

THE TOWN OF SUMNER
Nonmetallic Mining Ordinance
Ordinance No: 2012-05

SECTION 1.01 PREAMBLE

The purpose of this subchapter is to promote the health, safety, prosperity, aesthetics, and general welfare of the people and communities within the Town and set forth the rules and procedures for this municipality regarding nonmetallic mines within the Town. This ordinance is adopted pursuant to the Town's village and police powers under Wis. Stat. 60.10 (2)(c) & 61.34.

SECTION 1.02 INTENT

The general intent of this subchapter is to regulate the location, construction, installation, alteration, design operation and use of all nonmetallic mines so as to protect the health of residents and transients; secure safety from disease and pestilence; further the appropriate use and conservation of land and water resources; preserve and promote the administration and enforcement of this subchapter and provide penalties for its violations.

SECTION 1.03 INTERPRETATION

In their interpretation and application, the provisions of this subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

SECTION 1.04 DEFINITIONS

- 1) Metallic Mining or Mining means operation or activities for the commercial extraction from the earth of merchantable metallic minerals or the exploration or prospecting for such minerals and includes operations, processes or activities related to that extraction.
- 2) Nonmetallic mining and mining mean all of the following:
 - a. Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading, and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
 - b. Processes carried out at a nonmetallic mining site that is related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from that nonmetallic mining site or any other mine site. These processes include, but are not limited to, stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering. This is to include a nonmetallic facility site where no excavation or extraction of nonmetallic materials is expected.

SECTION 1.05 NONMETALLIC MINING

- 1) Nonmetallic mining in the Town shall be allowed only as provided for in this ordinance
- 2) The applicant shall apply for a Town permit for a nonmetallic mine prior to starting work on any mining structure or facility and prior to operating any nonmetallic mine in the Town. The application shall be submitted on a form provided to the applicant by the Town Clerk, a copy of which attached hereto as Appendix A.
- 3) The Town Board shall be the sole determining body of whether to issue the permit, after review and recommendation by the Town Plan Commission, and after a public hearing has been held by the Town Board, with notice given by US Mail to all adjoining landowners to the proposed nonmetallic mine. The Town Board shall grant the permit, either with or without conditions, if it is determined that the development and operation of the nonmetallic mine is in the best interests of the citizens of the Town, and will be consistent with the protection of public health, safety and general welfare.
- 4) The Town permit shall be void if the permit holder violates any conditions of the permit or any conditions of any required Federal, State or County permits.

SECTION 1.06 PROCEDURES

- 1) The applicant shall complete a Town of Sumner Nonmetallic Mining Permit Application (Appendix A) and pay the required application fee.
- 2) After receiving the application and application fee, the Town Clerk shall mail a copy of the application to all adjoining landowners to the proposed nonmetallic mining site with the date and time of the next Town Plan Commission meeting.
- 3) The Clerk shall then place the application of the agenda for the next Town Plan Commission meeting.
- 4) The Plan Commission shall review and consider the application and make a recommendation to the Town board.
 - a. As a part of its review, the Plan Commission may require a representative from the company seeking the permit to attend a Plan Commission meeting to answer questions.

After a decision has been rendered by the Plan Commission, the application shall be placed on the agenda of the Town board for a public hearing and decision.

- 5) At the public hearing held by the Town board, the Town board shall consider the recommendation of the Plan Commission and take public comment on the proposed mine. Before making a decision on the application, the Town board shall determine whether the application is complete, and whether the applicant has applied for or received any required Federal, State, or County permits for the proposed mine.

- 6) The Town Board shall grant the permit, either with or without conditions, if it is determined that the development and operation of the nonmetallic mine is in the best interests of the citizens of the Town, and will be consistent with the protection of public health, safety and general welfare.
- 7) The Town board may conditionally approve the permit and may attach conditions to protect public health and safety and promote the general welfare of the Town. Such conditions may include, but are not limited to:
 - a) Restrictive provisions and proof of financial security for reclamation
 - b) Restrictive provisions and proof of financial security for town road maintenance and repair
 - c) Restrictions on hours of operation
 - d) Restrictions on truck routes on town roads
 - e) Restrictions on truck and traffic volume into and out of the mine site
 - f) Restrictions to protect groundwater quantity and quality
 - g) Restrictions to safeguard public and private drinking and agricultural wells
 - h) Restrictions to control air emissions and dust from the mine and its operations
 - i) And any other restrictions deemed necessary and appropriate by the Town board to protect public health and safety and promote the general welfare of the Town and its citizens.
 - j) Are subject to renewal requirements. (Quarterly, annually or any other times as specified in the permit.)

SECTION 1.07 EFFECTIVE DATE

This ordinance shall take effect upon passage and publication.

SECTION 1.08 EXCEPTIONS FROM ORDINANCE

A nonmetallic mining permit is not required from the Town of Sumner for nonmetallic mines in existence prior to the effective date of this ordinance or for the activities listed in Wisconsin Admin Code NR 135.02 (3). However, if a pre-existing nonmetallic mine is expanded or requires a new, amended, or renewed nonmetallic mining reclamation permit from Barron County, after the effective date of this ordinance; the nonmetallic mine shall be subject to the permitting requirements of this ordinance.

SECTION 1.09 ENFORCEMENT AND PENALTIES

Any violation of this ordinance shall be punishable by a forfeiture of not less than \$100 nor more than \$2000 per day for every day in violation of this ordinance, plus the costs of prosecution for each and every violation. The Town's Attorney shall expeditiously prosecute all such violators. Each day of

violation shall constitute a separate offense. The town board or its designee may inspect the mine site at any time for purposes of monitoring or enforcement of this ordinance.

Dated this 29th Day of May 2012 draft presented to be posted 10 days prior to being presented to the board.

The Town of Sumner shall properly post or publish this ordinance as required under Wis. Stat. 60.80

Adopted this 12th day of June 2012.

Signatures for Town Board

Chairperson *Steve Palumbo*

Supervisor _____

Supervisor _____

Attest:
Town Clerk *Sandra Gonzalez*

Affidavit Of Publication

RECEIVED
JUN 28 2012

Legal Notice

STATE OF WISCONSIN
BARRON COUNTY ss

TOWN OF SUMNER

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JAMES F DORRANCE III, being first duly sworn

says: That he is the foreman of the printer of the **Rice Lake Chronotype**, which is a weekly newspaper of a general circulation, printed and published in the city of Rice Lake, in said county and state; that a notice of which the annexed is a printed copy taken from said paper, was printed and published in the full regular edition once in each week for 1 successive weeks

commencing and the first such publication being on the 20th day of June AD 2012

and ending the last publication being on the 20th day of June AD 2012

being 1 publication(s).

Subscribed and sworn to before me this

25th day of June AD 2012

ROBERT V. DORRANCE
Notary Public Barron County, Wis.
My Commission Expires Oct. 19, 2014
Barron County, WI

FEES:	# Columns 2
Standard Lines	
<u>153</u> , first insertion @ <u>1.1161</u> = \$ <u>170.76</u>	
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<u>0</u> , insertions @ <u>0.8769</u> = \$ <u> </u>	

Affidavit Fee.....	= \$	1.00
Postage/Handling Fee.....	= \$	2.00
Total	= \$	173.76