B. Authority. This Ordinance is adopted pursuant to the Town's powers granted by Town adoption of Village Powers under Wis. Stat. §60.10 and other authority under the laws of the State of Wisconsin. Any amendment, repeal or recreation of statutes relating to this Chapter made after the effective date of this Chapter are incorporated into this Ordinance by reference on the effective date of the amendment, repeal or recreation.

SECTION 2. INTENT

The general intent of this Chapter 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; further the appropriate use and conservation of land and water resources; preserve and promote the administration and enforcement of this Chapter and provide penalties for its violations.

SECTION 3. INTERPRETATION

In any ordinance interpretation and application, the provisions of this Chapter 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 4. DEFINITIONS

A. *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.

B. *Nonmetallic mining* and *mining* mean all of the following:

(1) 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.

(2) Nonmetallic mining does not include removal from the earth of 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 and mining for all agricultural use such as, but not limited to, cranberry growers' use for sanding or construction, excavation, renovation for new or existing beds or any mining of two (2) acres or less.

(3) 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 5. NONMETALLIC MINING

A. Nonmetallic mining in the Town shall be allowed only as provided for in this Ordinance.

B. 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 Attachment "A".

C. The Town Board shall be the sole determining body of whether to issue the permit after a public hearing has been held by the Town Board, with notice given by U.S. Mail to all landowners within a one-half (1/2) mile radius to the boundary of the land owned by applicant for the site of the proposed mine.

D. All applications shall be reviewed by the Town Board prior to public hearing to determine completeness.

E. The Town permit may be voided if the permittee violates any conditions of the permit or any conditions of any required Federal, State or County permits and after hearing for applicant.

SECTION 6. PROCEDURES

A. The applicant shall complete a Town of Lincoln Nonmetallic Mining Permit Application (Attachment "A") and pay the required application fee.

B. The applicant and Town shall enter into a Preliminary Cost Agreement substantially in the form of Attachment "B" and in an amount Town believes is appropriate.

C. After receiving the application by Clerk, the Clerk shall forward to Town Board to determine (1) its completeness, (2) if experts are needed to review application and proposed mine operation, and (3) consideration of the Preliminary Cost Agreement terms.

D. Subject to Board approval, after receiving the application, the application fee and executed Preliminary Cost Agreement, the Town Clerk shall mail a copy of the application to all landowners within a one-half (1/2) mile radius of the proposed nonmetallic mining site with the date and time of the Town Board meeting for a public hearing.

E. At the public hearing held by the Town Board, the Town Board shall take public comment on the proposed mine. Before making a decision on the application, the Town Board shall determine whether the application is complete, shall consider all public comment, and whether the applicant has applied for or received any required Federal, State, and County permits for the proposed mine.

F. 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.

G. The Town Board 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 reclamation, 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 7. 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 described herein and those activities listed in Wis. Admin Code § NR 135.02(3). However, if a pre-existing nonmetallic mine is expanded after the effective date of this Ordinance in a manner that requires a nonmetallic mining reclamation permit from Monroe County; the expansion shall be subject to the permitting requirements of this Ordinance.

SECTION 8. ENFORCEMENT AND PENALTIES

In addition to terms of a Development Agreement, a violation of this Ordinance may be punishable by a forfeiture of not less than \$100.00 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.

SECTION 9. MINING DEVELOPMENT AGREEMENT

Any of the provisions of this Chapter may be modified by a Mining Development Agreement between the Town and the application if the Town Board determines that the intent of this Chapter can be achieved through the use of alternative measures, and that the public health, safety and welfare will not be adversely affected thereby. Said Agreement may include provisions for inspection, enforcement, procedures and penalties.

SECTION 10. EFFECTIVE DATE

Upon passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. §60.80.

Adopted this 3rd day of March, 2019.

Signatures of the Town Board Members:

Chairman:  Greg A Zingler

Supervisor: 

Supervisor: 

Attest:
Town Clerk: 