



## PLANNING AND ZONING DEPARTMENT

1462 STRONGS AVENUE, STEVENS POINT, WI 54481 • PHONE: 715-346-1334 • FAX: 715-346-1677

DATE: February 27, 2001

TO: Town Chairpersons and Clerks, Village Presidents and Clerks,  
Mayor and City Clerk

FROM: Stephen D. Brazzale, Portage County Zoning Administrator

RE: Nonmetallic Mining Reclamation

NR135 of the Wisconsin Administrative Code becomes effective June 1, 2001. This Code requires counties to have a Nonmetallic Reclamation Ordinance in place and effective County-wide. This would apply to the incorporated as well as unincorporated areas of Portage County.

The City and Villages of Portage County could administer NR135 Nonmetallic Mining Reclamation if an Ordinance were adopted as specified in NR135 of the Wisconsin Administrative Code. The only other land use ordinance that applies County-wide is the Private Sewage Ordinance, which regulates the location of septic systems.

Let this Office know as soon as possible whether your incorporated municipality wants to adopt their own Ordinance to regulate nonmetallic mining reclamation or if you want the County to regulate nonmetallic mining reclamation in your municipality.

Should you have any questions regarding the Nonmetallic Mining Reclamation feel free to contact me at your convenience. I'll try to answer as many questions as you have and if I cannot answer the questions, I will contact the Department of Natural Resources for the answers.

SDB/jjl

cc: John Gardner, City of Stevens Point  
Richard Holden, Village of Plover Community Development Manager  
Oliver Merriam, Village of Plover Administrator  
Charlie Gussel, Town of Grant Zoning Administrator

“**Yard, Street**” means a yard extending along the full width of a lot in those yards that abut a public street right-of-way or easement for a depth as specified in the yard regulations. Corner lots have 2 such yards.

Revised January, 1994

Revised January 16, 2007

Revised June 17, 2008

Revised November 3, 2008

Revised by Resolution 160-2012-2014 on June 18, 2013

Revised by Resolution 51-2016-2018 on October 11, 2016

Revised by Resolution 225-2016-2018 on February 20, 2018

Revised by Resolution 26-2018-2020 on August 27, 2018

[Index for this Chapter](#)

## **7.8 NONMETALLIC MINING RECLAMATION ORDINANCE**

### **PART I – GENERAL**

#### **7.8.1 TITLE**

### **NONMETALLIC MINING RECLAMATION ORDINANCE FOR PORTAGE COUNTY**

#### **7.8.2 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 after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes. 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.

#### **7.8.3 STATUTORY AUTHORITY**

This chapter is adopted under authority of Portage County Section 295.13(1), Wisconsin Statutes; Section NR 135.32, Wisconsin Administrative Code; Section 59.51, Wisconsin Statutes.

#### **7.8.4 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.

### **7.8.5 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.

### **7.8.6 DEFINITIONS**

All definitions for the purposes of this Chapter are those contained in Section NR 135.03, Wisconsin Administrative Code.

- (1) "Alternative requirement" an alternative to the reclamation standards of this chapter provided through a written authorization granted pursuant to Portage County Nonmetallic Mining Reclamation Ordinance Section 7.8.17.
- (2) "Applicable reclamation ordinance" a nonmetallic mining reclamation ordinance including this chapter, that applies to a particular nonmetallic mining site and complies with the requirements of this Chapter NR 135, Wisconsin Administrative Code and Subchapter 1 of Chapter 295, Wisconsin Statutes.
- (3) "Borrow site" an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.
- (4) "Contemporaneous reclamation" the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.
- (5) "Department" the Wisconsin Department of Natural Resources.
- (6) "Environmental pollution" has the meaning in Section 295.11(2), Wisconsin Statutes.
- (7) "Existing mine" a nonmetallic mine where nonmetallic mining takes place before August 1, 2001.
- (8) "Financial assurance" a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in Section 7.8.13 and is sufficient to pay for reclamation activities required by this chapter.
- (9) "Highwall" means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1 (Three feet horizontal to one foot vertical).
- (10) "Landowner" the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.
- (11) "Licensed professional geologist" means a person who is licensed as a professional geologist pursuant to Chapter 47, Wisconsin Statutes
- (12) "Municipality" any city, town, village, county.

(13) "Nonmetallic mineral" a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(14) "Nonmetallic mining" or "mining" means 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 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.

(b) Processes carried out at a nonmetallic mining site that are 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.

(15) "Nonmetallic mining reclamation" or "reclamation" the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this chapter, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(16) "Nonmetallic mining refuse" waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(17) "Nonmetallic mining site" or "site" all contiguous areas of present or proposed mining described in paragraph (a), subject to the qualifications in paragraph (b).

(a) Nonmetallic mining site means the following:

1. The location where nonmetallic mining is proposed or conducted.
2. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.
3. Areas where nonmetallic mining refuse is deposited.
4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.

5. Areas where grading or regrading is necessary.

6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

(b) Nonmetallic mine site does not include any of the following areas:

1. Those portions of sites listed in paragraph (a) not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.

2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.

3. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

(18) "Operator" any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(19) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

(20) "Registered professional engineer" a person who is registered as a professional engineer pursuant to ss. 443.04 and 443.09, Wisconsin Statutes.

(21) "Regulatory authority" means the following:

(a) Portage County for nonmetallic mine sites located within its jurisdiction, or

(b) A municipality in Portage County which the nonmetallic mining site is located and which ordinance.

(22) "Replacement of topsoil" the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining reclamation for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this chapter.

(23) "Solid waste" any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 283, Wisconsin Statutes, or source material, special nuclear material or by-product material, as defined in s. 254.31 (1), Wisconsin Statutes.

(24) "Topsoil" the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(25) "Topsoil substitute material" soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(26) (a) "Unreclaimed acre" or "unreclaimed acres" those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under subparagraph 8.28.30. However the term does not include any areas described in paragraph (b).

(b) "Unreclaimed acre" or "unreclaimed acres" do not include:

1. Those areas where reclamation has been completed and certified as reclaimed under subparagraph 7.8.28.30.
2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in nonmetallic mining reclamation plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. For purposes of fees under section 7.8.26, those areas within a nonmetallic mining site which has determined to have been successfully reclaimed on an interim basis in accordance with subparagraph 7.8.28.30.

## **7.8.7 APPLICABILITY**

### **7.8.7.1 OVERALL APPLICABILITY**

The requirements of this chapter apply to all operators of nonmetallic mining sites operating on or commencing to operate after August 1, 2001 and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in subparagraph 7.8.7.2 and except for nonmetallic mining sites located in a city, village or town that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code.

### **7.8.7.2 EXEMPTIONS**

This chapter does not apply to the following activities:

- (1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation

requirements of the Wisconsin Department of Natural Resources under Sections. 30.19, 30.195 or 30.20, Wisconsin Statutes., and complies with Chapter NR 340, Wisconsin Administrative Code.

- (2) Excavations subject to the permit and reclamation requirements of Sections 30.30 or 30.31 Wisconsin Statutes.
- (3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
- (5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster back to its previous condition.
- (6) Excavations for building construction purposes conducted on the building site.
- (7) Nonmetallic mining at nonmetallic mining sites that affect less than one acre of total area over the life of the mine.
- (8) Any mining operation, the reclamation of which is required in a permit obtained under Chapter 293, Wisconsin Statutes.
- (9) Any activities required to prepare, operate or close a solid waste disposal facility under Chapter 289, Wisconsin Statutes, or a hazardous waste disposal facility under Chapter 291, Wisconsin Statutes, that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this chapter apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- (10) (a) Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.
  - (b) This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.
  - (c) If a nonmetallic mining site covered under paragraphs (a) and (b) is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

(11) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

### **7.8.8 ADMINISTRATION**

The provisions of this chapter shall be administered by the Portage County Planning and Zoning Department.

### **7.8.9 EFFECTIVE DATE**

The provisions of this chapter shall take effect on June 1, 2001.

## **PART II - STANDARDS**

### **7.8.10 STANDARDS**

All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below.

#### **(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 Chapters 289 and 291, Wisconsin Statutes.

(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.

(2) 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.

### (3) 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.

### (4) TOPSOIL MANAGEMENT.

#### (a) REMOVAL .

Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan in order to achieve reclamation to the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed prior to any mining activity associated with any specific phase of the mining operation.

(b) VOLUME . The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

(c) STORAGE. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

### (5) FINAL GRADING AND SLOPES

(a) All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to Section NR 135.19, Wisconsin Administration Code to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 (three feet horizontal to one foot vertical) slope, whether or not graded, as stable and safe.

(b) For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable

slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

(c) All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(d) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 (three feet horizontal to one foot vertical), unless found acceptable through one or more of the following: alternative requirements are approved under Section NR 135.26, Wisconsin Administration Code; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provided the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(e) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1(three feet horizontal to one foot vertical) shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

#### (6) TOPSOIL REDISTRIBUTION FOR RECLAMATION

Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material distribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

#### (7) REVEGETATION AND SITE STABILIZATION

Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

#### (8) ASSESSING COMPLETION OF SUCCESSFUL RECLAMATION

(a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

(b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

1. On-site inspections.

2. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo-documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or

3. A combination of inspections and reports.

(c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(d) Revegetation success may be determined by:

1. Comparison to an appropriate reference area;

2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

3. Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

#### (9) INTERMITTENT MINING

Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to Section 7.8.13 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

#### (10) MAINTENANCE

During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

### **PART III - PERMITTING**

#### **7.8.11 NONMETALLIC MINING RECLAMATION PERMIT APPLICATION**

##### **7.8.11.1 REQUIRED SUBMITTAL**

The operator of all nonmetallic mining sites that operate on or after August 1, 2001 shall apply for a reclamation permit. All reclamation permit applications under this section shall be accompanied by the following information:

(1) Brief description of the general location and nature of the nonmetallic mine.

(2) Legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.

(3) The names, addresses and telephone numbers of all persons or organizations who are owners, lesser

or operators of the property on which the nonmetallic mining site is located.

(4) Certification by the operator of their intent to comply with the statewide nonmetallic mining standards established in PART II.

### **7.8.11.2 NEW MINES**

The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1, 2001 or which has not applied for an automatic reclamation permit shall submit an application that meets the following requirements:

(1) Information listed in subparagraph 7.8.11.1.

(2) Plan review and annual fees.

(3) Reclamation Plan.

(4) Certification that the operator will provide as a condition of the reclamation permit, financial assurance as required upon granting the reclamation permit and before mining begins.

### **7.8.12 RECLAMATION PLAN**

#### **7.8.12.1 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.

(1) **SITE INFORMATION.** The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, by not limited to:

(a) Maps of the nonmetallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the location of surface waters and the existing drainage patterns, the approximate elevation of ground water as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement such information with the opinion of a licensed professional geologist or hydrologist.

Note: Topsoil or topsoil substitute material if required to support revegetation needed for reclaiming the site to approved post-mining land use can be identified using county soil surveys or other available information including that obtained from a soil scientist of the University of Wisconsin Soil Science Extension Agent or other available information resources.

(2) **RECLAMATION MEASURES.** The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

(a) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures, and if necessary, a site-specific engineering analysis performed by a registered professional engineer as provided by Section NR 135.10(1) and (2), Wisconsin Administration Code.

(b) A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

Note: Safety measures include: visual warnings, physical barriers, slope modifications such as reclamation blasting, scaling of the rock face, creation of benches. Other measures may be employed if found to be equivalent by a registered professional engineer.

#### **7.8.12.2 EXISTING MINES**

The operator of any nonmetallic mining site that submits an automatic permit application in conformance with subparagraph 7.8.11.20 shall submit the reclamation plan required by subparagraph 7.8.12.1 by June 1, 2004.

#### **7.8.12.3 NEW MINES**

The operator of any nonmetallic mining site that applies for a permit in conformance with subparagraph 7.8.11.3 shall submit the reclamation plan required by subparagraph 7.8.12.1 with its application for a reclamation permit.

#### **7.8.12.4 EXISTING PLANS AND APPROVALS**

To avoid duplication of effort, the reclamation plan required by subparagraph 7.8.12.1 may, by reference, incorporate existing plans or materials that meet the requirements of this chapter. Previous approvals for nonmetallic mining sites that apply in accordance with subparagraph 7.8.11.2 shall satisfy the requirements of subparagraph 7.8.12.1 if they meet the requirements of Section NR 135.21(1)(d), Wisconsin Administrative Code.

#### **7.8.12.5 APPROVAL OF RECLAMATION PLAN**

Reclamation plans submitted under this section shall be approved, conditionally approved or denied in writing as part of permit issuance process pursuant to subparagraph 7.8.15.2 for existing mines and subparagraph 7.8.15.4 for new mines. Conditional approvals of reclamation plans shall be made according to subparagraph 7.8.15.7, and denials of reclamation plans made according to Section 7.8.16.

### **7.8.13 FINANCIAL ASSURANCE**

#### **7.8.13.1 FINANCIAL ASSURANCE REQUIREMENTS**

All operators of nonmetallic mining sites shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section 135.40, Wisconsin Administrative Code.

#### **7.8.13.2 EXISTING MINES**

The operator of any nonmetallic mining that applies for an automatic reclamation permit in conformance with subparagraph 7.8.11.2 shall submit the proof of financial assurance required by subparagraph 7.8.13.1 no later than June 1, 2004.

### **7.8.13.3 NEW MINES**

The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with subparagraph 7.8.11.3 shall submit the proof of financial assurance required by subparagraph 7.8.13.1 as specified in the reclamation permit issued to it under this chapter.

### **7.8.13.4 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.

## **7.8.14 PUBLIC NOTICE AND RIGHT OF HEARING**

### **7.8.14.1 NEW MINES**

Portage County shall, except as provided in subparagraph 7.8.14.2, provide public notice and the opportunity for a public informational hearing as set forth below:

#### **(1) PUBLIC NOTICE**

(a) Except as provided in subparagraph (3) for existing mines, when a complete nonmetallic mining reclamation permit application that satisfies subparagraph 7.8.11.3 is received by Portage County, a public notice of the application shall be published no later than 30 days after receipt.

(b) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to Section 985.07(2), Wisconsin Statutes, in the official newspaper. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.

(c) Copies of the notice shall be forwarded to owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

#### **(2) HEARING**

Except as provided in subparagraph (3) for existing mines, an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit shall be provided as follows.

(a) If Portage County conducts a zoning-related hearing on the nonmetallic mine site, an opportunity shall be provided at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section.

Reclamation-related testimony in the zoning-related hearing shall be considered in deciding on a permit application pursuant to this chapter.

(b) 1. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in paragraph (a), opportunity for public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. A public hearing shall be held if requested by any of these persons within 30 days of the actual date of public notice under subparagraph (1). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.

2. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

#### **7.8.14.2 EXISTING MINES**

(1) No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued pursuant to subparagraph 7.8.15.2 for an existing mine.

(2) If the regulatory authority accepts a previously approved reclamation plan for that mine as provided in subparagraph 7.8.15.3, no further public notice or informational hearing is required.

(3) If the submittal of a new reclamation plan is required, public notice and the opportunity for public informational hearing shall be provided following the receipt of the reclamation plan in accordance with subparagraph 7.8.14.1. In this case, the subject matter and testimony at that hearing, if held, shall be limited to the new reclamation plan.

#### **7.8.14.3 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 subparagraph 7.8.15.5.

### **7.8.15 ISSUANCE OF A NONMETALLIC MINING RECLAMATION PERMIT**

#### **7.8.15.1 PERMIT REQUIRED**

Every operator of a nonmetallic mining site who engages in or plans to engage in nonmetallic mining after September 1, 2001 shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this chapter as provided in subparagraph 7.8.7.2. No person may engage in nonmetallic mining or nonmetallic mining reclamation after September 1, 2001 without a reclamation permit issued pursuant to this chapter.

#### **7.8.15.2 AUTOMATIC PERMIT FOR EXISTING MINES**

An automatic reclamation permit shall be issued to the operator of any nonmetallic mining site that submits an application meeting the requirements of subparagraph 7.8.11.2 as set forth in Section 135.21(1), Wisconsin Administrative Code. The automatic permit shall be issued within 30 days of such application.

#### **7.8.15.3 EVALUATION OF FOLLOW-UP SUBMITTALS FOR EXISTING MINES**

Mines covered by automatic permits issued under subparagraph 7.8.15.2 shall submit a reclamation plan in accordance with subparagraph 7.8.12.2 and proof of financial assurance in accordance with subparagraph 7.8.13.2 by the deadlines established in those subsections. Reasonable extensions to these deadlines may be granted in writing where extenuating circumstances exist. The follow-up submittals required by this subsection shall be evaluated using the criteria and procedures in Sections NR 135.21(1)(d), (e) and (f) Wisconsin Administration Code.

#### **7.8.15.4 PERMIT ISSUANCE FOR NEW MINES**

Applications for reclamation permits for nonmetallic mining sites not permitted under subparagraph 7.8.15.2 that satisfy subparagraph 7.8.11.3 shall be issued 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 with subparagraph 7.8.12.3, and provision by the applicant of financial assurance that conforms with subparagraph 7.8.13.3. prior to beginning mining.

#### **7.8.15.5 AUTOMATIC PERMIT FOR LOCAL TRANSPORTATION-RELATED MINES**

An automatic permit shall be issued 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)(b) through (j), Wisconsin Administrative Code.

#### **7.8.15.6 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 Section 7.8.25. 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 section 7.8.14.

#### **7.8.15.7 PERMIT CONDITIONS**

Permits issued under this section may include conditions as provided in Section NR 135.21(3), 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.

#### **7.8.16 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.

(1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in section 7.8.15, if it finds any of the following is found:



(a) The applicant has, after being given an opportunity to make corrections, failed to provide an adequate permit application, reclamation plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this chapter.

(b) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this chapter, Chapter NR 135, Wisconsin Administrative Code or subchapter 1 of Chapter 295, Wisconsin Statutes.

(c) 1. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered, shown a pattern of serious violations of this chapter or of federal, state or local environmental laws related to nonmetallic mining reclamation.

2. The following may be considered in making this determination of a pattern of serious violations:

a. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

b. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this chapter, other reclamation ordinances or Chapter NR 135, Wisconsin Administrative Code.

c. Forfeitures of financial assurance.

(d) A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(2) A decision to deny an application to issue a reclamation permit may be reviewed under Section 7.8.21.

## **7.8.17 ALTERNATIVE REQUIREMENTS**

### **7.8.17.1 SCOPE OF ALTERNATIVE REQUIREMENTS APPROVABLE**

An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in Section 7.8.10. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

### **7.8.17.2 PROCEDURES**

The operator of a nonmetallic mining site requesting an alternate requirement in subparagraph 7.8.17.1 shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Portage County Planning and Zoning Department.

### **7.8.17.3 TRANSMITTAL OF DECISION ON REQUEST FOR ALTERNATE REQUIREMENTS**

The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

### **7.8.17.4 NOTICE TO WISCONSIN DEPARTMENT OF NATURAL RESOURCES**

Notice shall be provided to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.

#### **7.8.18 PERMIT DURATION**

A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to subparagraph 7.8.31.2, or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.

#### **7.8.19 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.

#### **7.8.20 PREVIOUSLY PERMITTED SITES**

For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority by the previously-issued municipal reclamation permit's terms and conditions shall remain in force until they can be modified pursuant to subparagraph 7.8.22.1.

#### **7.8.21 REVIEW**

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

### **PART IV - ADMINISTRATION**

#### **7.8.22 PERMIT MODIFICATION**

##### **7.8.22.1 BY PORTAGE COUNTY**

A nonmetallic mining reclamation permit issued under this chapter may be modified if found that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this chapter. Such modification shall be by an order conforming with the procedures in section 7.8.31 and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

##### **7.8.22.2 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, it may request such modification by submitting a written application for such modification. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

##### **7.8.22.3 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 NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

#### **7.8.22.4 REVIEW**

All actions on permit modifications requested or initiated under this section are subject to review under section 7.8.21.

#### **7.8.23 PERMIT SUSPENSION OR REVOCATION**

##### **7.8.23.1 GROUNDS**

A suspension or revocation of a nonmetallic mining reclamation permit can be issued pursuant to this chapter will occur if Portage County finds the operator has done any of the following:

- (1) Failed to submit a satisfactory reclamation plan within the time frames specified in this chapter.
- (2) Failed to submit or maintain financial assurance as required by this chapter.
- (3) Failed on a repetitive and significant basis to follow the approved reclamation plan.

##### **7.8.23.2 PROCEDURES**

If Portage County finds that the grounds for suspension or revocation of a nonmetallic mining reclamation permit set forth in subparagraph 7.8.23.1 have been met, it may issue a special order suspending or revoking such permit as set forth in subparagraph 7.8.31.2.

##### **7.8.23.3 CONSEQUENCES**

- (1) If Portage County makes any of the findings in subparagraph 7.8.23.1, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operation may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to Section 7.8. 31.
- (2) If Portage County makes any of the findings in subparagraph 7.8.23.1, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this chapter. The County may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

#### **7.8.24 ANNUAL OPERATOR REPORTING**

##### **7.8.24.1 CONTENTS AND DEADLINE**

Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section NR 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. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under subparagraph 7.8.28.3.

#### **7.8.24.2 INSPECTION IN LIEU OF REPORT**

An inspection may be done to obtain the information required in subparagraph 7.8.24.1 by written documentation of an inspection completed during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

#### **7.8.24.3 RETENTION OF ANNUAL REPORTS**

Annual reports submitted under this section or inspection records that replace them shall be retained for at least 10 years after the calendar year. These records, or 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.

#### **7.8.25 PLAN REVIEW FEES**

See attached fee schedule.

##### **7.8.25.1 AMOUNT AND APPLICABILITY**

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under subparagraph 7.8.11.3 shall submit a non-refundable plan review fee as set by the Planning and Zoning Committee. No plan review fee may be assessed under this section for any nonmetallic mine site for which an application for an automatic reclamation permit is submitted that meets the requirements of subparagraph 7.8.11.2 or for any local transportation-related mine issued an automatic permit under subparagraph 7.8.15.5. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to Section 7.8.22.

##### **7.8.25.2 EXPEDITED PLAN REVIEW FEE**

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under subparagraph 7.8.11.3 may obtain expedited reclamation plan review by paying double the regular fee. Such fee shall be in addition to that required in subparagraph 7.8.25.1.

##### **7.8.25.3 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 Section 7.8.26.

#### **7.8.26 ANNUAL FEES**

See attached fee schedule.

##### **7.8.26.1 AREAS SUBJECT TO FEES, PROCEDURES AND DEADLINES**

Annual fees apply to operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under subparagraph 7.8.26.2 and a share for Portage County under subparagraph 7.8.26.3 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 the amount of unreclaimed acres of each site, as defined in Section NR 135.39(1), 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 section 7.8.28. Fees shall be paid no later than December 31 before the year for which they apply.

#### **7.8.26.2 WISCONSIN DEPARTMENT OF NATURAL RESOURCES SHARE OF FEES**

Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. 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 \$15.00.

#### **7.8.26.3 COUNTY FEE**

Fees paid under this section shall also include an annual fee due which shall be DETERMINED ON AN ANNUAL BASIS by the Planning and Zoning Committee to be established on an unreclaimed acre basis, and equal as closely as possible the County cost of administering the reclamation program.

#### **7.8.26.4 REDUCED FEE OF INACTIVE MINES**

Any site on which no nonmetallic activity has taken place in a calendar year shall be assessed a fee for the following calendar year of \$50.00.

### **7.8.27 REGULATORY REPORTING AND DOCUMENTATION**

#### **7.8.27.1 REPORTING**

An annual report shall be sent to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code.

#### **7.8.27.2 DOCUMENTATION**

Information shall be maintained as set forth in Section NR 135.47(3), Wisconsin Administrative Code, and made it available to the Wisconsin Department of Natural Resources for that agency's audit of the reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

### **7.8.28 COMPLETED RECLAMATION – REPORTING, CERTIFICATION AND EFFECT**

#### **7.8.28.1 REPORTING**

The operator of a nonmetallic mining site may certify 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.

#### **7.8.28.2 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 subparagraph 7.8.28.1.

#### **7.8.28.3 CERTIFICATION OF COMPLETED RECLAMATION**

An inspection of a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection will be completed within 60 days of receipt, and a determination made 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 plan that conforms with Section 7.8.12, Portage County shall issue the mine operator a written certificate of completion.

#### **7.8.28.4 EFFECT OF COMPLETED RECLAMATION**

If reclamation is certified as complete under subparagraph 7.8.28.3 for part or all of a nonmetallic mining site, then:

- (1) No fee shall be assessed under section 7.8.26 for the area so certified.
- (2) The financial assurance required by section 7.8.13 shall be released.

#### **7.8.28.5 EFFECT OF INACTION FOLLOWING REPORT OF COMPLETED RECLAMATION**

If no written response as required by subparagraph 7.8.28.3 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 under Section 7.8.26 shall be refunded.

#### **7.8.29 PERMIT TERMINATION**

When all final reclamation required by a reclamation plan conforming to Section 7.8.12 and required by this chapter is certified as complete pursuant to section 7.8.27, a written statement shall be sent to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

### **PART V - ENFORCEMENT**

#### **7.8.30 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 Portage 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.

### **7.8.31 ORDERS AND CITATIONS**

#### **7.8.31.1 ENFORCEMENT ORDERS**

Orders may be issued as set forth in Section 295.19(1)(a), Wisconsin Statutes 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 Section 7.8.12 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 Section 7.8.12 and a permit issued under this chapter shall be considered a violation of Subchapter 1 of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

#### **7.8.31.2 SPECIAL ORDERS**

Orders may be issued as 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 Section 7.8.23, 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.

#### **7.8.31.3 REVIEW OF ORDERS**

An order issued under subparagraph 7.8.31.1 or subparagraph 7.8.31.2 may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

#### **7.8.31.4 CITATIONS**

Citations may be issued under s. 66.119, Wisconsin Statutes. and Portage County Ordinance 5.1 to collect forfeitures or require any action needed 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 Section 7.8.12 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.

#### **7.8.31.5 ENFORCEMENT**

Requests for enforcement action shall be submitted for any order issued under Section 7.8.31 to the corporation counsel enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes.

### **7.8.32 PENALTIES**

Any person, firm, company, corporation, agent, contractor or subcontractor who violates any terms of this Ordinance shall be subject to a forfeiture of not less than twenty-five dollars (\$25), nor more than one-thousand dollars (\$1,000), together with the costs of any enforcement action. Each day of violation shall constitute a separate offense. The court may utilize any lawful authority to compel enforcement of this Ordinance, including contempt. Compliance therewith may be enforced by injunctive relief at the suit of the County or the owner or owners of land affected by the regulations of this Ordinance.

Adopted by County Board: May 15, 2001  
 Effective Date: June 1, 2001  
 Revised January 16, 2007

**FEE SCHEDULE  
 NONMETALLIC MINING**

**PORTAGE COUNTY RECLAMATION PLAN REVIEW FEE**

<u>Proposed Mine Site Size</u>	<u>Plan Review Fee</u>	<u>Expedited Fee</u>
1 to < 25 acres	\$400.00	\$ 800.00
> 25 acres	\$800.00	\$1,600.00

**PORTAGE COUNTY ANNUAL FEES**

<u>Mine Size in Unreclaimed Acres</u>		<u>Annual Fee</u>	<u>County Share</u>	<u>DNR Share</u>
1 to < 5	Acres	\$110	\$75	\$35
5 to < 10	Acres	\$220	\$150	\$70
10 to < 15	Acres	\$330	\$225	\$105
15 to < 25	Acres	\$440	\$300	\$140
25 to < 50	Acres	\$540	\$380	\$160
50 >	Acres	\$550	\$375	\$175

<u>Inactive Site Fee</u>	<u>Annual Fee</u>	<u>County Share</u>	<u>DNR Share</u>
	\$ 50.00	\$ 35.00	\$ 15.00

Adopted June 1, 2001  
 Revised January 15, 2006  
 Revised January 16, 2007

[Index for this Chapter](#)

**7.9 PRIVATE SEWAGE SYSTEM ORDINANCE**

**7.9.1 ADOPTION**

A. This Sanitary Ordinance is adopted pursuant to the authorization in Section 59.065 and 145.135 of the Wisconsin Statutes.

B. This Ordinance incorporates by reference the following rules, regulations and laws, as set forth in Wisconsin Statutes and Wisconsin Administrative Code governing the location, construction and use of private sewage systems - Chapters 59, 145, 146, 236 and 968.10, Wisconsin Statutes and administrative codes promulgated thereunder, and NR113 and IND. 52.63 of the Wisconsin Administrative Code. These rules, regulations and laws shall apply until amended or renumbered and then shall apply as amended or renumbered.