

Resolution No. 5-0214

**WHEREAS**, the Iowa County Planning and Zoning Committee determined a need to review the nonmetallic mining regulations within the Iowa County Zoning Ordinance;

**WHEREAS**, the focus of the review was to create regulations that provide flexibility to take into account the unique characteristics of individual sites while creating a review process that strikes a balance between the positive impact to the local economy provided by aggregate production and the need to protect natural, cultural and social resources;

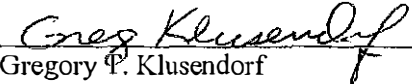
**WHEREAS**, this review process began in January 2013 and has involved no less than seven public meetings and one public hearing with input sought from the town officials, the general public and mining operators;

**NOW THEREFORE BE IT RESOLVED**, that the Iowa County Planning and Zoning Committee hereby recommends that the Iowa County Board of Supervisors adopt the revisions to the Iowa County Zoning Ordinance set forth in Attachment A.

Respectfully submitted,

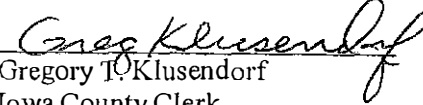
PLANNING AND ZONING COMMITTEE

ATTEST:

  
Gregory P. Klusendorf  
Iowa County Clerk

**CERTIFICATION OF ADOPTION**

This is to certify that the above ordinance was duly adopted by the County Board of Iowa County on the 18<sup>th</sup> day of February, 2014.

  
Gregory P. Klusendorf  
Iowa County Clerk  
Iowa County, Wisconsin

## ATTACHMENT A

Revise to the Iowa County Zoning Ordinance as follows:

### 1) Create Section 2.31 to read:

#### 2.31 Nonmetallic Mining and Excavation Sites – less than one acre

- 1) PERMIT. Nonmetallic mining and excavation sites that are less than one acre may be permitted under this subsection by the issuance of a zoning permit with conditions listed below.
  - a) Reclamation. An application for a permit under this subsection shall include a detailed plan proposing the reclamation of the mining site and the site's final land use. Such a plan shall only be accepted if the reclamation
  - b) Time of Operation. Nonmetallic mining sites permitted under this subsection shall not exceed 24 months of operation calculated from the date the zoning permit is issued and concluding upon the completion of final reclamation. If a site is proposed to exceed 24 months of operation, it shall seek a permit under Section 4.5 of this Ordinance.
  - c) Number. Multiple locations for extraction may be located on a property under single ownership, provided that the total of all locations combined do not exceed one acre.
  - d) Occurrence. A zoning permit issued under this subchapter shall not be permitted more than once in any 3-year period for the same property, calculated on the date that the zoning permit was issued.
  - e) Length of operation. Nonmetallic mining sites under this subchapter cannot be extended in duration.
  - f) Stockpiling. Stockpiling of any nonmetallic mineral, including stone, sand, gravel, clay and topsoil, shall not be permitted beyond final reclamation.

### 2) Create Section 2.32 to read:

#### 2.32 Ponds

- 1) PERMIT. A zoning permit shall be required for ponds in the following cases:
  - a) For any pond that is 10,000 square feet or greater shall require a zoning permit and shall comply with setbacks for structures as required in this Ordinance.
  - b) For any pond which, through the process of digging, excavating or scraping, creates spoils which are stockpiled on-site or removed from the property, and affect more than one acre of area shall require a nonmetallic mining permit and must comply with all mining regulations within this Ordinance, the Iowa County Nonmetallic Mining Reclamation Ordinance, and Wis. Admin. Code Ch. 135.
- 2) CONSTRUCTION OF PONDS. Pond construction shall include the following:
  - a) All spoil material removed from the pond shall be thin spread, less than 12 inches in thickness, on upland portions of the parcel.
  - b) All disturbed areas associated with pond construction shall be stabilized.
  - c) Sites within the jurisdiction of floodplain and/or shoreland/wetland zoning regulations shall have to comply with said regulations.
- 3) SAFETY. If deemed necessary, the Office or Commission shall require safety measures, such as fencing and gates.

4) POND CONSTRUCTION PROPOSAL. All ponds which require a zoning permit or conditional use permit shall submit a plan and description. Plans and descriptions shall include:

- a) Size of pond
- b) Location on site
- c) Setbacks
- d) Other existing or planned water features on the site
- e) Spoil spreading locations
- f) Disturbed land reclamation means
- g) Property description
- h) Site stability
- i) Erosion control measures
- j) Construction timing

**3) Strike 4. a) to d) under the conditional use permit opportunities of the AB-1 Agricultural Business zoning district in Section 3.5 and replace with:**

4. Nonmetallic mining provided the provisions of Section 4.5 of this Ordinance are met.

**4) Add the following under the conditional use permit opportunities of the B-4 Industrial Business District in Section 3.5:**

13. Nonmetallic mining provided the provisions of Section 4.5 of this Ordinance are met.

**5) Create Section 4.5 to read:**

4.5 Nonmetallic Mining Sites - one acre or greater

1) APPLICATION. The following are minimum standards applicable to all nonmetallic mining sites that are one acre or greater of total affected acreage on property under single ownership. Nonmetallic mining sites may be permitted under this section only if it is determined that the site is in the public interest after consideration of the following:

- a) The nonmetallic mining site complies with all provisions of this ordinance, the Iowa County Nonmetallic Mining Reclamation Ordinance, and Wis. Admin. Code Ch. NR135.
- b) The establishment, maintenance, or operation of the mining use shall not endanger the public health, safety, or general welfare, nor impair significant aesthetic, scientific, educational, or agricultural values.
- c) The establishment, maintenance, or operation of the mining use will not substantially affect the existing use of adjacent properties and will not have a substantial adverse effect on the most suitable long term future use for the area.
- d) That adequate utility, access roads, drainage, traffic plans, and other site improvements are or will be provided.
- e) That the mining use shall conform to all government regulations and standards pertaining to the activity, including air and water quality standards and storm and waste water permit discharge requirements.
- f) That the noise, vibration, and dust levels be within the standards as established by the state.
- g) That an undeveloped buffer zone adjacent to extraction operations, extending not less than 50 feet from a property line into the mining site, or up to any other distance as the Commission finds necessary for the protection and safety of adjacent properties from mineral extraction sites, with a stable angle of repose being provided along property lines.

- h) That the reclamation plan, which shall similarly be imposed as a condition of approval, will be enforceable and, as enforced, will result in the property being in a final conditional which is reasonably safe, attractive and, if possible, conducive to productive new uses for the site.
  - i) That the operation and reclamation shall be conducted in a manner that meets groundwater quality standards pursuant to Wis. Admin. Code ch. NR140.
  - j) That the operations and reclamation shall be conducted in a manner that does not cause a permanent lowering of the groundwater table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater available for reasonable use to future users.
- 2) **ADDITIONAL FINDINGS AND CONDITIONS.** Where deemed practicable and necessary by the Commission, the approval of a permit may be conditioned upon any of the following:
- a) **Vegetative screening.** An earthen bank, berm, solid fencing or vegetative screen shall be constructed and maintained to screen the mining operation from view.
  - b) **Safety standards.** The mining site shall be enclosed by at least a 3-strand barbed wire fence, maintained at all times, with warning signs posted to indicate the presence of a nonmetallic mining site at intervals agreeable to the affected town and the County. Fencing and signs shall be installed prior to commencement of operations.
  - c) **Water from site dewatering and washing operations will meet the conditions of the required Wisconsin Pollution Discharge Elimination System (WPDES) permit from the Wisconsin Department of Natural Resources.**
  - d) **Any noise shall comply with all applicable OSHA standards. Verification of this requirement shall be provided to the Office upon written request.**
  - e) **Blasting shall, at a minimum, comply with the provisions listed in SPS 307, Wis. Administrative Rule. At sites where there is a principal structure on neighboring property within 500 feet of the shared property line with the mining site, blast charges may be required to be reduced in size as blasting activity nears the property line.**
  - f) **Any conditions reasonable to protect public health, safety, and welfare, including the factors listed above, may be imposed as part of the permit.**
- 3) **ASSURANCE.** The Commission shall require reasonable assurance that the conditions it may impose will be satisfied. Such assurance shall be achieved through a combination of the following prior to commencement of operation activities:
- a) **Performance bonds or substitute guarantees in the form of pledged collateral.**
  - b) **Clear identification of the relationships between landowners, lessees, licenses, and operators and the signing of written pledges by those persons who assume responsibility for various elements of the conditions imposed.**
  - c) **If there is any unresolved dispute between a claimant and the applicants with regard to permit conditions, the applicants agree that the same shall be submitted to arbitration in accordance with Wis. Stat. ch. 788, if the claimant so requests.**
- 4) **TIME OF OPERATION.** Unless otherwise specified in this ordinance, the permit shall be in effect for not more than 5 years, and may be renewed by application to the County. All permitted operations may be inspected at least once every year by the Office and may be inspected at the time a request for renewal is submitted for the purpose of determining if all conditions of the operations are being complied with. Renewed permits shall be modified to be in compliance with all state, county, and local law in effect at the time of renewal. Permits may be amended on application to the Commission to allow extensions or alterations in operations under new ownerships or managements.
- 5) **TERMINATION OF NONMETALLIC MINING ACTIVITIES.** If nonmetallic mining activities terminate for a period of 5 years or more on a site which is the subject of an approved permit, the permit holder is not entitled to a right of renewal at the end of the permit period, despite

compliance of former operations with all conditions of the original permit, unless:

- a) The discontinuance was specified as part of the original operations plan.
- b) The operator has Commission approval of an amendment to the original permit placing the operation on inactive status with conditions as to interim or partial reclamation.
- c) Within 2 years of the cessation of the operation all equipment, stockpiles, rubble heaps, other debris and temporary structures, except fences, shall be removed or backfilled into the excavation, leaving the premises in a neat and orderly condition.
- d) As a condition of approval, the operator shall accept responsibility for remediation, or the permit may be revoked.

6) STOCKPILING. Stockpiling of any nonmetallic mineral, including stone, sand, gravel, clay, and topsoil shall not be permitted beyond final reclamation.

**6) Add the following under Section 13.0 Definitions:**

Nonmetallic Mining

Nonmetallic mining means operations or activities involving the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or off-site use. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading, dredging, stockpiling, blending of materials, crushing, screening, scalping and dewatering. Nonmetallic mining may include activities such as the significant change in topography, such as leveling hills or knolls, provided materials are used off-site.

**7) Revise the Table of Contents and Appendix A: Amendments of said ordinance accordingly**