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VILAS COUNTY NONMETALLIC MINING RECLAMATION
ORDINANCE

PART I - GENERAL

SECTION 1
1.00 TITLE. VILAS COUNTY NONMETALLIC MINING RECLAMATION ORDINANCE.

SECTION 2
2.00 INTENT AND PURPOSE. The intent is to restore the site to a purposeful landscape appearance and use. The purpose of this ordinance is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Vilas County after the effective date of this ordinance, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wis. Stats..

SECTION 3
3.00 STATUTORY AUTHORITY. This ordinance is adopted under authority of Section 295.13(1), Wis. Stats., Section NR 135.32 Wisconsin Administrative Code, and Section 59.51, Wis. Stats.

SECTION 4
4.00 RESTRICTIONS ADOPTED UNDER OTHER AUTHORITY. The purpose of this ordinance is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Section 295.12(1) (a), Wis. Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this ordinance 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.

SECTION 5
5.00 INTERPRETATION. In their interpretation and application, the provisions of this ordinance 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, Wis. Stats. and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance 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.

SECTION 6
6.00 SEVERABILITY. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
SECTION 7
7.00 APPLICABILITY.

7.10 OVERALL APPLICABILITY. The requirements of this ordinance apply to all operators of nonmetallic mining sites within Vilas County, except as exempted in Subsection 7.20 and for nonmetallic mining sites located in a city, village or town within Vilas County that has adopted an ordinance pursuant to Section 295.14, Wis. Stats., and Section NR 135.32(2), Wisconsin Administrative Code. This ordinance does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased before August 1, 2001. This ordinance applies to nonmetallic mining conducted by or on behalf of or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in Subsection 14.30.

7.20 EXEMPTIONS. This ordinance 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, Wis. Stats., 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 Wis. Stats.

(3) Excavations or grading by a person solely for domestic or farm/agricultural 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.

(6) Excavations for building construction purposes conducted on the building site.

(7) Nonmetallic mining at nonmetallic mining sites, where less than one acre of total affected acreage occurs over the life of the mine.

(8) Any mining operation, the reclamation of which is required in a permit obtained under Chapter 293, Wis. Stats.

(9) Any activities required to prepare, operate or close a solid waste disposal facility under Chapter 289, Wis. Stats., or a hazardous waste disposal facility under Chapter 291, Wis. Stats., that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this ordinance apply to activities related to solid waste or hazardous waste disposal 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 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 transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of 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.

SECTION 8
8.00 ADMINISTRATION. The provisions of this ordinance shall be administered by the Vilas County Zoning and Planning Office or by its Agent.

SECTION 9
9.00 EFFECTIVE DATE. The provisions of this ordinance shall take effect on April 15, 2008.

SECTION 10
10.00 DEFINITIONS.

(1) "Agricultural Use" means bee keeping, commercial feed lots, cranberry production, dairying, egg production, floriculture, fish or fur farming, forestry game management, grazing, livestock raising, orchards, plant greenhouses, nurseries, poultry raising, raising of grain, grass, mint, seed crops, raising of fruits, nuts, berries, sod farming, placing land in federal programs in return for payments in kind, owning land 35 acres or more which is enrolled in conservation reserve program under 16USC 3831 to 3836, participating in milk production termination program under 7USC 1446(d) and vegetable raising. (Section 91.01, Wis. Stats.)

(2) "Alternative requirement" means an alternative to the reclamation standards of this ordinance provided through a written authorization granted by Vilas County pursuant to Section 18.

(3) "Applicable reclamation ordinance" means a nonmetallic mining reclamation ordinance, including this ordinance, that applies to a particular nonmetallic mining site and complies with the requirements of this Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wis. Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in Subsection (20)(b)3. If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR135, Wisconsin Administrative Code.
(4) "Borrow site" means 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.

(5) "Contemporaneous reclamation" means sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations performed in advance of final site reclamation, which may or may not be final reclamation and is performed to minimize area exposed to erosion by nonmetallic mining activities.

(6) "County" means Vilas County.

(7) "Department" means the Wisconsin Department of Natural Resources.

(8) "Enlargement" means any vertical or horizontal increase beyond the dimensions of the original permit for the project site.

(9) "Environmental pollution" has the meaning in Section 295.11(2), Wis. Stats.

(10) "Existing mine" means a nonmetallic mine where nonmetallic mining takes place before August 1, 2001.

(11) "Financial assurance" means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in Section 14 and is sufficient to pay for reclamation activities required by this ordinance.

(12) "Highwall" means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1 ratio.

(13) "Landowner" means the person who has title to the land in fee simple or 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.

(14) "Licensed Professional geologist" means a person who is licensed as a professional geologist pursuant to ch. 470 Stats.

(15) "Modification" means any change in the approved plan of operations or approved plan of reclamation which is significant in terms of Section 11, Standards, set forth in this ordinance, including, but not limited to, any non-approved enlargement.

(16) "Municipality" means any city, town or village.

(17) "Nonmetallic mineral" means 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.
(18) "Nonmetallic mining" or "mining" means all of following:
(a) Operations or activities at a nonmetallic mining site for extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes using mining equipment or techniques to remove materials from in-place nonmetallic mineral deposits, including drilling, blasting and associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal of earth products or commodities containing 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 related to preparation or processing of 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, and screening, scalping and de-watering.

(19) "Nonmetallic mining reclamation" or "reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this ordinance, 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.

(20) "Nonmetallic mining refuse" means 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.

(21) "Nonmetallic mining site" or "site" means all contiguous areas of present or proposed mining described in paragraph (a), subject to the qualifications in paragraph (b).
(a) 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 re-grading is necessary.
6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, re-vegetation 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.

(22) "Operator" means 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.

(23) "Parties in interest" means the owner and operator of a proposed or existing nonmetallic mining site and the owners of all real property located within 500 feet of the boundaries of a proposed or existing nonmetallic mining site.

(24) "Permit" means any permit which is required or issued under this ordinance.

(25) "Person(s)" means all individual(s), partnerships, associations and bodies politic or corporate, including, without limitation, the State and State agencies.

(26) "Reclamation" means the rehabilitation of a nonmetallic mining site, including, and not limited to removal of nonmetallic mining refuse, grading of site, modifications of shear walls, replacement of top soil, stabilization of soils, establishment of vegetative cover, landscaping, control of surface water and ground water, prevention and remediation of environmental pollution, construction of fences, returning the site to a safe, useful and aesthetically pleasing condition, and if practical, restoration of plant, fish, and wildlife habitat, for the purposes of safety and utility.

(27) "Registered geologist" means a person who is registered as a professional geologist pursuant to Sections 443.037 and 443.09, Wis. Stats.

(28) "Registered professional engineer" means a person who is registered as a professional engineer pursuant to Sections 443.04 and 443.09, Wis. Stats.

(29) "Regulatory authority" means one of the following:
   (a) The County in which the nonmetallic mining site is located, that has an applicable reclamation ordinance under s.295.13, Stats. except where a municipality has adopted an applicable reclamation ordinance pursuant to par. (b).
   (b) 1. A municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance under s.295.13, Wis. Stats., or;
   2. The county in which the nonmetallic mining site is located, if no reclamation municipal ordinance exists pursuant to Sub b.(1), provided the county has an applicable reclamation ordinance, or
   3. The Wisconsin Department of Natural Resources, but only if there is no applicable reclamation ordinance enacted by the municipality or the county in which the nonmetallic mining site is located.

(30) "Replacement of topsoil" means replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining 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 ordinance.
(31) "Setback" means the horizontal distance from the property line to the nearest permitted nonmetallic mining excavation or blasting site located on the property.

(32) "Site" means nonmetallic mining location.

(33) "Solid waste" means 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, Wis. Stats., or source material, special nuclear material or by-product material, as defined in Section 254.31(1), Wis. Stats.

(34) "Topsoil" means 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.

(35) "Topsoil substitute material" means 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.

(36) (a) "Un-reclaimed acre(s)" means those un-reclaimed 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 Subsection 29.30. However the term does not include any areas described in paragraph (b).

(b) "Un-reclaimed acre" or "un-reclaimed acres" does not include:
   1. Those areas where reclamation has been completed and certified as reclaimed under Subsection 29.30.
   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 a nonmetallic mining reclamation plan approved pursuant to this ordinance 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 27, those areas within a nonmetallic mining site which Vilas County Zoning and Planning Office or its Agent has determined to have been successfully reclaimed on an interim basis in accordance with Subsection 289.30, Wis. Stats.
PART II - STANDARDS

SECTION 11
11.00 STANDARDS. All nonmetallic mining sites subject to this ordinance shall be reclaimed in conformance with the standards contained below.

11.10 GENERAL STANDARDS.
(1) 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, Wis. Stats.

(2) 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.

(3) 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.

(4) Habitat restoration. When the land use required by the reclamation plan approved pursuant to this ordinance requires plant, fish or wildlife habitat, the land 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.

(5) 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.

11.20 SURFACE WATERS AND WETLAND PROTECTION. Nonmetallic mining reclamation shall be conducted and completed in a manner assuring compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wis. Adm. 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 ordinance. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

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

(2) 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 code.
11.40 TOPSOIL MANAGEMENT.

(1) Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this Chapter 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.

(2) 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 ordinance.

(3) Storage. Once removed, topsoil or topsoil substitute material shall as required by the reclamation plan approved pursuant to this ordinance, 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 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.

11.50 FINAL GRADING AND SLOPES.

(1) All areas affected by mining shall be addressed in the approved reclamation plan pursuant to Section 13 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 slope, whether or not graded, as stable and safe. 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.

(2) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under Section 18; 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. Engineering analysis shall show a minimum acceptable slope stability factor is attainable at a steeper slope and the post-mining land use specified in the reclamation plan is not adversely affected. 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 optimum adherence between topsoil or topsoil substitute material and the underlying material.

(3) 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, shall be created at a designated location(s) depending on the size of the water body to allow for a safe exit.
11.60 TOPSOIL REDISTRIBUTION FOR RECLAMATION. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this ordinance 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 redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

11.70 RE-VEGETATION AND SITE STABILIZATION. Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this ordinance, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by re-vegetation or other means. Re-vegetation 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.

11.80 ASSESSING COMPLETION OF SUCCESSFUL RECLAMATION.
(1) 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 ordinance. Criteria to evaluate reclamation success shall be quantifiable.

(2) Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
   (a) On-site inspections by Vilas County Zoning and Planning or its Agent;
   (b) Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that criteria approved in the reclamation plan to ascertain success have been met; or
   (c) A combinations of inspections and reports.

(3) 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.

(4) Re-vegetation success may be determined by:
   (a) Comparison to an appropriate reference area;
   (b) Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
   (c) Comparison to an approved alternate technical standard.

(5) Re-vegetation using a variety of plants indigenous to the area is favored.

11.90 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 14 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

11.100 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 ordinance and/or to meet the goals specified in the reclamation plan approved pursuant to this ordinance.

Revised 4/15/2008
PART III- PERMITTING

SECTION 12

12.00 NONMETALLIC MINING RECLAMATION PERMIT APPLICATION. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 7.10, 7.20 or 10(17)(b).

12.10 REQUIRED SUBMITTAL. All operators of nonmetallic mining sites shall apply for a reclamation permit from Vilas County Zoning and Planning or its Agent. All applications for reclamation permits under this Section shall be accompanied by the following information:

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

(2) A 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 or lessors of the property on which the nonmetallic mining site is located.

(4) The name, address and telephone number of the person or organization who is the operator.

(5) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by Part II.

(6) Town Permits if applicable.

(7) Names & Addresses, of abutting property owners within 500 ft.

12.20 RECLAMATION PERMIT APPLICATION CONTENTS. The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the Vilas County Zoning and Planning Office prior to beginning operations.

(1) The information required by Subsection 12.10.

(2) The plan review and annual fees required by Sections 26 and 27.

(3) A reclamation plan conforming to Section 13.

(4) A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by Section 14 upon granting of the reclamation permit and before mining begins.

(5) To avoid duplication, the permit application and submittals required under this Subsection may, by reference, incorporate existing plans or materials that meet the requirements of this ordinance.

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SECTION 13
13.00 RECLAMATION PLAN.

13.10 RECLAMATION PLAN REQUIRED. All operators of nonmetallic mining, shall submit to the Vilas County Zoning and Planning Office a reclamation plan that meets all of the following requirements, and complies with the reclamation standards of Part II.

13.20 SITE INFORMATION. The reclamation plan shall include information sufficient to describe the existing general natural and physical conditions of the site, including, but not limited to:

(1) Maps of the nonmetallic mining site including the 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 hydro geologic information. In specific instances where the existing hydro geologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.

(2) 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 or other available information resources.

(3) Information is available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine site.

Note: In addition, operators may contact a local Department of Natural Resources wildlife manager or the Vilas County Land and Water Conservation Department for assistance in obtaining information on biological resources, plant communities and wildlife uses at and adjacent to the proposed mine site.

(4) Existing topography as shown on contour maps of the site at (10) ten foot contour intervals.

(5) Location of manmade features on or near the site.

(6) For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

Note: Some or all of the information required above may be shown on the same submittal, i.e. the site map required by sub.(1) may also show topography required by sub.(4).

13.30 POST-MINING LAND USE.

(1) The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

Note: A proposed post-mining land use is necessary to determine the type and degree of reclamation needed to correspond with that land use. The post mining land use will be the key in determining the reclamation plan. Final slopes, drainage patterns, site hydrology, seed mixes and the degree of removal of mining-related structures, drainage structures, and sediment control structures will be dictated by the approved post-mining land use.
(2) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to Section 91.75, Wis. Stats., shall be restored to agricultural use. Section 91.75(9), Wis. Stats., contains this requirement. Section 10 (Definitions) defines the term "agricultural use".

13.40 RECLAMATION MEASURES. The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a 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:

(1) 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 and analysis performed by a registered professional engineer as provided by subs. 11.50 (1) or (2).

(2) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.

(3) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.

(4) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.

(5) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.

(6) A re-vegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.

(7) Quantifiable standards for re-vegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for re-vegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.

(8) A statement explaining and plan showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface and groundwater.

(9) A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to Subsections 29.20 and 29.40 and release of financial assurance pursuant to sub. 29.30(3), and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in Part II and timing of interim and final reclamation.

Note: Some of the information required by this Subsection may be combined to avoid duplication e.g. a single map may show anticipated post-mining topography required by paragraph (3) as well as structures and roads as required by paragraph (4).

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.
13.50 CRITERIA FOR SUCCESSFUL RECLAMATION. The reclamation plan shall contain criteria for assuring successful reclamation in accordance Section 11.80 of this ordinance.

13.60 CERTIFICATION OF RECLAMATION PLAN. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. If the operator does not own the land, the landowner or lessor(s), if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.

13.70 EXISTING PLANS AND APPROVALS. To avoid duplication of effort, the reclamation plan required by Subsection 13.10 may, by reference, incorporate existing plans or materials that meet the requirements of this ordinance.

13.80 APPROVAL OF RECLAMATION PLAN. Vilas County Zoning and Planning or its Agent shall approve, conditionally approve or deny the reclamation plan submitted under this Section in writing in accordance with Subsection 16.20 for mines that apply for a reclamation permit in conformance with Section 12. Conditional approvals of reclamation plans shall be made according to Subsection 15.50 and denials of reclamation plans shall be made pursuant to Section 17. The operator shall keep a copy of the reclamation plan approved under this Subsection at the mine site or, if not practicable, at the operator's nearest place of business.

SECTION 14
14.00 FINANCIAL ASSURANCE.

14.10 FINANCIAL ASSURANCE REQUIREMENTS. All operators of nonmetallic mining sites in Vilas County shall prepare and submit a proof of financial assurance that meets the following requirements:

(1) Notification. The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under Subsection (3).

(2) Filing. Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance within Vilas County. Financial assurance shall provide that the operator shall faithfully perform all requirements in this ordinance, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to Vilas County. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to Vilas County only if Vilas County currently has primary regulatory responsibility.

(3) Amount and duration of financial assurance. The amount of financial assurance shall equal as closely as possible the cost to Vilas County of hiring a contractor to complete either final reclamation or progressive reclamation according to approved reclamation plan. Amount of financial assurance shall be reviewed periodically by Vilas County to assure it equals outstanding reclamation costs. Any financial assurance filed with Vilas County shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Vilas County may accept a lesser initial amount of financial assurance provided the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to affect reclamation. An escrow account may be established based on production gross sales or yards removed and provides regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the time of final reclamation. The period of financial assurance is dictated by the time required to establish the post mining land use declared and approved in the reclamation plan. This may extend beyond the permit to accomplish and complete implementation of the reclamation plan.

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(4) Form and management. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to Vilas County and released upon successful completion of reclamation measures stated in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, escrow account set up for reclamation based on a set County fee per yard removed from site each month, demonstration of financial responsibility by meeting net worth requirements, or government securities. Interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance may include, at the discretion of Vilas County, a blend of different options, including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

(5) Multiple projects. Any operator who obtains a permit from Vilas County Zoning and Planning or its Agent for two or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by Vilas County.

(6) Multiple jurisdictions. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(7) Certification of completion and release.
(a) The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. Vilas County Zoning and Planning or its Agent shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. Vilas County may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete Vilas County Zoning and Planning or its Agent shall issue a certificate of completion and shall release or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.
(b) Vilas County Zoning and Planning or its Agent shall make a determination of whether or not the certification in paragraph (a) can be made within 60 days that the request is received.
(c) Vilas County Zoning and Planning or its Agent may make a determination under this Subsection that:
   1. Reclamation is not yet complete;
   2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
   3. Reclamation is complete in a part of the mine; or
   4. Reclamation is fully complete.
(8) Forfeiture. Financial assurance shall be forfeited if any of the following occur:
   (a) A permit is revoked under Section 24 and the appeals process has been completed.
   (b) An operator ceases mining operations and fails to reclaim the site in accordance with
       the reclamation plan.

(9) Cancellation. Financial assurance shall provide that it may not be cancelled by the surety or
other holder or issuer except after not less than a 90 day notice to Vilas County Zoning and
Planning or its Agent in writing by registered or certified mail. Not less than 30 days prior to the
expiration of the 90-day notice of cancellation, the operator shall deliver to Vilas County Zoning
and Planning or its Agent a replacement proof of financial assurance. In the absence of this
replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(10) Changing methods of financial assurance. The operator of a nonmetallic mining site may
change from one method of financial assurance to another. This may not be done more than once
a year unless required by an adjustment imposed pursuant to Section 12. The operator shall give
Vilas County Zoning and Planning or its Agent at least 60 days notice prior to changing methods
of financial assurance and may not actually change methods without the written approval of
Vilas County.

(11) Bankruptcy notification. The operator of a nonmetallic mining site shall notify the
regulatory authority by certified mail of the commencement of voluntary or involuntary
proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10
days of commencement of the proceeding.

(12) Adjustment of financial assurance. Financial assurance may be adjusted when required by
Vilas County. Vilas County may notify the operator in writing that adjustment is necessary and
the reasons for it. Vilas County may adjust financial assurance based upon prevailing or
projected interest or inflation rates, or the latest cost estimates for reclamation.

(13) Net worth test.
   (a) Only an operator that meets the definition of "company" in Section 289.41(1)(b), Wis.
       Stats., may use the net worth method of providing financial assurance.
   (b) The operator shall submit information to the regulatory authority in satisfaction of the
       net worth test requirements of Section 289.41(4), Wis. Stats. The criteria in Section
       289.41(6),(b), (d), (e), (f), (g), (h) and (i), Wis. Stats., shall apply.
   (c) An operator using the net worth test to provide financial assurance for more than one
       mine shall use the total cost of compliance for all mines in determining the net worth to
       reclamation cost ratio in accordance with Section 289.41(6), Wis. Stats.
   (d) Determinations under the net worth test shall be done in accordance with Section
       289.41(5), Wis. Stats.
   (e) In addition, the operator shall submit a legally binding commitment to faithfully
       perform all compliance and reclamation work at the mine site that is required under this

14.20 PRIVATE NONMETALLIC MINES. The operator of any nonmetallic mining site that
submits an automatic permit application in conformance with Section 12 shall submit the financial
assurance required by Subsection 14.10 as specified in the reclamation permit issued to it under this
ordinance.

14.30 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.

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SECTION 15
15.00 PUBLIC NOTICE AND RIGHT OF HEARING.

15.10 RECLAMATION PLAN HEARING. Vilas County Zoning and Planning or its Agent shall, provide public notice and the opportunity for a public informational hearing as set forth below:

(1) Public notice.
   (a) When Vilas County Zoning and Planning or its Agent receives an application to issue a reclamation permit; it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies Section 12.
   (b) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a Class I notice pursuant to Section 985.07(1), Wis. Stats., in the official newspaper of Vilas County. 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 by Vilas County Zoning and Planning or its Agent to the county or applicable local zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) Vilas County Zoning and Planning or its Agent shall provide an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:
   (a) If conducting a zoning-related hearing for a nonmetallic mine site, Vilas County Zoning and Planning shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for a public hearing for a nonmetallic mining reclamation permit required by this section. Vilas County Zoning and Planning or its Agent shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this ordinance.
   (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 500 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. Vilas County Zoning and Planning or its Agent shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under Subsection (1). This public informational hearing shall be held no sooner than 30 days or no later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comments from affected persons on the nature, feasibility and effects of the proposed reclamation. Procedures for public informational hearing shall follow the same procedures set forth in Subsection 15.10. Required under section NR135.20 (2)(b)1., Wisconsin Administrative Code.

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

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15.20 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 Subsection 16.30.

SECTION 16
16.00 ISSUANCE OF A NONMETALLIC MINING RECLAMATION PERMIT.

16.10 PERMIT REQUIRED. No person may engage in nonmetallic mining or nonmetallic mining reclamation in Vilas County without first obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this ordinance under subsection 7.10, 7.20 or 10(16)(b).

16.20 PERMIT ISSUANCE. Applications for reclamation permits for nonmetallic mining sites that satisfy Section 12 shall be issued a reclamation permit or otherwise acted on as provided below.

1. Unless denied pursuant to Section 17, Vilas County Zoning and Planning or its Agent shall approve in writing a request that satisfies the requirements of Section 12 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.

2. Vilas County Zoning and Planning or its Agent may not issue an approval without prior or concurrent approval of the reclamation plan meeting the requirements of Section 13. The regulatory authority may issue a reclamation permit subject to conditions in Subsection 16.50 if appropriate. The permit decision shall be made no less than 30 days nor greater than 90 days following receipt of the complete reclamation permit application that meets the requirements in Section 12 and reclamation plan that meets the requirements in section 13 unless a public hearing is held pursuant to Section 15. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to Subsection 16.70 if appropriate, or shall deny the permit as provided in Section 17, no later than 60 days after completing the public hearing.

3. Permits issued pursuant to this Subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of Section 13 and provision by the applicant of financial assurance required under Section 14 and payable to Vilas County prior to beginning mining.

16.30 AUTOMATIC PERMIT FOR LOCAL TRANSPORTATION-RELATED MINES.

1. Vilas County Zoning and Planning or its Agent shall automatically issue an expedited permit under this Subsection to any borrow site that:
   a. Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;
   b. Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;
   c. Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites;
   d. Is not a commercial source;
   e. Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any and;
   f. Is not otherwise exempt from the requirements of this ordinance under Subsection 7.20(10).

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(2) In this Subsection, "municipality" has the meaning defined in Section 299.01(8), Wis. Stats.

(3) Automatic permits shall be issued under this Subsection in accordance with the following provisions:

(a) The applicant shall notify Vilas County Zoning and Planning or its Agent of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.

(b) The applicant shall provide evidence to Vilas County Zoning and Planning or its Agent to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.

(c) Vilas County Zoning and Planning or its Agent shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under Section 13.

(d) Vilas County Zoning and Planning or its Agent shall accept the contractual provisions in lieu of the financial assurance requirements in Section 14.

(e) The public notice and hearing provisions of Section 15 do not apply to nonmetallic mining sites that are issued automatic permits under this Subsection.

(f) Mines permitted under this Subsection shall pay an annual fee to Vilas County Zoning and Planning or its Agent as provided in Section 27, but shall not be subject to the plan review fee provided in Section 26. The total annual fee, including the share of the Department of Natural Resources, shall not exceed the amount in Table 2 of Section 27.

Note: Fees may not be assessed for local transportation-related mines permitted under this Subsection under Section 27 that is greater than allowed by Section NR 135.23(1)(a), Wis. Adm. Code. See subsection 27.30(2) for details of these fee limitations.

(g) Vilas County Zoning and Planning or its Agent shall issue the automatic permit within 7 days of the receipt of a complete application.

(h) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this Subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.

(i) Notwithstanding Section 25, the operator of a borrow site under this Subsection is required to submit necessary information in an annual report to identify the borrow site and to determine the applicable annual fee.

Note: A reclamation permit is not required under this ordinance for nonmetallic mining sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning restoration of the nonmetallic mining site, as provided by Section 295.16(1)(c), Wis. Stats.

16.40 EXPEDITED REVIEW. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under Subsection (1) or Subsection (2) as follows:

(1) The operator may submit a request for expedited permit review with payment of the expedited review fee specified in Section 26.20. This request shall state the need for such expedited review and the date by which such expedited review is requested.

(2) The operator may submit a request for expedited review under this Subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable Sections of the contract and the date by which the expedited review is requested.

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(3) Following receipt of a request under this Subsection, Vilas County Zoning and Planning or its Agent shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under Subsection (1) shall be returned.

(4) Expedited review under this Subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to Section 15. This Subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this Subsection by a specific date.

16.50 PERMIT CONDITIONS. Any decision under this Section may include conditions as provided below:

(1) Vilas County Zoning and Planning or its Agent may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this ordinance. The approvals may not include conditions that are not related to reclamation.

(2) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to Section 14 prior to beginning mining.

SECTION 17
17.00 PERMIT DENIAL. An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

(1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in Section 16, if Vilas County Zoning and Planning or its Agent finds any of the following:

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

   (b) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this ordinance, NR 135, Wisconsin Administrative Code or Subchapter I. of Chapter 295, Wis. Stats.

   (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 ordinance 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 ordinance, 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 22.

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SECTION 18
18.00 ALTERNATIVE REQUIREMENTS.

18.10 SCOPE OF ALTERNATIVE REQUIREMENTS APPROVABLE. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in Section 11.00 Vilas County may approve an alternative requirement to the reclamation standards established in this ordinance if the operator demonstrates and Vilas County finds that all of the following criteria are met:

(1) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.

(2) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.

(3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

18.20 PROCEDURES.

(1) The operator of a nonmetallic mining site requesting an alternative requirement in Subsection 18.10 shall demonstrate all the criteria in Subsection 18.10. This shall be submitted in writing to Attn: Board of Adjustment, Vilas County Zoning Office, 330 Court Street, Eagle River, Wisconsin 54521.

(2) An application for an Alternative Requirement may be filed by an operator or operator's agent with the Board of Adjustment, on forms provided by the County.

(3) Notice of a Public Hearing. The Board of Adjustment shall fix a reasonable time for a public hearing requesting an alternative requirement. Notice of time, place and purpose of such hearing shall be given by publication as a Class 2 Notice as provided in section 985 of the Wisconsin Statutes. Notice of time, place and purpose of such hearing shall also be given to the applicant or appellant, Zoning Administrator, Town Clerk and County Board Supervisor for the district in which the property is located. If the alternative requirement request involves an area subject to the Shoreland Ordinance or within 100-year flood plain, notice of the public hearing and of the Board's decision shall be provided to the Wisconsin Department of Natural Resources District Office.

(4) Findings of the Board. The Board of Adjustment, upon its findings, shall render a decision on the alternative requirement request within a reasonable time. A Board decision requires a majority vote. All decisions and findings of the Board of Adjustment on alternative requirement requests shall in all instances be final administrative determinations and shall thereafter be only subject to review by a court of law.

(5) Standards: The Board of Adjustment may authorize such alternative requirements from the terms of the reclamation standard set forth in this ordinance pursuant to the standards in subsection 18.10. The Board of Adjustment shall use the following guidelines in interpreting this standard.

(a) The particular physical surroundings shape or topographic conditions of the specific property involved could result in a particular hardship upon the operator as distinguished from mere inconvenience if the strict letter of the regulation were to be carried out.

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(b) The conditions upon which the application for an alternative requirement is based would not be applicable generally to other property within the same zoning classification.

(c) The purpose of the variance is not based exclusively on a desire for economic or material gain by the applicant or owner;

(d) The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.

(e) The granting of an alternative requirement will not be detrimental to the welfare or injurious to other property or improvements in the neighborhood in which the property is located.

(f) The proposed alternative requirement will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire or otherwise endanger the public health, safety and welfare or substantially diminish or impair property value in the neighborhood.

(g) No alternative requirement shall have the effect of allowing, in any district, uses not permitted in that district. The Board of Adjustment may impose such conditions and restriction upon the premises benefited by the alternative requirement as may be necessary to comply with the above standards and to better carry out the general intent of this Ordinance.

(6) Length of Validity. No order of the Board of Adjustment granting such alternative requirement shall be valid for longer than one year from the date of such order unless a Reclamation Permit is obtained within such period.

(7) A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

18.30 TRANSMITTAL OF DECISION ON REQUEST FOR ALTERNATIVE REQUIREMENT.
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.

18.40 NOTICES TO WISCONSIN DEPARTMENT OF NATURAL RESOURCES. Vilas County Zoning and Planning or its Agent shall provide notice to the Wisconsin Department of Natural Resources as set forth in this Subsection. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

SECTION 19
19.00 PERMIT DURATION.

(1) A nonmetallic mining reclamation permit issued under this ordinance shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to Subsection 32.20.

(2) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to Section 20.
SECTION 20
20.00 PERMIT TRANSFER. A nonmetallic mining reclamation permit issued under this ordinance shall be transferred to a new owner or operator upon satisfaction of the following conditions:

(1) A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to Vilas County Zoning and Planning or its Agent of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with; and

(2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by Vilas County Zoning and Planning or its Agent and Vilas County Zoning and Planning or its Agent makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this Section.

SECTION 21
21.00 PREVIOUSLY PERMITTED SITES. For counties only: For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Vilas County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Vilas County pursuant to Subsection 23.10. This could happen if, for example, a municipality’s program was terminated by the municipality or revoked by the Department – in such cases nonmetallic mine sites would revert to a county program.

SECTION 22
22.00 REVIEW. Any permitting decision or action made by Vilas County Zoning and Planning or its Agent under this ordinance may be reviewed as set forth in this Section. Notwithstanding Section 68.01, 68.03(8) and (9), 68.06 and 68.10(1)(b), Wis. Stats., any person who meets the requirements of Section 227.42(1), Wis. Stats., may obtain a contested case hearing under Section 68.11, Wis. Stats., on Vilas County Zoning and Planning or its Agent decision to issue, deny or modify a nonmetallic mining reclamation permit.

PART IV - ADMINISTRATION

SECTION 23
23.00 PERMIT MODIFICATION.

23.10 A nonmetallic mining reclamation permit issued under this ordinance may be modified by Vilas County Zoning and Planning or its Agent if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative Code or this ordinance. Such modification shall be by an order modifying the permit in accordance with Section 32. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Chapter NR 135, Wisconsin Administrative Code or this ordinance.

23.20 AT THE OPERATOR'S OPTION. If an operator of any nonmetallic mine that holds a reclamation permit issued under this ordinance desires to modify such permit or reclamation plan approved under this ordinance, it may request such modification by submitting a written application for such modification to Vilas County Zoning and Planning or its Agent. The application for permit or plan modification shall be acted on using the standards and procedures of this ordinance.
23.30 REQUIRED BY THE OPERATOR. The operator of any nonmetallic mine that holds a reclamation permit issued under this ordinance shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this ordinance. Such application for permit modification shall be acted on using the standards and procedures of this ordinance.

23.40 REVIEW. All actions by Vilas County Zoning and Planning or its Agent on permit modifications requested or initiated under this Section are subject to review under Section 22.

SECTION 24
24.00 PERMIT SUSPENSION AND REVOCATION.

24.10 GROUNDS. Vilas County Zoning and Planning or its Agent may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this ordinance if it finds the operator has done any of the following:

1. Failed to submit a satisfactory reclamation plan within the time frames specified in this ordinance.

2. Failed to submit or maintain financial assurance as required by this ordinance.

3. Failed on a repetitive and significant basis to follow the approved reclamation plan.

24.20 PROCEDURES. If Vilas County Zoning and Planning or its Agent finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in Subsection 24.10, it may issue a special order suspending or revoking such permit as set forth in Subsection 32.20.

24.30 CONSEQUENCES.

1. If Vilas County Zoning and Planning or its Agent makes any of the findings in Subsection 24.10, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator 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 32.

2. If Vilas County Zoning and Planning or its Agent makes any of the findings in Subsection 24.10, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this ordinance to Vilas County. Vilas County may use forfeited financial assurance to reclaim the site to the extent needed to comply with this ordinance and the applicable reclamation ordinance.

SECTION 25
25.00 ANNUAL OPERATOR REPORTING.

25.10 CONTENTS AND DEADLINE. Annual reports that satisfy the requirements of this Section shall be submitted by the operators of nonmetallic mining sites.

1. Contents. The annual report required by this Section shall include all of the following:
   (a) The name and mailing address of the operator.
   (b) The location of the nonmetallic mining site, including legal description, and parcel identification number if available.
   (c) The identification number of the applicable nonmetallic mining permit, if assigned by Vilas County Zoning and Planning or its Agent.

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(d) The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
(e) The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
(f) A plan, map or diagram accurately showing the acreage described in paragraphs (d) and (e).
(g) The following certification, signed by the operator: "I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Chapter NR 135, Wisconsin Administrative Code."

(2) Deadline. The annual report shall cover activities on unclaimed acreage for the previous calendar year and be submitted by January 31.

(3) When reporting may end. Annual reports shall be submitted by an operator for all active and intermittent mining sites to Vilas County Zoning and Planning or its Agent for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to Subsection 29.30 or at the time of release of financial assurance pursuant to Subsection 14.10(7).

25.20 Inspection in Lieu of Report. Vilas County Zoning and Planning or its Agent may, at its discretion, obtain information required in Subsection 25.10 for a calendar year by written documentation of an inspection it completes, as set forth in this Subsection. If Vilas County Zoning and Planning or its Agent obtains and documents required information, the annual report need not be submitted by the operator. If Vilas County Zoning and Planning or its Agent determines that the operator need not submit an annual report pursuant to this Subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, Vilas County Zoning and Planning or its Agent shall require the operator to submit the certification required in Subsection 25.10(1),(g).

25.30 Retention of Annual Reports. Annual reports submitted under Subsection 25.10 or inspection records that replace them under Subsection 25.20 shall be retained by Vilas County Zoning and Planning or its Agent at Vilas County Zoning and Planning Office for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

SECTION 26
26.00 Plan Review Fees.

26.10 Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under Section 12 shall submit a non-refundable plan review fee of $100.00 (one hundred dollars). No plan review fee may be assessed under this Section for any local transportation related mining receiving an automatic permit under Subsection 16.50. A separate plan review fee shall be paid under this Section for any modification to an existing reclamation plan submitted pursuant to Section 23.

26.20 Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under Section 12.30 may obtain expedited reclamation plan review by paying a fee of $200.00 (two hundred dollars). Such fee shall be in addition to that required in Subsection 26.10.

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26.30 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 27.

SECTION 27
27.00 ANNUAL FEES.

27.10 AREAS SUBJECT TO FEES, PROCEDURES AND DEADLINE AND AMOUNT.
(1) Operators of nonmetallic mining sites subject to reclamation permits under this ordinance shall pay annual fees to Vilas County Zoning and Planning or its Agent. Fees paid under this Section shall include both a share for the Wisconsin Department of Natural Resources under Section 27 and a share for Vilas County Zoning and Planning or its Agent under Section 27 that equals as closely as possible the costs of examination, inspection and approval of nonmetallic mining reclamation plans and sites.

(2) Fees paid under this Section shall be calculated based on the un-reclaimed acres of a nonmetallic mining site, as defined below:
   (a) "Un-reclaimed acre(s)" means un-reclaimed 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 Subsection 14.10(7). However the term does not include any areas described in paragraph b.
   (b) "Un-reclaimed acre" or "un-reclaimed acres" does not include:
      1. Those areas where reclamation has been completed and certified as reclaimed under Subsection 14.10(7).
      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 an approved nonmetallic mining reclamation plan 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. Those areas within a nonmetallic mining site in which Vilas County has determined to be successfully reclaimed, on an interim, basis in accordance with Subsections 29.20 and 29.30.
      6. Those areas defined as not included in a nonmetallic mining site in Subsection 10(16)(b).
   (c) Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.

(3) Fees assessed pursuant to this Section shall be based on un-reclaimed acres at the end of the year. 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 29. Fees shall be paid no later than January 31 for the previous year.
(4) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by Vilas County pending certification of completed reclamation pursuant to Subsection 29.30 and 14.10(7). Upon such certification Vilas County shall refund that portion of the annual fee that applies to the reclaimed areas. If Vilas County fails to make a determination under Subsection 29.30 and 14.10(7) within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(5) The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in subsection 27.20, the share of Vilas County described in subsection 27.30 and, if applicable, the reclamation plan review fee described in section 26.

27.20 WISCONSIN DEPARTMENT OF NATURAL RESOURCES SHARE OF FEE.
(1) Fees paid under this Section shall, except where provided in Subsection (2), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Table 1.

<table>
<thead>
<tr>
<th>Mine Size in Un-reclaimed Acres, Rounded to the Nearest Whole Acre</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Does not include mines &lt; 1 acre]</td>
<td></td>
</tr>
<tr>
<td>1 to 5 acres</td>
<td>$35.00</td>
</tr>
<tr>
<td>6 to 10 acres</td>
<td>$70.00</td>
</tr>
<tr>
<td>11 to 15 acres</td>
<td>$105.00</td>
</tr>
<tr>
<td>16 to 25 acres</td>
<td>$140.00</td>
</tr>
<tr>
<td>26 to 50 acres</td>
<td>$160.00</td>
</tr>
<tr>
<td>51 acres or larger</td>
<td>$175.00</td>
</tr>
</tbody>
</table>

(2) Nonmetallic mining sites at which there has been no nonmetallic mining during a calendar year, Wisconsin Department of Natural Resources share shall be $15.

(3) Vilas County Zoning and Planning or its Agent shall forward fees collected under this Subsection to the Wisconsin Department of Natural Resources by March 31st of the year for which they were collected.
27.30 VILAS COUNTY ZONING AND PLANNING OR ITS AGENT'S SHARE OF FEE.

(1) Fees paid under this Section shall also include an annual fee due to Vilas County Zoning and Planning or its Agent which shall be paid according to the fee schedule shown in TABLE 3 on or before January 31.

(2) The annual fee collected by Vilas County under this subsection for local transportation-related mines issued permits under subsection 16.30 may not exceed the amounts set forth in Table 2. The amount listed below shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the Wisconsin Department of Natural Resources and Vilas County.

Note: this is required by section NR 135.23(1)(g), Wis. Adm. Code.

TABLE 2:
Limit on Total Annual Fees For:
(Automatically Permitted Local Transportation Project-Related Mines.)
Mine Size in Un-reclaimed Acres, Rounded to the Nearest Whole Acre
Annual Fee
[Does not include mines < 1 acre]
1 to 5 acres $175.00
6 to 10 acres $350.00
11 to 15 acres $525.00
16 to 25 acres $700.00
26 to 50 acres $810.00
51 acres or larger $870.00

TABLE 3:
Annual Fees Due Where Vilas County is the Regulatory Authority.
Mine Size in Un-reclaimed Acres, Rounded to the Nearest Whole Acre
Annual Fee
[Does not include mines < 1 acre]
1 to 5 acres $175.00
6 to 10 acres $350.00
11 to 15 acres $525.00
16 to 25 acres $700.00
26 to 50 acres $810.00
51 acres or larger $870.00

SECTION 28
28.00 REGULATORY REPORTING AND DOCUMENTATION.

28.10 REPORTING. Vilas County Zoning and Planning or its Agent shall send an annual report to the Wisconsin Department of Natural Resources by March 31 for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:

(1) The total number of nonmetallic mining reclamation permits in effect.

(2) The number of new permits issued within the jurisdiction of Vilas County.

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(3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.

(4) The number of acres being mined or unreclaimed acres.

(5) The number of acres that have been reclaimed and have had financial assurance released pursuant to Subsection 14.10(7).

(6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this Subchapter pursuant to Subsection 29.10 and 29.20.

(7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

28.20 DOCUMENTATION. Vilas County Zoning and Planning or its Agent shall, to the best of its ability, maintain the information set forth below, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Vilas County's reclamation program pursuant to Chapter NR 135, Wisconsin Administrative Code:

(1) Documentation of compliance with Chapter NR 135, Wisconsin Administrative Code and this ordinance.

(2) The procedures employed by Vilas County Zoning and Planning or its Agent regarding reclamation plan review, and the issuance and modification of permits.

(3) The methods for review of annual reports received from operators.

(4) The method and effectiveness of fee collection.

(5) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.

(6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.

(7) Responses to citizen complaints.

(8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.

(9) The maintenance and availability of records.

(10) The number and type of approvals for alternative requirements issued pursuant to Section 18.

(11) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to Subsection 14.10(7).

(12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Vilas County Zoning and Planning or its Agent to implement its nonmetallic mining reclamation program under this ordinance.

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(13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.

(14) Any other performance criterion necessary to ascertain compliance with Chapter NR 135, Wisconsin Administrative Code.

SECTION 29
29.00 COMPLETED RECLAMATION-REPORTING, CERTIFICATION AND EFFECT.

29.10 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 ordinance and Chapter NR 135, Wisconsin Administrative Code.

29.20 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 ordinance and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in Subsection 29.10.

29.30 CERTIFICATION OF COMPLETED RECLAMATION. Vilas County Zoning and Planning or its Agent shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this Subsection within 60 days of receipt, and make a determination in writing in accordance with Subsection 14.10(7)(c). If it is determined that interim or final reclamation is complete, including re-vegetation as specified in a reclamation plan that conforms to Section 13, Vilas County Zoning and Planning or its Agent shall issue the mine operator a written certificate of completion.

29.40 EFFECT OF COMPLETED RECLAMATION. If reclamation is certified by Vilas County Zoning and Planning or its Agent as complete under Subsection 29.30 for part or all of a nonmetallic mining site, then:
(1) No fee shall be assessed under Section 27 for the area so certified.
(2) The financial assurance required by Section 14 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

29.50 EFFECT OF INACTION FOLLOWING REPORT OF COMPLETED RECLAMATION. If no written response as required by Subsection 29.30 for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to Vilas County Zoning and Planning or its Agent for it under Section 27 shall be refunded.

SECTION 30
30.00 PERMIT TERMINATION. When all final reclamation required by a reclamation plan conforming to Section 13 and required by this ordinance is certified as complete pursuant to Subsection 14.10(7) and 29.30, Vilas County Zoning and Planning or its Agent shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.
PART V - ENFORCEMENT

SECTION 31
31.00 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 ordinance, any authorized officer, agent, employee or representative of Vilas County Zoning and Planning or its Agent may inspect any nonmetallic mining site subject to this ordinance as provided below:

(1) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of Vilas County or the Wisconsin Department of Natural Resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, this ordinance, Chapter NR 135, Wisconsin Administrative Code or Subchapter I of Chapter 295, Wis. Stats.

(2) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

SECTION 32
32.00 ORDERS AND CITATIONS.

32.10 ENFORCEMENT ORDERS. Vilas County may issue orders as set forth in Section 295.19(1)(a), Wis. Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required by Section 13 and a permit issued under this ordinance. A violation of this ordinance, an order or permit issued pursuant to this ordinance or a reclamation plan required by Section 13 and a permit issued under this ordinance shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

32.20 SPECIAL ORDERS. Vilas County may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to Section 24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this ordinance until the necessary plan approval is obtained.

32.30 REVIEW OF ORDERS. A person holding a reclamation permit who is subject to an order pursuant this Section shall have the right to review the order in a contested case hearing under Section 68.11, Wis. Stats., notwithstanding the provisions of Section 68.01, 68.03(8) and (9), 68.06 and 68.10(1)(b), Wis. Stats.

32.40 CITATIONS. Vilas County may issue a citation under Section 66.119, Wis. Stats. and Chapter 25.03(4)(a) I of the General Code of Vilas County to collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required by Section 13 and a permit issued under this ordinance. 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.

Revised 4/15/2008
32.50 ENFORCEMENT. Vilas County Zoning and Planning or its Agent may submit any order issued under Section 32 to abate violations of this ordinance to a District Attorney, Corporation Counsel, municipal attorney or the attorney general for enforcement. The District Attorney, Corporation Counsel, municipal attorney or the attorney general may enforce those orders.

SECTION 33
33.00 PENALTIES. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required by Section 13 and a permit issued under this ordinance may result in forfeitures as provided in Section 295.19(3), Wis. Stats., as follows:
(1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under Section 32 may be required to forfeit not less than $25 nor more than $1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under Section 32 is suspended, stayed or enjoined, this penalty does not accrue.

(2) Except for the violations referred to in Subsection (1), any person who violates Subchapter I of Chapter 295, Wis. Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this ordinance or an order issued pursuant to Section 32 shall forfeit not less than $10 nor more than $5,000 for each violation. Each day of violation is a separate offense. While an order issued under Section 32 is suspended, stayed or enjoined, this penalty does not accrue.