

AMENDED GRANT COUNTY NON-METALLIC MINING RECLAMATION
ORDINANCE #180

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AMENDED ORDINANCE FOR NON-METALLIC MINING RECLAMATION

PART 1 – GENERAL

The Grant County Board of Supervisors do hereby ordain as follows:

- SECTION 1 1.00 Title: Nonmetallic mining reclamation ordinance for the County of Grant.
- SECTION 2 2.00 Purpose: 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 Grant County after the effective date of Grant County's original non-metallic mining reclamation ordinance, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.
- SECTION 3 3.00 Statutory Authority. This ordinance is adopted under authority of Section 295.13(1) of the Wisconsin Statutes and Section NR 135.32 of the Wisconsin Administrative Code.
- 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 required by Section 295.12(1)(a), 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 1 of Chapter 295, Wisconsin Statutes 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 Overall Applicability. The requirements of this ordinance apply to all operators of Non-metallic mining sites within Grant County operating on or commencing to operate after August 1st, 2001 and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in sub. 7.20 and except for nonmetallic mining sites located in a city, village or town within Grant County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code.

7.20 Exemptions. This ordinance does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

7.30 Applicability of Reclamation Standards. Notwithstanding Section 7.20 of this ordinance, the reclamation standards contained in this ordinance shall apply to nonmetallic mining at a site or a portion of a site that is subject to permit and reclamation requirements under Sections 30.19, 30.195 or 30.20 of the Wisconsin Statutes and complies with Wisconsin Administrative Code Chapter 340. Notwithstanding Section 7.20 of this ordinance, the reclamation standards shall also apply to excavations subject to the permit and reclamation requirements of Sections 30.30 or 30.31 of the Wisconsin Statutes.

SECTION 8 8.00 Administration. The provisions of this ordinance shall be administered by the Grant County Conservation, Sanitation and Zoning Department (CSZD), the Grant County Administrator of CSZD or its representative, hereafter referred to as Grant County CSZD.

SECTION 9 9.00 Effective Date. This amended ordinance shall take effect upon passage by the County Board and publication of the ordinance in the newspaper. This ordinance amends the non-metallic mining ordinance previously enacted by the county board.

SECTION 10 10.00 Definitions. The definitions contained in Section NR 135.03, Wisconsin Administrative Code are hereby adopted and made as definitions under this ordinance.

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 in Subchapter II of Chapter NR 135, Wisconsin Administrative Code. The standards in subchapter II of the Wisconsin Administrative Code Chapter NR 135 are hereby adopted and made standards under this ordinance.

PART III – PERMITTING

SECTION 12 12.00 Nonmetallic Mining Reclamation Permit Application.

12.10 Required Submittal. The operator of all nonmetallic mining sites that operate on or after August 1st, 2001 shall apply for a reclamation permit from the Grant County CSZD. All reclamation permit applications under this section shall be accompanied by the information and documents required by Section NR 135.18 of the Wisconsin Administrative Code as well as the fee required. Reclamation permit applications shall be submitted using the Grant County Nonmetallic Mining Reclamation Program Permit Application Form. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without first obtaining a nonmetallic mining reclamation permit pursuant to this ordinance unless the activity is specifically exempted under this ordinance.

12.20 Existing Mines. The operator of any existing nonmetallic mine shall apply for an automatic reclamation permit from Grant County by providing the information required by Section NR 135.18 of the Wisconsin Administrative Code and the submittals required under sub. 12.10 no later than August 1st, 2001 to Grant County CSZD. This application

for a permit shall be accompanied by the annual fee as specified in Section 27 of this ordinance.

12.30 New Mines. The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1st , 2001 or which has not applied for an automatic reclamation permit pursuant to sub. 12.20 shall submit an application that meets the requirements of Section NR 135.18 of the Wisconsin Administrative Code and the submittals required under sub. 12.10 to Grant County CSZD prior to beginning operations. This application shall be accompanied by a plan review fee as specified in s.26. The operator of a new mine shall also pay a first annual fee at the time the operator submits their application and reclamation plan pursuant to Section NR 135.18 of the Wisconsin Administrative Code.

SECTION 13 13.00 Reclamation Plan.

13.10 Reclamation Plan Requirements. All operators of nonmetallic mining sites subject to this ordinance shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code. Reclamation plans shall be submitted to the Grant County CSZD

13.20 Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with sub.12.20 shall submit the reclamation plan required by sub. 13.10 by the following dates;

<u>Operating Mine Size in Acres</u>	<u>Reclamation Plan Due Date</u>
1 to 10 acres	January 1, 2004
11 to 15 acres	February 1, 2004
16 to 25 acres	March 1, 2004
26 and more acres	April 1, 2004

13.30 New Mines. The operator of any nonmetallic mining site that applies for a permit in conformance with sub. 12.30 shall submit the reclamation plan required by sub. 13.10 with its application for a reclamation permit.

13.40 Existing Plans and Approvals. To avoid duplication of effort, the reclamation plan required by sub. 13.10 may, by reference, incorporate existing plans or materials that meet the requirements of this ordinance.

13.50 Approval of Reclamation Plan. Grant County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance in accordance with this ordinance. The operator shall keep a copy of the reclamation plan required by this section, once approved by Grant County at the mine site or, if not practicable, at the operator’s nearest office or place of business. The reclamation plan shall contain the criteria for assuring successful reclamation in accordance with Chapter NR 135 of the Wisconsin Administrative Code in order to be approved.

SECTION 14 14.00 Financial Assurance

14.10 Financial Assurance Requirements. All operators of nonmetallic mining sites in

Grant County shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code. Proof of financial assurance shall be submitted to Grant County CSZD.

14.20 Existing Mines. The operator of any nonmetallic mine site that submits a permit application pursuant to sub.12.20 shall submit the financial assurance required by sub. 14.10 by June 30, 2004. The financial assurance shall be specified in the reclamation plan required by sub. 13.10.

14.30 New Mines. The operator of any nonmetallic mining site that applies for a reclamation permit pursuant to sub.12.30 shall submit the proof of financial assurance required by sub. 14.10 as specified in the reclamation permit issued to it under this ordinance. Proof of financial assurance shall be submitted by the operator before mining begins at the site.

14.40 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, or a county agency.

SECTION 15 15.00 Public Notice and Right of Hearing

15.10 New Mines. Grant County shall provide public notice and the opportunity for a public informational hearing as set forth in Section NR 135.20, Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies sub. 12.30 is received. The notice shall be published no later than 30 days after receipt of a completed application and the notice shall contain the information required by Section NR 135.20 of the Wisconsin Administrative Code. The notice shall also be mailed as required by Section NR 135.20 of the Wisconsin Administrative Code.

15.20 Existing Mines. No public notice or informational hearing is required on an application for a reclamation permit for an existing mine that satisfies sub. 12.20, except as provided in Section NR 135.20 of the Wisconsin Administrative Code.

15.30 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 sub. 16.50.

15.40 Procedures for Conducting a Public Hearing. If a public informational hearing as set forth in Section NR 135.20(2) is requested by an interested person listed in Section NR 135.20 of the Wisconsin Administrative Code and there is not opportunity for a zoning-related hearing on the nonmetallic mine site, the following procedure shall be followed. A representative or representatives of Grant County and/or its designee shall conduct the hearing within the time limits set forth in Section NR 135.20 of the Wisconsin Administrative Code. The public informational hearing shall be conducted for the purpose of explaining and receiving comment from persons described in Section NR 135.20 (2) (b) on the nature, feasibility, and effects of the proposed reclamation. The subject matter and testimony at the hearing shall be limited to the reclamation of the nonmetallic mine site. A representative of Grant County or its designee shall briefly summarize the reclamation plan. The owner and/or operator submitting the reclamation plan will then be given the opportunity to comment on the reclamation plan. The public will then have the opportunity to ask questions and comment on the reclamation plan.

Questions and comments from the public shall be limited to a reasonable amount of time designated by the representative of Grant County or its designee. Grant County or its designee shall review the comments made at the public informational hearing. If Grant County or its designee determines that revisions to the reclamation plan are warranted based on public comment and testimony, the owner and/or operator submitting the reclamation plan shall be given a reasonable amount of time designated by Grant County or its designee to revise the reclamation plan. If there is a zoning related hearing on the mine site, Grant County shall provide the opportunity at this hearing to present testimony on reclamation related matters. Grant County shall consider the reclamation related testimony in the zoning related hearing in deciding on a permit application pursuant to this ordinance.

SECTION 16 16.00 Issuance of a Nonmetallic Mining Reclamation Permit.

16.10 Permit Required. Every operator of a nonmetallic mining site in Grant County who engages in or plans to engage in nonmetallic mining after August 1st, 2001 shall obtain a reclamation permit issued under this ordinance, except nonmetallic mining sites exempt from this ordinance as provided in sub 7.20. No person may engage in nonmetallic mining or nonmetallic mining reclamation after August 1st, 2001 without a reclamation permit issued pursuant to this ordinance.

16.20 Automatic Permit for Existing Mines. Grant County shall issue an automatic reclamation permit to the operator of any nonmetallic mine that submits an application meeting the requirements of this ordinance and Wisconsin Administrative Code Chapter NR 135. The automatic permit shall be issued within 30 days of such application.

16.30 Evaluation of Follow-Up Submittals for Existing Mines. Mines covered by automatic permits issued under sub. 16.20 shall submit a reclamation plan in accordance with sub. 13.20 and proof of financial assurance in accordance with sub. 14.20 by the deadlines established in those subsections. Reasonable extensions to these deadlines may be granted in writing by Grant County where extenuating circumstances exist.

16.40 Permit Issuance for New Mines. Operators who have submitted an application for a reclamation permit for nonmetallic mining sites not permitted under sub 16.20 along with a reclamation plan that satisfy all of the requirements of this ordinance and Wisconsin Administrative Code Chapter NR 135 and where the operator has paid the required fees under this ordinance shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21 of the Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms with sub. 13.30, and provision by the applicant of financial assurance that conforms with sub. 14.30 payable to Grant County CSZD. The permit shall be issued within the time deadlines contained in NR 135.21 of the Wisconsin Administrative Code.

16.50 Automatic Permit for Local Transportation-Related Mines. Grant County shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23 of the Wisconsin Administrative Code if the applicant complies with the requirements of Section NR 135.23 of the Wisconsin Administrative Code.. This automatic permit shall be issued pursuant to the provisions of Sections NR 135.23 of the Wisconsin Administrative Code.

16.60 Expedited Review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in sub 26.20. The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to s. 15. An applicant may request expedited permit review by proceeding in accordance with NR 135.23(2)(b) or (c) of the Wisconsin Administrative Code.

16.70 Permit Conditions. Permits issued under this section may include conditions as provided in Section NR 135.21 of the Wisconsin Administrative Code. One required condition shall be that new mines shall file financial assurance prior to beginning mining pursuant to Section NR 135.40 of the Wisconsin Administrative Code.

SECTION 17 17.00 Permit Denial. No application for a nonmetallic reclamation permit shall be approved if any of the factors specified in Section NR 135.22 of the Wisconsin Administrative Code exist. Denials by Grant County shall be in writing and sent to the applicant within the deadlines set forth in Wisconsin Administrative Code Section 135.21. The written denial shall set forth the reason or reasons for the denial and shall inform the applicant that the decision can be reviewed and shall inform the applicant of the review process.

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 any reclamation standard established in s. 11.00. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

18.20 Procedures. The operator of a nonmetallic mining site requesting an alternative requirement in sub. 18.10 shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Grant County CSZD. The Grant County Zoning Administrator shall decide whether or not the alternate requirement to the reclamation standards proposed by the operator should be permitted or denied. If the proposed alternate requirements will meet the criteria set forth in Wisconsin Administrative Code Section NR 135.26(1), the Zoning Administrator shall approve the use of the alternate requirements to the reclamation standards. If the operator has not met the criteria set forth in the Wisconsin Administrative Code Section NR 135.26(1), the Zoning Administrator shall deny the use of the alternate requirements to the reclamation standards. The approval or denial of the alternate requirements to the reclamation standards shall be sent to the operator in writing within thirty days of receipt of all of the required information regarding the proposed alternate requirements to the reclamation standards. Reasons why the alternate requirements were or were not approved shall also be set forth in the notice to the operator in writing. The decision shall be dated and shall notify the operator that the decision can be appealed by filing a written notice of appeal requesting a hearing before the Grant County Zoning Board of Adjustment. The decision shall indicate that the notice of appeal must be filed with the Grant County CSZD within thirty days of receipt of the decision. Any operator aggrieved by a decision of the Zoning Administrator regarding alternate requirements to the reclamation standards can file a written notice of appeal requesting a hearing before the Grant County Board of Adjustment. Such written notice of appeal shall be filed with the Grant County CSZD within thirty days from the date that the operator receives the written decision of the

Zoning Administrator regarding alternate requirements to the reclamation standards. Any appeal shall proceed pursuant to Section 22 of this ordinance.

18.40 Notice to Wisconsin Department of Natural Resources. Grant County shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3), Wisconsin Administrative Code.

SECTION 19 19.00 Permit Duration. 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 sub. 32.20, or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner. If changes occur in the area to be mined, the nature of planned reclamation, or other aspects of mining require that the approved reclamation plan be amended, the applicant shall apply for a permit modification pursuant to Section NR 135.24 of the Wisconsin Administrative Code.

SECTION 20 20.00 Permit Transfer. A nonmetallic mining reclamation permit issued under this ordinance may be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

SECTION 21 21.00 Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Grant County, the previously-issued municipal reclamation permit's terms and conditions shall remain in force until they can be modified by Grant County pursuant to sub. 23.10.

SECTION 22 22.00 Review. Any permitting decision or action made by Grant County under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code. Any person who is aggrieved by any decision of the Zoning Administrator under this ordinance can file a written notice of appeal requesting a hearing before the Grant County Zoning Board of Adjustment. This notice of appeal must be filed with the Grant County Administrator within thirty days of the date that the operator received the written decision of the Zoning Administrator. A hearing shall then be scheduled before the Grant County Zoning Board of Adjustment, which hearing is to take place within fifteen days of the date that the Zoning Administrator received the notice of appeal. The Zoning Administrator shall send the appellant and any other interested persons by mail notice of the date and place of the hearing at least ten days before such hearing. The Zoning Administrator shall give public notice of the hearing as required by Wisconsin law. A majority vote of the Grant County Board of Adjustment shall prevail. The Grant County Zoning Board of Adjustment shall have the power to affirm, reverse, or modify any decision of the Zoning Administrator under this ordinance. At the hearing the aggrieved person, Grant County and other interested persons shall have the right to present evidence, call and cross examine witnesses and if they so wish, to be represented by their attorney. The Board of Adjustment shall consist of five members to be appointed by the Chairman of the County Board with the approval of the County Board. If the Board of Adjustment determines that the Zoning Administrator made an error in his or her decision, the Zoning Board of Adjustment shall reverse or modify the decision of the Zoning Administrator. If the Board of Adjustment determines that the Zoning Administrator did not make an error in his or her decision, the Zoning Board of Adjustment shall affirm the decision of the Zoning Administrator. The decision of the Zoning Board of Adjustment shall be reduced to writing and sent to the appellant. The

decision shall be dated and set forth whether the decision of the Zoning Administrator is affirmed, denied, modified and the reason therefor. The decision shall notify the appellant that the appellant has the right to file an action with the Grant County Circuit Court within thirty days seeking an appeal of the matter by certiorari.

PART IV – ADMINISTRATION

SECTION 23 23.00 Permit Modification.

23.10 By Grant County. A nonmetallic mining reclamation permit issued under this ordinance may be modified by Grant County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this ordinance. Such modification shall be by an order conforming to the procedures in s. 32 and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

23.20 By the Operator. 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 Grant CSZD. 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 required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this ordinance.

23.40 Review. All actions on permit modifications requested or initiated under this section are subject to review under s. 22.

SECTION 24 24.00 Permit Suspension or Revocation

24.10 Grounds. Grant County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this ordinance if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

24.20 Procedures. If Grant County finds grounds for suspending or revoking a nonmetallic mining reclamation permit as set forth in sub. 24.10, it may issue a special order suspending or revoking such permit as set forth in sub. 32.20. Upon permit revocation, the operator shall forfeit the financial assurance the operator provided to Grant County.

24.30 Consequences. The consequences of a reclamation permit suspension or revocation order under sub. 24.20 shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

SECTION 25 25.00 Annual Operator Reporting.

25.10 Contents and Deadlines. Annual reports shall be submitted by the operators of nonmetallic mining sites; which annual reports must contain the information and certification required by Section NR 135.36 of the Wisconsin Administrative Code.

These reports shall be for activities and reclamation during a calendar year on un-reclaimed acreage for the previous calendar year for all active and intermittent mining sites, and submitted in writing within 31 days after the end of each year to the Grant County CSZD. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 29.00. Annual reports shall be submitted using Grant County's Non-Metallic Mining Reclamation Program Annual Report Form.

25.20 Inspection in Lieu of Report. Grant County may, at its discretion, obtain information required in sub. 25.10 by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

25.30 Retention of Annual Reports. Annual reports submitted under this section or inspection records that replace them shall be retained by the Grant County Zoning Office for at least 10 years after they are submitted. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

SECTION 26 26.00 Plan Review Fees.

26.10 Amount and Applicability. The fees shall be set and periodically amended by the Grant County Conservation, Sanitation and Zoning Committee. A person who intends to operate a non-metallic mining site for which a permit application has been submitted under this ordinance shall submit a non-refundable plan review fee as specified in the Grant County fee schedule. Fees shall be paid and mailed to Grant County CSZD. No plan review fee may be assessed under this section for any nonmetallic mine site for which an application for an automatic reclamation permit is submitted that meets the requirements of sub. 12.20, or for any local transportation-related mine issued an automatic permit under sub. 16.50. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to s. 23.

26.20 Expedited Plan Review Fee. A person who intends to operate a non-metallic mining site for which a permit application has been submitted under sub. 12.30 may obtain expedited reclamation plan review by paying a fee as specified in the Grant County fee schedule. Such fee shall be in addition to that required in sub. 26.10. The expedited review will be completed within five (5) business days.

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 s. 27.

SECTION 27 27.00 Annual Fees.

27.10 Area Subject to Fees, Procedures and Deadline. Operators of all non-metallic mining sites subject to reclamation permits issued under this ordinance shall pay annual fees on un-reclaimed nonmetallic mining sites to Grant County. Fees shall be mailed to the Grant County CSZD. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under sub. 27.20, and a share for Grant County under sub.27.30. These fees shall be paid each year and calculated based on the amount of un-reclaimed acres of each site, as required by Section NR 135.39 of the

Wisconsin Administrative Code. Such fees apply until final reclamation is certified as complete under s. 29. Fees shall be paid no later than January 31 for the previous calendar year. The Grant County Non-Metallic Mining Reclamation Program Annual Fee Form shall be submitted with payment. The annual fee form shall set forth the operator's name and address, the year for which the fee is being paid; whether the mine is a new or existing mine; number of un-reclaimed acres; and fees being paid.

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

27.30 Grant County's Share of Fee. Fees paid under this section shall also include an annual fee as specified in the Grant County fee schedule. Fees shall be paid to Grant County and mailed to Grant County CSZD. This fee equals as closely as possible Grant County's expenses in administering the reclamation program and its costs of ensuring compliance with this ordinance as well as cost of inspections.

27.40 .

27.50 Documentation of Grant County's Share of Fee. If the annual fee in sub. 27.30 is greater than that established in Section NR 135.39(4) (c), Wisconsin Administrative Code, Grant County shall make available for public inspection written documentation of its estimated program costs and the need for fees exceeding those in NR 135.39(4)(c) prior to adopting them. This document shall be available for public inspection at the Grant County CSZD.

SECTION 28 28.00 Reporting and Documentation.

28.10 Reporting. Grant County shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code.

28.20 Documentation. Grant County shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Grant County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

SECTION 29 29.00 Completed Reclamation Reporting, Certification and Effect Reporting. The operator of a nonmetallic mining site shall file a notice of completed reclamation with the Grant County CSZD using the Grant County Non-Metallic Mining Reclamation Program Completed Reclamation Form when the operator deems reclamation activities to be completed for a portion of the nonmetallic mining site or for the entire site. The form shall set forth the name and address of the operator, the date reclamation was completed, the number of acres for which reclamation has been completed, the number of acres for which reclamation has not been completed, and description of acreage for which reclamation has not been completed. The Zoning Administrator or his designee shall then inspect the mining premises or portion thereof that was the subject of the notice of completion of reclamation to determine if reclamation has been carried out in accordance with the approved reclamation plan. The inspection shall occur within the time limit set forth in NR 135.40(7). The Zoning Administrator may partially release the financial assurance if the Zoning Administrator determines that compliance with a portion of the

reclamation plan has been achieved and requires no waiting period. After determining that reclamation is totally complete pursuant to the reclamation plan and Wisconsin Administrative Code Chapter NR 135, the Zoning Administrator shall issue a certificate of completion and shall release the financial assurance. The Zoning Administrator may make a determination whether reclamation is or is not yet complete, whether it is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors, whether reclamation is complete in a part of the mine or whether reclamation is fully complete. The financial assurance shall be forfeited if the permit is revoked under NR 135.25 of the Wisconsin Administrative Code and the appeals process has been completed or an operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

29.40 Effect of Completed Reclamation. If reclamation is certified by Grant County as complete under sub. 29.00 for part or all of a nonmetallic mining site, then:

- (1) No fee shall be assessed in the future under s. 27 for the area so certified.
- (2) The financial assurance required by s. 14 shall be released if the mine is totally reclaimed.
- (3) For sites which are reported as partially reclaimed under sub. 29.00 and so certified under sub. 29.00, financial assurance for the reclaimed certified area shall be reduced.

SECTION 30 30.00 Permit Termination. When all final reclamation required by a reclamation plan conforming to s. 13 and required by this ordinance is certified as complete pursuant to s. 29.00, Grant County 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 this ordinance, any authorized officer, agent, employee or representative of Grant County may inspect any nonmetallic mining site subject to this ordinance as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code. The Grant County Zoning Administrator is charged with the duty of administering this ordinance and making the determinations (except appeals) under this ordinance. The Grant County Zoning Administrator is authorized to obtain recommendations from any firm or corporation with whom Grant County has contracted with to obtain recommendations from in administering this ordinance in administering this ordinance and making decisions. Personnel at any corporation with whom the County of Grant has contracted with to obtain recommendations from in administering this ordinance are hereby are also authorized to assist the Zoning Administrator in inspecting any nonmetallic mining site subject to this ordinance and can enter upon mining sites subject to this ordinance to make an inspection.

SECTION 32 32.00 Orders and Citations.

32.10 Enforcement Orders. The Grant County Zoning Administrator may issue orders as set forth in Wisconsin Statutes Section 295.19 and Wisconsin Administrative Code Section NR 135.43. A violation of any of the provisions of this ordinance, a violation of any provisions of an order or permit issued pursuant to this ordinance, or if the operator

fails to reclaim a site in accordance with a reclamation plan shall be considered a violation of this ordinance.

32.20 Special Orders. The Grant County Zoning Administrator may issue a special order as set forth in Wisconsin Statutes Section 295.19. This special order can suspend or revoke a nonmetallic mining reclamation permit pursuant to sub 24, or direct an operator to immediately cease an activity regulated under Chapter 295 of the Wisconsin Statutes until the necessary plan approval is obtained. If the Grant County Zoning Administrator finds upon inspection that a site has not been properly reclaimed in accordance with a reclamation plan and the operator has ceased mining operations or if the permit under this ordinance is revoked and any appeals filed have been completed and which have affirmed the revocation of the permit, the financial assurance filed by the operator shall be forfeited to Grant County.

32.30 Review of Orders. An order issued under sub. 32.10 or sub. 32.20 may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

32.40 Citations. The Grant County Zoning Administrator may issue a citation under Wisconsin Statutes Section 66.0113 to any violator who violates any provisions of this ordinance, the provision or conditions of a permit issued pursuant to this ordinance, the provisions of a reclamation plan, or an order issued pursuant to this ordinance. The citation shall set forth the information required by Wisconsin Statutes Section 66.0113. The issuance of a citation under this subsection shall not preclude the filing of a lawsuit against the violator for violation of another ordinance or law. A circuit court judge hearing a citation action or lawsuit pursuant to this ordinance is authorized to require the violator to pay a forfeiture, court costs, statutory assessments, and attorney fees as set forth in this ordinance and to require the violator to correct the violation.

32.50 Enforcement. The Grant County Corporation Counsel is hereby authorized to prosecute any citation action filed for violation of this ordinance. The Grant County Corporation Counsel is hereby also authorized to file any lawsuit to prosecute any violations of this ordinance.

SECTION 33 33.00 Penalties. A violator who violates the provisions of this ordinance or an order issued hereunder shall forfeit not less than \$25.00 nor more than \$1,000.00 for each violation. Each day of continued violation is a separate offense. Any person, who violates any reclamation plan approved pursuant to Chapter NR 135 of the Wisconsin Administrative Code, shall forfeit not less than \$10.00 nor more than \$5,000.00 for each violation. Each day of continued violation is a separate offense.

The cash deposit for a violation of this ordinance or an order issued hereunder by the Zoning Administrator shall be a forfeiture of \$1,000.00 plus statutory court costs, penalty assessments, jail surcharge assessments, crime lab drug assessments, court support fees, and justice information fees pursuant to the current schedule of court fees issued by the State of Wisconsin. The cash deposit for a violation of a reclamation plan is a \$5,000.00 forfeiture plus the above statutory court costs, assessments, and fees. Cash deposits, forfeitures, costs, assessments, and fees shall be paid to the Grant County Clerk of Circuit Court in Lancaster, Wisconsin. The Clerk of Circuit Court shall issue receipts for cash deposits, forfeitures, costs, assessments, and fees.

Section 34 34.00 Bankruptcy. The operator of a nonmetallic mining site shall notify the Grant County Zoning Administrator by certified mail of the commencement of voluntary or involuntary proceedings under the U.S. bankruptcy code naming the operator as debtor within 10 days of commencement of the proceedings.

Recommended for passage by the Grant County Conservation, Sanitation and Zoning Committee.

Mark A. Stead
Mark Stead

Dale Hood
Dale Hood

Lester Jantzen
Lester Jantzen

Dwight Nelson
Dwight Nelson

Roger Guthrie
Roger Guthrie

Pat Schroeder
Pat Schroeder

Not Present
FSA Representative

ATTEST: I, Linda Gebhard, Grant County Clerk, do certify that the foregoing amended ordinance was adopted by the Grant County Board of Supervisors at a meeting held on November 12, 2014.

Linda K. Gebhard
Linda Gebhard, County Clerk