

THE TOWN OF RIDGEVILLE, MONROE COUNTY  
NONMETALLIC MINE OPERATOR'S LICENSE ORDINANCE

Section 1.01. Finding, Purpose and Authority

(1) Findings. Nonmetallic mining operations, while a vital component of our state and local economy, can have both direct and indirect adverse impacts. Studies have documented that, depending on the size of the mining operation, the type of geological deposit being mined and the manner and methods of mining and processing used, nonmetallic mining can have adverse impacts on property values, groundwater and surface water, and can generate harmful levels of dust and noise particularly if blasting and crushing operations, or washing and drying processes, are undertaken. Nonmetallic mining sites can have negative impacts on the landscape and aesthetics if not properly screened, and can present safety concerns to members of the public if not properly secured. Nonmetallic mining operations can also generate high volumes of truck traffic that can present safety issues and concerns for the proper and timely maintenance of Town roads, and exposure to nuisances of noise, light pollution and dust. While certain aspects of mining operations are subject to state or federal regulation, there is no comprehensive state or federal regulation of nonmetallic mining operations. Many aspects of nonmetallic operations are left unregulated with potential adverse impacts on public health, safety and welfare of the residents of the Town of Ridgeville.

(2) Purpose. The purpose of this Ordinance is to provide minimum standards for all nonmetallic mining operations and processing facilities in the Town of Ridgeville, to require licenses for nonmetallic mining operators and facility operators in order to protect public health and safety, to minimize or prevent adverse off-site impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of Ridgeville.

(3) Authority. This Ordinance is adopted by the powers granted to the Town of Ridgeville by the Town's adoption of Village powers under Wis. Stat. §§ 60.10 and 61.34, its authority under § 66.0415, and other authority under the statutes. Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance is incorporated into this Ordinance by reference on the effective date of the amendment, repeal or recreation.

Section 1.02. Applicability and Scope

(1) This Ordinance shall apply to all nonmetallic mining operations and mine sites including processing facilities within the Town of Ridgeville.

(2) This Ordinance does not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (b) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.
- (c) Grading conducted for preparing a construction-site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes conducted on the building site.
- (e) Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.
- (f) Removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

### Section 1.03. Definitions

- (1) "Buffer" means an undisturbed vegetated area measured from the nonmetallic mine site or processing facility border into the nonmetallic mine site or processing facility, in which no nonmetallic mining activities, structures or roads can occur except for the construction and maintenance of a vegetated berm.
- (2) "Dwelling" means a structure or part of a structure that is used or intended to be used and occupied for human habitation as a home or residence by one or more persons.
- (3) "Inactivity" means less than 50 standard truckloads of material per year removed from the site, with no change to ratios of excavated, unclaimed and reclaimed areas reflected in the annual report to the Town, from the previous year's report.
- (4) "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (5) "Lapse of Lease" means an absence of a recorded lease at the Monroe County Registrar of Deeds.
- (6) "Landowner" means the person or entity who has title to land in fee simple or who holds a land contract for the land.

(7) A "mine site" or "site" means land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the Operator; all land in or contiguous to areas excavated for nonmetallic mining on which any structures, equipment, storage facilities, stockpiles, washing, drying, processing, separation, blending or screening facilities, private roads or haulage ways associated with nonmetallic mining operation are or will be located; and all contiguous lands to the nonmetallic mining operation under common ownership or control of the owner or Operator.

(8) "Neighboring landowner" means any property within 1 mile of the proposed mine site or processing facility regardless of whether there is a residence or structure on the property.

(9) "Nonmetallic minerals" means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc & industrial silica used for hydraulic fracturing of gas or oil deposits ("frac sand").

(10) "Nonmetallic mining" or "nonmetallic mining operation" means any or all of the following:

(a) Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.

(b) Manufacturing or industrial processing operations that may involve the use of equipment for the crushing, screening, separation, washing, drying or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site, or from materials transferred from off-site.

(c) Manufacturing processes aimed at producing nonmetallic products for sale or use by the Operator.

(d) Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.

(e) Transporting of the extracted nonmetallic materials, finished products or waste materials to or from the extraction site and/or processing site(s).

(f) Stockpiling, storing or processing of nonmetallic products off of the mine site.

(g) Disposal of nonmetallic mining waste materials.

(h) Reclamation of the mine site.

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

(12) "Operator's license" or "license" means the license required of mining operators in this Ordinance to undertake nonmetallic mining or processing in the Town of Ridgeville,

(13) "Processing facility" or "processing site" means a location off of the mine site on which any facilities, structures, equipment, private roads or haulage ways associated with nonmetallic storage facilities, stockpiles, washing, drying, processing, separation, blending or screening operations are conducted. NOTE: Such processing facilities and operations conducted on the mining site are considered part of the mine site.

(14) "Reclamation" means the restoration of an excavated mine area to an ecosystem of healthy vegetative and animal biodiversity, or to a state of agricultural productivity.

(15) "Retained expert" means professional consultants including but not limited to engineers, attorneys, planners, environmental specialists, personnel from the Monroe County Land Conservation Department and other consultants with skills relevant to reviewing, processing and acting upon applications for an Operator License or to issues associated with the inspection, monitoring and enforcing of approvals arising under this Ordinance.

(16) "Town" means the Town of Ridgeville.

(17) "Town Board" means the Town Board of the Town of Ridgeville.

(18) "Waste Material" means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site or some other site as part of a reclamation plan.

#### Section 1.04. License Required

(1) License Requirement. Except as provided in sub (6) no person shall operate a nonmetallic mine or processing facility within the scope of this Ordinance in the Town of Ridgeville without first obtaining an Operator's license from the Town Board. A separate Operator's License must be obtained for each distinct mining operation, even if operated by the same operator.

#### (2) License Term.

- (a) An Operator's license shall be granted for a period of one year commencing on January 1 and ending on December 31 of each calendar year. For the first year of licensing under this Ordinance, the Operator's license will extend from the date of issuance through the first full 12-month period ending December 31 after the

license is issued. For example, if the license is first issued in February 2014, it will extend to December 31 of 2015.

(b) An Operator's license may be renewed as set forth in Section 1.08.

(3) License Amendment. If the Town has issued an Operator's license, the Operator may request an amendment to that license during the license term, using the same process as the original license application.

(4) License Transfer. No Operator's license may be transferred to a new operator without the express written permission of the Town Board, in advance of any such transfer, and any such unauthorized transfer or assumption of the privileges granted is void, and shall be cause to revoke the operator's license. The Town Board, in its sole discretion, may authorize the transfer of an operator's license to a new operator, provided that the new operator provides all such financial assurances and other information as may be required by the town, county, or state, and provided that the operational plan submitted at the time of granting the license being transferred remains unchanged. Any proposed transfer that seeks to modify the operational plan upon which the license was granted must be initiated as a new nonmetallic mining license application under Section 1.05 of this Ordinance.

(5) License Revocation. An Operator's license may be revoked under the procedures in Section 1.09.

(6) Existing Facilities. Non-metallic sand and gravel mines in operation prior to the effective date of this ordinance are eligible for a registration license under this subsection provided that such operations meet the following requirements:

- (a) The operation has been in existence and operating for at least 2 years within the Town and during that time has not had a material violation of state or local law, and has not created nuisance conditions nor been the subject of any legal proceedings alleging negligence or nuisance conditions.
- (b) The nonmetallic mining operation does not extract or process more than 100,000 cubic yards in any one calendar year.
- (c) The operation has a Reclamation Permit from Monroe County, and files a copy of the Permit and any reclamation plans with the Town.
- (d) The operation is for the original reclamation plan approved by Monroe County. If the reclamation is modified, the mine is considered a new operation and is subject to the licensing requirements of this ordinance.
- (e) The Operator files a certification with the Town Board that it will use best management practices to control noise, dust, light, surface water runoff, road wear, local traffic safety hazards and other off-site impacts from the operations.

- (f) Registration licenses shall be subject to renewal every two years as set forth in Section 1.08(2) and subject to the inspection, enforcement and provisions of Section 1.09.
- (g) If an existing facility is found to be inactive for more than two years, continuously, after the effective date of this ordinance, or if there is a lapse of lease greater than one year for the property on which the mine resides, the mining operation will be considered a new operation and an Operator's License will be required in order to resume operations.

### Section 1.05. Procedures For Applying For An Operator's License

(1) Application The applicant shall submit five (5) copies of an application that contains all documentation required under Section 1.06 to the Town Clerk accompanied by the payment of the appropriate fees as set forth herein. The application shall be signed by the Operator and by the landowner, provided the landowner is a person other than the Operator.

### (2) Reimbursement Of Fees And Costs.

- (a) Reimbursable Costs. The Town Clerk and other Town staff may expend time in the review and processing of the application. The Town may also retain the services of a Retained Expert for purposes of reviewing, processing and acting upon applications for Operator Licensing.
- (b) Additional Fees. If the Town Board determines that additional expertise is required, the Town Board shall retain the services of an engineering firm or other qualified person with appropriate expertise to advise the Town and shall give written notice to the applicant of the estimated additional administrative fee to be charged beyond the base administrative fee to cover the cost(s) of the services of any such retained expert(s). The estimated additional fees shall be paid before the additional review is undertaken. If the amount of the final administrative fee exceeds the estimated fee, the applicant shall pay the additional costs. If the final administrative fee is less than the estimated amount the overpayment shall be refunded to the applicant. Once the applicant has submitted any additional information and has paid the additional administrative fees in the amount charged, the retained expert(s) shall report to the Town Board on whether the application meets the requirements of this Ordinance, and may offer advice as to any aspect of the proposed mining operation which is supported by their respective expertise.

### (3) Preliminary Review and Decision

- (a) Preliminary Review. The Town Clerk shall forward the application to the Town of Ridgeville's Planning Commission. Upon completion of the Commission's review, the application will be forwarded to the Town Board with the Commission's recommendations. The Town Board will then do its own initial review to determine if additional information or expertise is necessary to properly

evaluate the application. If no additional information or expertise is deemed necessary, the Town Board shall issue a public notice and schedule a hearing under sub (4).

- (b) Additional Information. The Town Board may request the applicant to submit additional information if the Town Board determines that the application is incomplete, or if the Town Board determines that additional information is needed to determine whether the proposed nonmetallic mining operation will meet the standards of this Ordinance.
- (c) Retained Expert Reports. Any Retained Expert shall report to the Town Board whether the application meets the standards of this Ordinance, and whether additional information is required
- (d) Preliminary Decision. Upon completion of its review and that of any Retained Experts, the Town Board shall issue a proposed decision whether to grant a license to operate a nonmetallic mine or processing facility with or without restrictive conditions on use, or to deny the application for a license.

#### (4) Decision by the Town Board.

- (a) Notice and Hearing. Town Clerk shall place the preliminary decision of the Town Board on the agenda for the next regular meeting of the Town Board. The Town Board shall set a date for a public hearing and give Class III public notice plus the designated posting places at least fifteen (15) days prior to the date scheduled for the hearing, with the notice mailed to all neighboring landowners. At the public hearing, the Town Board shall take public comment on the proposed mine license.
- (b) Town Board Decision. Following the public hearing, the Town Board may take immediate action or set a date for the meeting at which time they shall make a final decision on the Operator's license. The Town Board shall review the application, any Retained Experts' reports, and public comments made and information provided at the public hearing. The Town Board shall grant the license if it determines that the operation of the nonmetallic mine or processing facility will be consistent with the minimum standards and the purposes of this Ordinance. If the Town Board denies the license, the applicant may request a hearing under the provisions of Section 1.09(3).

#### Section 1.06. License Application Requirements.

All applicants for a mining license shall submit the following information:

##### (1) Ownership Information

- (a) Name of the business making application for a nonmetallic mining license.
- (b) Names, addresses, phone number(s), and e-mail addresses of the owner and chief

executive officer of said business. Also include name, address, phone number(s), and e-mail address of the business's contact person for the proposed mining operation.

- (c) Name, address, phone number(s), and e-mail address of all owners or lessors of the land on which the mining operation will occur. Tax parcel numbers should be included. Include mineral rights owners if different from surface landowners.
- (d) If property within the proposed mining operation is subject to a lease, the mining operator will supply the name(s) of the property owner of all such leased properties and a copy of "Memorandum of Lease" as recorded in the Register of Deeds office for all such leased properties.
- (e) Legal description of land to be included in proposed mining operation.
- (f) Type of nonmetallic mine being proposed. List the products of the proposed mine as well as the expected uses of those products.
- (g) Dates of proposed commencement and cessation of the operation.
- (h) Provide proof of insurance. A copy of the insurance policy is to be included with application.

## (2) Site Information

- (a) Topographic map of the mine site extending 2 miles beyond the site boundaries, at contour intervals no wider than 10 feet, showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within 5 miles of the site, and any processing or trans-shipment facilities within the town.
- (b) Full color aerial photo of the proposed site at a scale of 1 inch equals not more than 660 feet.
- (c) Recorded certified survey map(s) of the property on which the nonmetallic mining operation will be located. Owners' names and parcel numbers are to be labeled.
- (d) Detailed, labeled map of the proposed mine site indicating the sequence of excavation, storage for overburden, location of stockpiles for product and waste materials, location of structures, haul roads, parking areas, etc.
- (e) Provide professional engineer's, or an equivalent expert in that field, statement describing the location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns, karst features and other water features on the site and within 2 miles of the site. The base flow of surface waters within 2 miles of the nonmetallic mine site or processing facility shall be determined at the time of application.

- (f) Include a professional engineer's, or an equivalent expert in that field, description of the distribution, depth and type of topsoil on the site as well as the geological composition and depth and width of the nonmetallic deposit.
- (g) Provide a map identifying the location of all other non-contiguous sites within the Town of Ridgeville and adjacent towns that will contribute any material to the facility for which the applicant seeks a license.
- (h) Describe baseline conditions at the site before mining operations commence, including the groundwater elevation across the site, groundwater quality at the site for turbidity, pH, microbiology, lead, arsenic and any other toxic metal or any other chemical that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made. Baseline information for surface waters within 2 miles of the site should also be established. The information collected for surface waters should include base flow rate, estimated groundwater recharge rates, turbidity, pH, microbiology, lead, arsenic and any other toxic metal or any other chemical that may reasonably be believed to be present.
- (i) A map on which all of the residential, agricultural and municipal wells within 2 miles of the boundaries of the site in all directions are marked and given a numerical identification of the location. This is required for those wells on file with the WISDNR.
- (j) List potential impact of the proposed mining operations on current land use practices (e.g. agricultural, forest management, recreational activities, etc.) within 2 miles of the site's borders.
- (k) Identify any state or federally listed threatened or endangered species that have been found onsite or within 2 miles of the proposed site's borders. Include when and where such species have been seen or found. (vs: A letter from the Wisconsin Department of Natural Resources concerning any threatened or endangered species at the mine site.)

### (3) Plan of Operation

- (a) List all required permits (federal, state, agency, county, local, etc.) and indicate if those permits have been sought and/or acquired.
- (b) Total area, in acres, of the proposed mine site and of the area to be excavated.
- (c) Maximum depth in feet of the proposed excavation. Provide the depth of the excavation relative to the height of the water table underlying the proposed mine site. Benchmarks should be provided i.e. height in feet above sea level.
- (d) Estimated volume of material, expressed both in cubic yards and in tons, to be extracted for each of the first five years of operation and over the life of the mine.

- (e) Number of employees working on site as well as the number of off-site employees whose work is directly related to the mining operation. Provide the number of full and part time employees.
- (f) Provide a detailed description of the mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.
- (g) Describe the process by which the proposed site will be prepared for mining.
- (h) Describe how the site will be prepared for seasonal closings and how the site will be maintained during seasonal closings.
- (i) Locate all private, town, county and/or state road access points. Include which road(s) would be primary or secondary roads to be used for hauling product and waste materials as well as for uses related to the proposed mining operation.
- (j) Provide the estimated number of truckloads per day when the mine is in operation.
- (k) Types of trucks to be used for hauling and the maximum load per truck.
- (l) Provide days and hours of hauling if different from the days and hours of the mine's operation.
- (m) Provide details regarding the use of explosives in the preparation for or during mining operations. Describe precautions to be taken to prevent any potential dangers to on-site and off-site persons and property. Describe how the operator will compensate for any off-site damage or injury should it occur.
- (n) Include a water budget, including an estimate of the amount and schedule of daily water use, water sources, and methods for disposing of water including methods used for infiltration and control of run-off. Describe the sources of water to be used on site and in mining operation.
- (o) List of all chemicals and hazardous materials to be used in producing product and maintaining the site, together with the current Material Safety Data Sheet for each chemical or compound, including fuel supplies that will be stored on the site and a description of measures to be used for securing and storing these materials.
- (p) Describe how erosion will be managed at the site and contiguous areas during the preparation for mining phase, operational phase and at the termination of operations.
- (q) Describe how the mine will be reclaimed both over time and at the end of its operation.
- (r) Describe the resulting topography, land cover and anticipated use of the property

after the end of operations. What will be the disposition of the property at the end of mining operations?

#### (4) Compliance with Minimum Standards

The application must address how each of the Minimum Standards of Operations (see Section 1.07) will be met during the preparation of the mine site, during mining operations, and/or at the completion of the mine's operational life.

#### Section 1.07. Minimum Standards of Operation

The Town Board shall grant an Operator's license if it finds that the proposed nonmetallic mining operation will be consistent with the following standards, and the purposes of this Ordinance:

##### (1) General Standards.

- (a) The borders of the entire nonmetallic mine site or processing facility will be appropriately staked or marked, and the site will be secured by appropriate measures which may include fencing or other alternative measures consistent with mine safety and security.
- (b) The nonmetallic mining will comply with all applicable Town Ordinances.
- (c) The Operator shall demonstrate that all other applicable federal, state and local permits and approvals required for the nonmetallic mining operation have been or will be obtained prior to commencement of operation. The Operator shall demonstrate this by submitting a copy of all permits, approvals, or waivers of permits to the Town prior to commencing operations.

##### (2) Limits on Pre-Existing Nonmetallic Mining Operations.

- (a) For operations, which were approved by a permit, which predate this division, the extent of nonmetallic mining operations shall be limited to the parameters approved by the permit, which authorized the nonmetallic mining operation.
- (b) If the nonmetallic mining operation predated the towns adoption of the county zoning ordinance the nonmetallic mining activity may continue up to, but not extend past, the lot lines of the tract of land upon which the activity was occurring at the time of adoption of the county zoning ordinance.
- (c) In no case shall nonmetallic mining operations extend to an adjacent parcel unless a conditional use permit is approved by the Committee.

##### (3) Buffer Areas

- (a) Except as noted below, the Operator shall provide a wooded and natural buffer area of a minimum of 75 feet wide along bordering property lines and public roadways from the nonmetallic mine site or processing facility, to protect bordering properties from noise, dust, lighting, odors, blasting, and other adverse impacts of the operation, along bordering property lines and public roadways.
- (b) The buffer area shall provide a setback of ½ mile from a processing facility to the location of any dwelling, unless the landowner consents to a lesser distance but not less than 50 feet, and 1 mile to any school or medical facility.
- (c) The Operator shall screen the mining operations from public view to the maximum extent practicable. Screening may be achieved through the use of berms, additional setbacks or other measures deemed adequate by the Town Board.

(4) Landscaping and Screening. Unless an alternative landscaping and screening plan is approved by the County, all nonmetallic mining operations shall install a berm around the perimeter of the proposed nonmetallic mining boundaries, except for entrances and exits. Berms shall be in compliance with the following:

- (a) Prior to construction of said berm, the operator shall submit and obtain approval from the County for a detailed berm, landscaping and related drainage and erosion control plan.
- (b) The berm shall be installed within 14 calendar days of stripped overburden and topsoil becoming available from the proposed nonmetallic mining site or from suitable outside sources. The berm may be constructed in phases as material becomes available.
- (c) The berm shall not be placed closer than 75' to an exterior property line or road right-of way.
- (d) Only clean topsoil, subsoil or overburden from the proposed nonmetallic mining site or suitable outside sources shall be used in constructing the berm.
- (e) The height of the berm must be adequate to provide screening from all roadways adjacent to the property on which the nonmetallic mine site is located and adjacent land uses. The top of the berm shall be a minimum of 4' wide.
- (f) The outward-facing slopes of the berm shall not be steeper than 3 horizontal units to 1 vertical unit. The inner-facing slopes may be steeper, but must be stabilized and maintained to remain stable.
- (g) The berm shall be constructed in a manner that does not result in flooding, concentrated runoff, inadequate drainage or excessive erosion or sedimentation

- (h) The exterior of the berm shall be kept free of noxious weeds, trash and debris.

#### (5) Hours of Operation

- (a) The Operator shall limit normal hours of operations at the nonmetallic mine site or processing facility to 12 hours a day Monday through Friday not earlier than 6:00 a.m. and not later than 9:00 p.m. and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and town residents. Operations on-site shall not occur on Sundays or named holidays.
- (b) Operation of Heavy Vehicles leaving the nonmetallic mine site or processing facility shall be limited to 12 hours a day Monday through Friday not earlier than 6:00 a.m. and not later than 6:00 p.m. and on Saturday not earlier than 6:00 a.m. and not later than noon. There shall be no operation of Heavy Vehicles leaving the nonmetallic mine site or processing facility on Sunday or named holidays.
- (c) The Operator shall schedule Heavy Vehicles to and from the mining site in a manner to avoid interfering with the safety of children being taken or returned from school, the safety of slow-moving farm vehicle traffic, or the safety of residents and commuters at times when traffic volume from commuters going to and from work is highest.

#### (6) Use of roads within the Town

- (a) The Operator shall identify the routes which it will use for trucks traveling to or from the Property; and shall use only the routes identified.
- (b) Traffic Impact Analysis and Public Improvement Plan. A traffic impact analysis shall be submitted to the Town Board for the proposed nonmetallic mining site. The traffic impact analysis shall be developed by professionals with expertise in traffic patterns. Any recommended improvements and associated costs shall be memorialized in a developer's or road usage agreement with the jurisdiction having authority over the road right-of-way. All necessary improvements shall be installed prior to the issuance of permits for the proposed nonmetallic mining site.
- (c) Existing and proposed roads and drives to be used on the proposed nonmetallic mining site, including all points of ingress and egress, and all primary transportation routes to be utilized within the County to transport the material to State or Federal highways shall be identified. Access to transportation routes shall not be approved unless prior written consent is provided by the local jurisdiction having authority over the road. The Committee may establish as a condition of the issuance of a conditional use permit, but shall not be a party to any road use agreements between the local jurisdiction having authority over the proposed transportation route and the operator.

- (d) The Operator and any Heavy Vehicles under contract, lease or license with the Operator shall provide to the Town Board for review and approval, financial assurance to address any potential damage to Town Roads resulting from the use of such roads. Such financial assurance can include but is not limited to the following:
1. An agreement to rebuild the Town Roads used as truck routes within six months of the commencement of mining operations to standards appropriate to the weight of the vehicles used by the Operator, subject to prior review and approval of the Town Board, and subject to the provision of a fund for maintenance and replacement of the road at the end of its useful life.
  2. An irrevocable letter of credit or escrow deposit in an amount sufficient to rebuild and maintain the Town Roads used as truck routes.
  3. Other financial assurance measures agreed upon by the Town Board.
- (e) The Town may adjust the amount of financial assurance on an annual basis to ensure that the amount is adequate to rebuild and maintain the Town Roads.
- (f) If the Town Roads are being used by more than one Operator, the Operators may propose and the Town Board shall consider a joint agreement to satisfy the financial assurance obligations in this section.

#### (7) Control of Light and Noise

- (a) The Operator shall limit night lighting on nonmetallic mine site or processing facility, to that which is minimally necessary for security and worker safety and shall be shielded from illuminating off site areas. At a minimum such measures shall include the following:
1. The use of full cutoff shrouds on all lights.
  2. Portable lighting shall be used only as necessary to illuminate temporary work areas.
  3. The use of berms of sufficient height coupled with other methods of visual screening to block light from the mine or processing facility to neighboring properties.
  4. The design and location of access roads to minimize lights from traffic and operations to neighboring properties.
  5. There shall be no illumination of required buffer areas.

6. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky.

- (b) The Operator shall control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 60dB. The noise levels at the boundaries of any school or medical facility shall not exceed 50 dB. Decibels shall be based on dbA, which is the unit of sound level expressed in decibels (db) and A- weighted as described in ANSI § 1.4, 1983 and shall be measured in accordance with accepted protocols.
- (c) Noise levels shall be monitored at the nonmetallic mine site or processing facility property boundary by an independent testing company. The tests shall occur for a 10 day period at least once per quarter. The results shall be reported to the Town within 30 days of the last test result.
- (d) The use and regulation of compression release engine brakes, commonly known as jake-brakes is prohibited except for emergencies.

(8) Vibration and Blasting. The operations of the permitted nonmetallic mining site shall comply with all Wisconsin State Statutes and Wisconsin Administrative Code provisions pertaining to blasting activities. Upon request by the County, the operator shall submit the location of seismic sensors at and around the nonmetallic mining site, the reading from those sensors and the blasting logs to the County.

- (a) Structure Inspections. To ensure dwellings and structures are not damaged from blasting or vibration, the applicant or their designee shall comply with Wisconsin Administrative Code, Safety and Professional Services, Chapter 7, Explosives and Fireworks.
- (b) Complaint Log. The operator shall maintain a log of all complaints of damage and a description of the follow-up action taken by the operator. A copy of the complaint and the follow-up action shall be forwarded to the Town Board within 21 working days of receiving the complaint.

(9) Control of Air Pollution

- (a) State requirements. The Operator shall utilize all relevant dust control measures specified in Wis. Admin. Code § NR 415.075 and in any approved Fugitive Dust Control Plan.
- (b) High wind events. The Operator shall have an established protocol, approved by the Town Board, for additional dust control measures when the National Weather Service has issued a High Wind Warning for the area or the wind speed is

detected in the area by an approved monitor at the same level as a National Weather Service Wind Advisory. (A Wind Advisory is for winds greater than or equal to 30 mph lasting for one hour or longer, or winds greater than or equal to 45 mph for any duration.) The established protocol shall include the specific location of the anemometers that the Operator will rely upon to determine wind speed and a daily procedure to ensure wind speed is monitored and appropriate measures are implemented during high wind events.

(c) Air monitors.

1. The Operator shall install air monitors at all nonmetallic mining operations including the mine site and any processing facility in accordance with ambient air monitors required by DNR.
2. In addition to ambient monitoring required by the DNR, the Operator shall be required to monitor the ambient level of Total Suspended Particulates (TSP) as measured by the method described in Appendix B of 40 C.F.R. part 50 (2013) or a method approved in writing by the Town. The Operator may monitor for PM<sub>10</sub> as a surrogate for monitoring for TSP if approved in writing by the Town. If PM<sub>10</sub> is used as a surrogate, it shall be measured by the method described in Appendix L of 40 CFR part 50 (2013).
3. The type and number of TSP monitors needed, the location of the monitors, and frequency and duration of the monitoring program shall be determined by agreement of the Operator, the Town Board and its consultant, but all costs associated with monitoring shall be borne by the Operator. The monitoring shall be conducted for the life of the mine. Monitoring frequency may be revised if no active mining is occurring for 6 months or more.
4. The Operator shall submit all monitoring results to the Town Clerk on a monthly basis. Results for each month shall be postmarked or received by the Town Clerk no later than 10 days after the end of the month. The Town Board shall provide public access to all results. The Town Board may require additional or updated monitoring as part of licensing renewal if there have been complaints about dust and particulates from the mine site.
5. If the air monitors show an exceedance of 150 micrograms per cubic meter of TSP in any 24 hour period, the Operator shall evaluate and implement additional best management practices to minimize TSP. If there are repeated exceedances of these standards notwithstanding the implementation of best management practices, the Town may suspend or revoke the license.

6. If no ambient air monitoring plan is required by the DNR, the Operator shall submit an ambient air monitoring plan to the Town Clerk 60 days before beginning operations at the mine. The Town shall approve, modify or deny the plan within 60 days of the Operator's submission of the plan. If subject to this subsection, the Operator may not begin operations without an approved ambient air monitoring plan.

- (d) Other requirements. The Operator shall completely enclose any dry processing facilities and shall enclose to the extent practicable any loading or unloading facilities. The Operator shall cover all trucks hauling sand with secured tarps.

(10) Control of Waste Materials

The amount of waste material (non-marketable fines) returned to a mine site as part of the reclamation process shall not exceed the site specific ratio of waste to target material of the extracted raw material as determined prior to the processing of the raw material. A processing facility shall keep records of the tonnage of raw material drawn from each raw material source. The tonnage of waste byproduct that is returned to each mine reclamation site shall not exceed the tonnage of waste contained in the raw material received at the processing facility from that site.

(11) Standards Regarding Groundwater and Surface Water. The requirements in this subsection apply to any nonmetallic mining site and any processing facility involving a wash plant or other water intensive process.

(a) Impacts to Groundwater Quality

1. The nonmetallic mine site or processing facility shall have at least one sentinel well, and may be required to have additional wells at Town Board discretion, at the boundary of the nonmetallic mine site or processing facility that is down gradient of the groundwater flow. The Operator shall take quarterly samples from the sentinel well for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made during the first 2 years of operation and twice a year in subsequent years.

2. The mining company shall sample private wells within 2 miles of the nonmetallic mine site or processing facility down gradient of the groundwater flow every 2 years and private wells on the perimeter of other sides of the mine site every 3 years. Monitoring shall continue 3 years after the closure of the mine.

3. Monitoring at the sentinel well shall determine changes in the level of the groundwater table.
4. Prior to the onset of nonmetallic mining operations, the Operator shall sample all private wells within 2 miles of the property on which the nonmetallic mine site or processing facility is located. The wells shall be sampled for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.
5. Nonmetallic mining operations shall not cause an exceedance of groundwater quality standards in Wis. Admin. Code Chapter NR 140.
6. All samples shall be analyzed by an independent laboratory.
7. All wash plant settling ponds shall be lined with at least 5 feet of clay meeting the technical standards contained in Wis. Admin Code §NR 504.06(2) for clay liners.

(b) Impacts to Groundwater Quantity.

1. At least 60 days prior to commencement of nonmetallic mining operations, the Operator shall place sufficient test wells to verify the groundwater elevations on the nonmetallic mine site or processing facility. Test wells located in the down-gradient direction of groundwater flow shall be located so that they can serve as permanent sentinel monitoring wells during the course of operations.
2. Mining operations shall not extract materials at a depth below the point that is 10 feet above the maximum established groundwater table.
3. Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within 2 miles of the nonmetallic mine site or processing facility. A significant reduction includes a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis.

(c) Impacts to Surface Water Base Flow. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within 1/2 mile of the nonmetallic mine site or processing facility, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operation.

- (d) Impacts to Surface Water Use. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural, recreational or municipal functions such as fire protection within 2 miles of the nonmetallic mine site or processing facility. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operations.
- (e) The Operator shall undertake all measures necessary for the control of surface water runoff from nonmetallic mining operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under Wis. Admin. Code Chapters NR 216 and NR 151, as applicable.
- (f) In the event that the mine site contains areas adjacent to the nonmetallic mining operations that are being used for agricultural, commercial or residential purposes, the Operator shall undertake all measures necessary to control surface water runoff from those areas from entering mining operations or otherwise causing contamination of surface water and groundwater.

#### (12) Hazardous materials.

During mining operations, the operator shall select products that limit the potential for groundwater or surface water pollution, as may be identified on recognized product lists available from Wisconsin DNR, the U.S. EPA, or other agencies.

- (a) All hazardous chemicals and explosives shall be stored, used and disposed of in accordance with applicable state and federal law.
- (b) The operator shall not dispose of waste materials containing any hazardous chemicals upon the site or in any other way detrimental to the environment.
- (c) The operator shall publish a plan acceptable to the Chief of the local fire district having jurisdiction, and to the Wis. DNR, for responding to spills of any hazardous materials on the site. The operator will be responsible for costs incurred by such fire district in preparation for and in response to the management and containment of hazardous materials.

#### (13) Reclamation Standards

- (a) Reclamation must occur incrementally as sections are exhausted for mining purposes. Not more than 10 acres may be in excavated status at any one time. The remaining areas of the operation must be in either unclaimed or reclaimed status, with allowance for ingress and egress of vehicles and equipment.

- (b) If a mining operation is found to have been inactive for more than two years, or if the property being mined is found to have a lapse of lease for more than one year, complete reclamation of the site must commence within 30 days of notification by The Town (season permitting), and must be completed within one year.

(14) Additional Standards.

The Town Board may, at any time, impose requirements in addition to or exceeding the minimum standards if it has evidence that the public health, safety and welfare are not being or will not be adequately protected without the imposition of additional measures.

Section 1.08. Reporting, Annual Report and License Renewal

(1) On-going Reporting Requirements.

- (a) The Operator shall provide notice to the Town of any notices of violations, citations, or other enforcement actions taken by any other governmental authority against the mining operation. The Operator shall provide notice to the Town of such actions within 15 days after receiving such notice from the governmental authority.
- (b) All monitoring data, sampling results and any other test results required by this Ordinance shall be undertaken at the Operator's expense and provided to the Town Clerk. Unless otherwise specified in this Ordinance, all monitoring data sampling results and any other test results shall be provided to the Town Clerk within 10 days of receipt of the results by the Operator.

(2) Annual Report.

- (a) No later than October 1 of each calendar year, the Operator shall submit an annual report to the Town Board for all active and intermittent mining sites and processing facilities for which the Operator has a license in the Town of Ridgeville. The reporting period shall be from the date of the issuance of the first Operator's license to August 31, and thereafter from September 1 to August 31.
- (b) The annual report shall include the following information:
  - 1. An identification of the Operator and location of the nonmetallic mine site or processing facility.
  - 2. A map or drawing accurately showing the area of excavation, the unclaimed area and the reclaimed area including a calculation of the number of acres for each type.
  - 3. A description of activities, including product extraction and waste material production and operations on the nonmetallic mine site or

processing facility for the previous calendar year including the cubic yards each of material extracted, product processed, and waste material produced.

4. A description of activities and operations on the nonmetallic mine site, including product extraction and waste material production or processing facility anticipated for the following calendar year including the cubic yards each of material to be extracted, product to be processed, and waste material to be produced.

5. A written report demonstrating how the Operator has been in compliance with all terms and conditions of its license and this Ordinance. The report shall include all groundwater, surface water and other monitoring results, as well as a copy of all annual reports submitted to all other agencies.

6. A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.

### (3) License Renewal.

- (a) The Operator shall make written request to the Town Clerk for a renewal of the license to operate the mine no later than October 1 of the year in which the license will expire. The application shall be accompanied by the payment of a fee in an amount in accordance with the reimbursement provisions set forth in Section 1.05(3) (a).
- (b) The written request for renewal shall incorporate by reference the annual report from the previous calendar years in accordance with the provisions of sub. (2).
- (c) The Town Clerk shall review the renewal application within 60 days of receipt to determine whether the application is complete and upon a determination that it is complete shall forward it to the Town Board.
- (d) The Town Board shall review the application to determine if additional information or expertise is necessary to properly evaluate the application. The Town shall utilize a Retained Expert to inspect the nonmetallic mine site or processing facility unless the site is reported as being inactive during the past year, in which case a member of the Town Board may be assigned to inspect the site. If no additional information or expertise is deemed necessary, the Town Board shall schedule the application for a decision under par. (g).
- (e) If the Town Board determines that additional expertise is required, the Town Board shall authorize hiring a Retained Expert to advise the Town and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of additional review by the

Retained Expert and any administrative staff. The additional fee shall be paid before additional review is undertaken.

- (f) Once the applicant has submitted any additional information and has paid the fee in the amount charged, the Retained Expert shall report to the Town Board on whether the renewal application meets the requirements of this Ordinance. The Town Clerk shall place the request on the agenda of the next regular meeting or a special meeting of the Town Board prior to the expiration of the license.
- (g) The Town Board shall grant the request for renewal if it finds:
  - 1. There have been no material violations of the Ordinance or the license which have not been appropriately remedied, and
  - 2. The Operator has not received multiple or recurring citations or orders for violations of the Operator's license or this Ordinance.
  - 3. All applicable fees have been paid and financial responsibility requirements have been met.
- (h) If the Town Board denies the request for renewal, the Town Board shall notify the Operator and provide the Operator with an opportunity for a hearing under Section 1.09(3).

Section 1.09. Inspection, Enforcement, Procedures and Penalties

(1) Inspection.

- (a) In addition to an annual inspection pursuant to Section 1.08 (3), the Town Board or other authorized representative of the Town, may make inspections or undertake other investigations to determine the condition of a nonmetallic mine site or processing facility in the Town of Ridgeville in order to safeguard the health and safety of the public and determine compliance with the minimum standards under this Ordinance upon showing proper identification, and upon reasonable notice.
- (b) If, as a result of any inspections or investigations the Town Board determines that a Retained Expert should undertake any further inspections or investigations, the Town may hire a Retained Expert which expense shall be paid by the Operator. If the Operator fails to provide access or provide payment of the Town's expenses, the town may take enforcement action under sub (2).

(2) Violations. The following are violations under this Ordinance:

- (a) Engaging in nonmetallic mining without an Operator's license granted by the Town Board.

- (b) Failure to comply with the applicable minimum standards and other terms of this Ordinance.
- (c) Making an incorrect or false statement in the information and documentation submitted during the licensing process or during inspection of the operation by the Town or its duly appointed representative.
- (d) Failure to timely file the annual operational report under Section 1.08.
- (e) Failure to comply with any conditions of approving the application, or any agreements entered into as a condition of approving the application.
- (f) Failure to provide or maintain any financial assurance required as a condition of approving the application
- (g) Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance under Section 1.10 or other order issued by the Town.

(3) Hearings.

- (a) Any person affected by a notice and order issued in connection with the enforcement of this Ordinance under sub. (4), or upon denial of an application for a license or license renewal, may request and shall be granted a hearing on the matter before the Town Board, provided such person shall file with the Town Clerk, a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty days of the date the notice and order are served or upon 30 days upon denial of an application for a renewal. Upon receipt of the petition, the Town Clerk shall set a time and place for a hearing before the Town Board and shall give the petitioner written notice thereof.
- (b) After the hearing, the Town Board by a majority vote, shall sustain, modify or withdraw the notice under sub. (4), or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Ordinance have been complied with, and the petitioner shall be notified within ten days in writing of such findings.
- (c) The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore shall be summarized in writing and entered as a matter of public record in the office of the Town Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

(4) Remedies.

The Town Board may take any appropriate action or proceeding against any person in violation of this Ordinance, including the following:

- (a) Issue a stop work order.
- (b) Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
- (c) Refer the matter to legal counsel for consideration and commencement of legal action including the assessment of forfeitures under sub. (6) and injunctive relief.
- (d) Suspend or revoke the Operator's license under sub. (5) in the event there are repeated exceedances of the standards incorporated into an Operator's License.

(5) License Suspension or Revocation. After giving notice and a hearing, the Town Board may suspend or revoke an Operator's license for a violation under sub. (1).

(6) Penalties.

- (a) Any person or entity who is adjudicated for a violation shall pay a forfeiture of not less than \$500 per violation nor more than \$5,000 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation.
- (b) Any person or entity adjudicated for violation of this Ordinance shall pay court costs and reasonable attorney's fees. The remedies provided herein shall not be exclusive of other remedies.

(7) Non-Waiver. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present or future violation(s).

#### Section 1.10. Financial Assurance

(1) Financial assurance shall be provided to the Town as a condition of license approval in the amount necessary for the following:

- (a) Road repair. An amount necessary for the repair and maintenance of Town Roads used for truck traffic transporting materials to or from the nonmetallic mine site or processing facility in accordance with the provisions of Section 1.07.
- (b) Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations within 2 miles of the mine site or such other area shown to be impacted by the Operator's operations in accordance with the provisions of Section 1.07.

(2) The form of financial assurance made to the Town of Ridgeville shall be that form agreed to by the Town Board and may include escrow accounts, irrevocable letters of credit or other measures agreed upon by the Town Board.

(3) In the event the Town determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been utilized, the Town shall notify the Operator of the additional amount needed and the basis for the request. The Operator shall have 30 days to provide the increased amount.

(4) The Operator shall also provide to the Town proof that it has provided the financial assurance for reclamation required under Wisconsin law.

### Section 1.11 Damages to Private Water Supply

(1) A property owner who owns a well within 2 miles of the mine site may seek remedies for any of the following damages to private water supply:

(a) A maximum containment level, a preventative action limit, or enforcement standard is exceeded in a private water supply well on the owner's property.

(b) A substantial adverse effect on the quantity or quality of water from a private well on the owner's property occurs, including but not limited to the inability of any such well to provide water on a continuous basis.

(c) A lowering of surface waters which serve as a source of water for personal, agricultural or municipal functions on the owner's property to levels below base flow levels for more than 5 days.

(2) Any property owner under seeking a remedy under this Section shall simultaneously file a notice with the Town and the mine operator of the occurrence of the event, explaining the nature and extent of the problem.

(3) Within 24 hours of receipt of such notice, the Town may use funds provided under Section 1:10 to provide an adequate interim water supply. The Town shall also use funds under Section 1.10 to indemnify the Town for any claims filed under Wis. Stat. 281.77(4). An interim water supply shall continue until the Town has approved the report or plan under sub (4).

(4) Within 20 days of receipt of notice under sub (2), the mine operator shall provide to the property owner and to the Town a report that demonstrates that the impact to the property owner was not attributable to the mining operation or to present a plan for a permanent alternative water supply to be paid by the operator.

(5) The Town shall in consultation with the property owner review the report or plan and approve or deny such plan. If the Town determines that the mine operator was not the

cause of damage to the private water supply, the operator may elect to be reimbursed by the property owner for the costs of supplying water during a period not exceeding one year.

(6) A property owner who owns a well beyond 2 miles of the mine site may apply to the Town for use of funds under Sec 1:10 to remedy damages to a private water supply provided that the property owner can demonstrate to the Town that the damage to the private water supply was caused by the mine. If the Town determines that the damage was caused by the mine, the property owner can utilize the remedies in sub (1-5)

(7) Prior to commencing operations, the operator may test all wells within 2 miles of the site to determine water quality and flow levels. All testing must be done by a laboratory approved by the State of Wisconsin or an organization selected by the applicant and acceptable to the owner or resident and the Town. Reasonable and reasonably related costs of such independent testing shall be the sole responsibility of the applicant. Failure to test a well constitutes a waiver of the right to assert in any proceeding before the Town Board that the water from untested well was contaminated, unhealthy, or distasteful, or that flow rates were inadequate, prior to the commencement of operations. A landowner who does not permit the operator to test his or her well or wells has waived his or her right to receive funds or other assistance administered under this section.

#### Section 1.12 Property Value Guarantee.

The purpose of this section is to protect the defined property owners from loss in real estate value because the Town has issued a license under this ordinance.

(1) Prior to the initial issuance of a license under this ordinance, the assessed value and fair market value as of January 1 of the year of the issuance of the license of every quarter-quarter or smaller parcel of land, any part of which is one mile or less from any part of the mine site shall be determined and recorded.

#### (2) Determination of Fair Market Value.

An owner desiring to sell any such property shall notify the Town of that fact not later than the 20<sup>th</sup> anniversary of the initial grant of permit under this ordinance by the Town Board for the mine closest to that property.

- (a) The owner and licensee shall then agree on an appraiser who is licensed as a real estate appraiser in Wisconsin.
- (b) In the event licensee and the owner cannot agree on an appraiser, the owner shall select a bank or credit union in Monroe County, with whom the owner does not do business, to provide the name of an appraiser it regularly employs to do appraisals.

- (c) The appraiser selected pursuant to 2. or 3. above shall provide applicant and the owner with an appraisal of the fair market value of the property assuming the non-metallic mine did not exist.
- (d) The licensee shall pay for the appraisal.

(3) Sale of Property.

- (a) The owner shall then enter into a listing contract with a Wisconsin licensed real estate broker. The listing contract shall exclude licensee as a potential buyer so that if licensee purchases the property, no commission shall be due.
- (b) Before accepting any offer of less than the Fair Market Value, the owner shall give three business days notice by personal delivery of a copy of the offer to licensee's agent named in the license application. If the licensee objects in writing within two (2) business days of receipt of the offer, the owner shall not accept such offer.
- (c) If the owner sells the property for less than the Fair Market Value, licensee shall pay the owner the difference between the selling price and the Fair Market Value less the realtor's commission that would have been payable on that difference. The licensee shall make the payment within 30 days of the recording of the conveyance of the property.
- (d) If the property is not sold within 180 days of the date of the listing contract, licensee shall immediately purchase the property for the Fair Market Value less the realtor's commission that would have been paid if sold under the listing contract.

(4) Applicability

- (a) The Guaranty shall apply only once for any property identified in Sub (1).
- (b) Properties do not qualify for the Guaranty in the event the property owner wishes to sell or otherwise convey the property to a third party by a transaction which is not considered an arms length transaction (such as a sale or gift to a relative).

1.13 Severability, Interpretation, And Abrogation

(1) Severability.

- (a) Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction including all applicable appeals, the remainder of this Ordinance shall remain in full force and effect.

(b) If any application of this Ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order or a court of competent jurisdiction including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

(2) The provisions of this Ordinance shall be liberally construed in favor of the Town of Ridgeville and shall not be construed to be a limitation or a repeal of any other power now possessed or granted to the Town of Ridgeville.

(3) This Ordinance is not intended to repeal, annul or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date of this Ordinance.

Section 1.14. Effective Date

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

ADOPTED \_\_\_\_\_, 2017.  
TOWN OF

\_\_\_\_\_  
\_\_\_\_\_, Town Board Chairperson

\_\_\_\_\_  
\_\_\_\_\_, Supervisor

\_\_\_\_\_  
\_\_\_\_\_, Supervisor

Attested to as of \_\_\_\_\_ 2017.

\_\_\_\_\_  
\_\_\_\_\_, Town Clerk

**APPENDIX A**

**Nonmetallic Mine Operator's License Application**

## **Town of Ridgeville, Monroe County, Wisconsin**

Please submit the following information – use as many pages as necessary

Date of Application:

### (1) Ownership Information

- (a) Name of the business making application for a nonmetallic mining license.
- (b) Names, addresses, phone number(s), and e-mail addresses of the owner and chief executive officer of said business. Also include name, address, phone number(s), and e-mail address of the business's contact person for the proposed mining operation.
- (c) Name, address, phone number(s), and e-mail address of all owners or lessors of the land on which the mining operation will occur. Tax parcel numbers should be included. Include mineral rights owners if different from surface landowners.
- (d) If property within the proposed mining operation is subject to a lease, supply the name(s) of the property owner of all such leased properties and a copy of "Memorandum of Lease" as recorded in the Register of Deeds office for all such leased properties.
- (e) Legal description of land to be included in proposed mining operation.
- (f) Type of nonmetallic mine being proposed. List the products of the proposed mine as well as the expected uses of those products.
- (g) Dates of proposed commencement and cessation of the operation.
- (h) Provide proof of insurance. A copy of the insurance policy is to be included with application.

### (2) Site Information

- (a) Topographic map of the mine site extending 2 miles beyond the site boundaries, at contour intervals no wider than 10 feet, showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within 5 miles of the site, and any processing or trans-shipment facilities within the town.
- (b) Full color aerial photo of the proposed site at a scale of 1 inch equals not more than 660 feet.
- (c) Recorded certified survey map(s) of the property on which the nonmetallic mining operation will be located. Owners' names and parcel numbers are to be labeled.

- (d) Detailed, labeled map of the proposed mine site indicating the sequence of excavation, storage for overburden, location of stockpiles for product and waste materials, location of structures, haul roads, parking areas, etc.
- (e) Provide professional engineer's, or an equivalent expert in that field, statement describing the location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns, karst features and other water features on the site and within 2 miles of the site. The base flow of surface waters within 2 miles of the nonmetallic mine site or processing facility shall be determined at the time of application.
- (f) Include a professional engineer's, or an equivalent expert in that field, description of the distribution, depth and type of topsoil on the site as well as the geological composition and depth and width of the nonmetallic deposit.
- (g) Provide a map identifying the location of all other non-contiguous sites within the Town of Ridgeville and adjacent towns that will contribute any material to the facility for which the applicant seeks a license.
- (h) Describe baseline conditions at the site before mining operations commence, including the groundwater elevation across the site, groundwater quality at the site for turbidity, pH, microbiology, lead, arsenic and any other toxic metal or any other chemical that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made. Baseline information for surface waters within 2 miles of the site should also be established. The information collected for surface waters should include base flow rate, estimated groundwater recharge rates, turbidity, pH, microbiology, lead, arsenic and any other toxic metal or any other chemical that may reasonably be believed to be present.
- (i) A map on which all of the residential, agricultural and municipal wells within 2 miles of the boundaries of the site in all directions are marked and given a numerical identification of the location. This is required for those wells on file with the WISDNR.
- (j) List potential impact of the proposed mining operations on current land use practices (e.g. agricultural, forest management, recreational activities, etc.) within 2 miles of the site's borders.
- (k) Identify any state or federally listed threatened or endangered species that have been found onsite or within 2 miles of the proposed site's borders. Include when and where such species have been seen or found. (vs: A letter from the Wisconsin DNR concerning any threatened or endangered species at the mine site.)

### (3) Plan of Operation

- (a) List all required permits (federal, state, agency, county, local, etc.) and indicate if

those permits have been sought and/or acquired.

- (b) Total area, in acres, of the proposed mine site and of the area to be excavated.
- (c) Maximum depth in feet of the proposed excavation. Provide the depth of the excavation relative to the height of the water table underlying the proposed mine site. Benchmarks should be provided i.e. height in feet above sea level.
- (d) Estimated volume of material, expressed both in cubic yards and in tons, to be extracted for each of the first five years of operation and over the life of the mine.
- (e) Number of employees working on site as well as the number of off-site employees whose work is directly related to the mining operation. Provide the number of full and part time employees.
- (f) Provide a detailed description of the mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.
- (g) Describe the process by which the proposed site will be prepared for mining.
- (h) Describe how the site will be prepared for seasonal closings and how the site will be maintained during seasonal closings.
- (i) Locate all private, town, county and/or state road access points. Include which road(s) would be primary or secondary roads to be used for hauling product and waste materials as well as for uses related to the proposed mining operation.
- (j) Provide the estimated number of truckloads per day when the mine is in operation.
- (k) Types of trucks to be used for hauling and the maximum load per truck.
- (l) Provide days and hours of hauling if different from the days and hours of the mine's operation.
- (m) Provide details regarding the use of explosives in the preparation for or during mining operations. Describe precautions to be taken to prevent any potential dangers to on-site and off-site persons and property. Describe how the operator will compensate for any off-site damage or injury should it occur.
- (n) Include a water budget, including an estimate of the amount and schedule of daily water use, water sources, and methods for disposing of water including methods used for infiltration and control of run-off. Describe the sources of water to be used on site and in mining operation.
- (o) List of all chemicals and hazardous materials to be used in producing product and maintaining the site, together with the current Material Safety Data Sheet for each

chemical or compound, including fuel supplies that will be stored on the site and a description of measures to be used for securing and storing these materials.

- (p) Describe how erosion will be managed at the site and contiguous areas during the preparation for mining phase, operational phase and at the termination of operations.
- (q) Describe how the mine will be reclaimed both over time and at the end of its operation.
- (r) Describe the resulting topography, land cover and anticipated use of the property after the end of operations. What will be the disposition of the property at the end of mining operations?

#### (4) Compliance with Minimum Standards

The application must address how each of the Minimum Standards of Operations will be met during the preparation of the mine site, during mining operations, and/or at the completion of the mine's operational life. See Section 1.07 in the copy of the ordinance provided. Each standard must be addressed:

- (a) Buffer Areas
- (b) Landscape and Screening
- (c) Hours of Operation
- (d) Use of Town Roads
- (e) Control of Light and Noise
- (f) Vibration and Blasting
- (g) Control of Air Pollution
- (h) Control of Waste Materials
- (i) Impacts to Ground Water and Surface Water
- (j) Hazardous Material
- (k) Reclamation Standards

## **APPENDIX B**

**Certification of Best Management Practices for Existing Non Metallic Mines**  
**Town of Ridgeville, Monroe County, Wisconsin**

Date of Certification:

Name of Business:

Name, phone number, address and email address of owner of business, site manager, and owners of all leased properties if applicable:

Number of years in operation:

Amount of material extracted, in cubic yards, for each of the last two calendar years:

Include a copy of the reclamation plan filed with Monroe County.

Describe the management practices in the following areas and how they qualify as “Best Management Practices.” Use as many pages as necessary:

- (a) Noise & Light Control
- (b) Dust Control
- (c) Surface Water Runoff
- (d) Road Wear
- (e) Local Traffic Safety Hazards
- (f) Other Off-Site Impacts