

CHAPTER 13

NON-METALLIC MINING

13.01 Non-metallic Mining. Non-metallic mining is an industrial land use pursuant to section 2.05 of this ordinance. **Non-metallic exploration as defined in this chapter is a permitted use as outlined with this chapter and pursuant to section 2.05.** Non-metallic mining of Construction Aggregates as defined in this chapter, may be permitted as a conditional use in the Exclusive Agriculture (EA), Exclusive Agriculture-2 (EA-2), Primary Agriculture (PA), Transitional Agriculture (TA), and Industrial (I) zoning districts. Non-metallic mining of Industrial Sand, as defined in this chapter, may be permitted as a conditional use in the Industrial (I) zoning district. In addition to taking into consideration the general criteria governing the granting of conditional use permits under Sec. 10.04, the County shall specifically analyze non-metallic mineral mining proposals in light of the County's interest in providing for the wise use of the natural resources of the county, aesthetic implications of the siting of such a mine at a given location and the impacts of such a mining operation on the general health, safety and welfare of the public, including the impact on the market value of the lands adjacent to or in the vicinity of the proposed operation. Each application shall be judged on its own merits. Subject only to the standards set forth in this section and in the zoning ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case. A mining site may be permitted for Industrial Sand or Construction Aggregate, or both. If a mining site is permitted for both, then two separate conditional use permits shall be obtained and shall be enforced separately.

- (1) Permit Application. The application for a conditional use permit shall include:
 - (a) A narrative description of the proposed operation, together with a time line for commencement and reclamation and the nature and degree of land disturbing activities.
 - (b) A listing of the types of equipment and machinery proposed to be utilized in the operation, together with both the types and locations of structures necessary for the operation.
 - (c) The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating the non-metallic mine. If required by the County, information on impacts on surrounding wells shall be generated and supplied for review.
 - (d) A topographic map of the site of proposed operations showing existing contours with minimum vertical contour interval of 10 feet or an alternative vertical contour interval approved by the County. The topographic map shall show the pre-existing vegetation, including but not limited to tree

cover, the locations of existing and proposed access highways or driveways and the depth of all pre-existing and proposed excavations.

- (e) County approved documents as specified within 13.02 (11) of this Ordinance.
- (f) The County reserves the right to request additional or further information or materials from the applicant beyond that submitted by him/her/it so as to enable the County to adequately analyze the proposed operation in light of the standards imposed in this section.
- (g) The appropriate permit fee.
- (h) A statement whether the permit application is for Industrial Sand mining or Construction Aggregate mining.
- (i) A lighting plan for the proposed site, including a pre-construction analysis to establish baseline night sky conditions, an assessment of future light impacts from the proposed non-metallic mining and related activities, and a photometric diagram showing lighting levels and locations of proposed fixtures.

(2) **Exploratory Permits**

- (a) All exploratory drilling located outside of a permitted mining area is required to obtain a permit which shall include:
 - 1. County Permit Application
 - 2. Appropriate Permit Fee
 - 3. Map with location of drilling marked
- (b) No public hearing is required for exploratory drilling, but approval of the permit must be obtained prior to drilling.
- (c) All drill holes must be reclaimed to the standards put forth in WI Adm. Code NR 812.26 and notice must be sent to the regulatory authority upon closing.

13.02 Standard Conditional Use Permit Requirements.

- (1) Hours of operation for non-metallic mining shall be limited based upon the defined activities of Extraction and Processing.

- (a) Extraction. Extraction shall be allowed Monday through Friday between 6:00 a.m. and 8:00 p.m. during Daylight Savings time and between 6:00 a.m. and 6:00 p.m. during Standard Time. Extraction shall be allowed Saturday between 7:00 a.m. and 3:00 p.m. No Extraction shall be allowed on Sundays or Holidays, as defined in section 13.05 of this ordinance.
 - (b) Processing. Processing may be allowed between Monday at 6:00 a.m. through Saturday at 3:00 p.m. No Processing shall be allowed between Saturday at 3:00 p.m. and Monday at 6:00 a.m. No Processing shall be allowed on Holidays, as defined in section 13.05 of this ordinance.
 - (c) Emergency Extraction. If a non-metallic mine operator conducts non-metallic mining Extraction outside of the stated hours of operation due to an emergency and at the request of the Governor of the State of Wisconsin, Sheriff of Trempealeau County, Emergency Management Director of Trempealeau County, Zoning Administrator of Trempealeau County, Highway Commissioner for Trempealeau County, or any Chairperson of a Town in Trempealeau County on behalf of their respective Town, then such operator shall give notice to the Zoning Administrator within 48 hours of the emergency Extraction. If the Zoning Administrator is unable to verify the emergency requiring the Extraction outside of the stated hours of operation, the operator shall be deemed to have violated the conditional use permit. If after a second occurrence when the Zoning Administrator is unable to verify the emergency, then the conditional use permit may be revoked by the Zoning Administrator.
- (2) Noise. Audible noise emitted during any Non-metallic Mining is limited to the standards set forth in this provision:
- (a) Processing During Extraction Hours. Noise due to Processing during Extraction hours of operation is not limited by this ordinance.
 - (b) Processing During Non-Extraction Hours. Noise due to Processing during Non-Extraction hours of operation shall not exceed forty-five (45) decibels (dB) measured at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, unless the owner/operator of the non-metallic mine obtains a written waiver from the affected property owner(s). Affected Property Owner(s) shall be defined as the fee owner(s) of real estate where noise at such building or structure is measured exceeding 45 dB and the non-metallic mine Processing contributes to the measured noise.
 - (c) Phase-One Noise Survey. If the owner/operator of a non-metallic mine, or applicant thereof, desires to conduct Processing at the non-metallic mining site during Non-Extraction hours of operation, then a phase-one noise survey shall be conducted. Processing during Non-Extraction hours shall

not commence until a phase-one noise survey is complete and the survey indicates that the proposed Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.

1. Phase-one noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of a non-metallic mine, or applicant thereof.
2. A phase-one noise survey shall duplicate the level of noise that will be produced by the Processing during Non-Extraction hours of operation. While the duplicated Processing noise is being produced, the phase-one noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the duplicated Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-one noise survey shall also determine whether duplicated Processing noise contributes to the measured noise levels at any such buildings or structures.
3. The purpose of the phase-one noise survey is to identify any potential Affected Property Owner(s), and to afford the owner/operator of a non-metallic mine, or applicant thereof, the opportunity to mitigate the measured noise levels to achieve compliance with the noise limitations in section (2)(b) above.

(d) Phase-Two Noise Survey. Within 24-hours after commencement of actual Processing during Non-Extraction hours of operation, a phase-two noise survey shall be completed. Processing during Non-Extraction hours shall not continue until a phase-two noise survey is complete and the survey indicates that the actual Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.

1. Phase-two noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of the non-metallic mine.
2. The phase-two noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the actual Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-two noise survey shall also

determine whether the actual Processing noise contributes to the measured noise levels at any such buildings or structures.

3. The purpose of the phase-two noise survey is to measure the actual Processing noise and to determine whether the actual Processing noise exceeds the limits in section (2)(b) above. The phase-two noise survey shall identify any Affected Property Owner(s).
- (e) **Waivers.** The owner/operator of the non-metallic mine may obtain a waiver from an Affected Property Owner(s). Such waiver shall be in writing and shall be signed by all fee owners of the affected real estate, and shall be recorded in the Trempealeau County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the noise limitations imposed by this ordinance and that consent is granted to allow noise levels to exceed the maximum noise limits in section (2)(b) above.
 - (f) **Noise Complaints.** Any complaint of excessive noise due to Processing during Non-Extraction hours shall be made in writing and shall state the name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the owner/operator of the non-metallic mine. Within 72-hours of the owner/operator of the non-metallic mine receiving the noise complaint, the owner/operator of the non-metallic mine shall install a decibel meter at the building or structure on the property of the complaining party at the sole expense of the owner/operator of the non-metallic mine.
 1. If the measured noise at the building or structure of the complaining party exceeds the limits stated in section (2)(b) above, then all Processing during Non-Extraction hours of operation shall immediately cease. The owner/operator shall conduct a phase-one and phase-two noise survey prior re-commencing any Processing during Non-Extraction hours of operation.
 2. If the measured noise does not exceed the limits stated in section (2)(b) above, then the installed meter shall continue to measure and record noise levels for a period of forty-five (45) days. If after forty-five (45) days no noise violations occur, the meter may be removed.
 - (g) **Extraction.** Noise due to Extraction is not limited by this section, but may be regulated through the conditions of the conditional use permit.
- (3) Notification must be provided to the County as to the specific non-metallic mining site location of equipment used to crush or separate non-metallic mining products. Notification of the re-location of crushing or separation equipment from one non-

- metallic mining site to another must be provided to the Zoning Administrator within twenty-four hours of the re-location of such equipment.
- (4) Notification must be provided to the Zoning Administrator and adjacent neighbors at least 24 hours prior to any blasting.
 - (5) Public roadways must be scraped clean of materials at the end of the working day where non-metallic mining equipment leaves a non-metallic mining site and enters a public road.
 - (6) Non-metallic mining operations must at all times remain at least 10 feet above the water table level, unless an alternative level proposed by the applicant and established by water table elevation monitoring is approved by the County. The County may require monitoring wells to establish the groundwater level prior to the commencement of non-metallic mining operations on a site. Non-metallic mining within 10 feet of the water table level or within the water table may be permitted provided the applicant receives a favorable letter from the Town Board regarding the mining proposal and receives the approval of the County. In addition the applicant must demonstrate **with substantial evidence** that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area.
 - (7) All wells within 1 mile of the mine boundary shall be tested prior to any mine activity and annually thereafter. The well test shall at a minimum test for Coliform Bacteria, Total Hardness, Alkalinity, Conductivity, pH, Saturation Index, Nitrogen-Nitrate, Chloride, Arsenic, Calcium, Copper, Iron, Lead, Magnesium, Potassium, Sodium, Sulfate, and Zinc, and the test result shall also include the depth of water in the well on the day the test is performed. The initial and annual test results shall be submitted to the Department of Land Management and shall be kept on file.
 - (8) All structures, buildings and wells within 1 mile of the mine boundary shall be inspected and documented by a qualified inspector (includes licensed building inspector and engineer) for type, quality and existing overall condition of foundations and structures. The inspection reports shall be submitted to the Department of Land Management prior to any mine activity and shall be kept on file.
 - (9) For all Construction Aggregate non-metallic mines, a 50-foot setback from the mining site boundary shall be maintained where no mining activity shall be allowed. In the event two adjoining property owners are permitted for Construction Aggregate non-metallic mining activity, the Zoning Administrator may review the mining and reclamation plans of the two sites and may authorize a setback less than 50-feet. In addition, a Construction Aggregate non-metallic mining boundary shall be setback at least 250 feet from any building or structure used for human habitation or for the housing of farm animals and from any potable water source, unless such

setback is waived, in writing, by the fee owner(s) of the applicable building/structure or potable water source.

- (10) For all Industrial Sand non-metallic mines, a 100-foot setback from the mining site boundary shall be maintained where no mining activity shall be allowed. In the event two adjoining property owners are permitted for Industrial Sand non-metallic mining activity, the Zoning Administrator may review the mining and reclamation plans of the two sites and may authorize a setback less than 100-feet. In addition, an Industrial Sand non-metallic mining boundary shall be setback at least 500 feet from any building or structure used for human habitation or for the housing of farm animals and from any potable water source, unless such setback is waived, in writing, by the fee owner(s) of the applicable building/structure or potable water source.
- (11) Non-metallic mining sites of less than one acre must attach County approved erosion control and non-metallic mining reclamation plans to a non-metallic mining Conditional Use Permit application. The reclamation plan shall meet the requirements as set forth in Section 13.04 of this Ordinance. Non-metallic mining sites of one acre or greater must attach a County approved erosion control plan, storm water management plan and a non-metallic mining reclamation permit issued through Chapter 20 of the County Comprehensive Zoning Ordinance. **All DNR permits including, but not limited to storm water discharge permits, air pollution control, wetland or floodplain fill must be obtained prior to permitting or by the end of the preliminary approved period. Any violation of a non-metallic mining sites' DNR permits will constitute a violation of this ordinance and will therefore, be enforced by the Zoning Administrator in addition to any possible enforcement by WDNR.**
- (12) Verification that the applicant has requested that a Cultural Resource Site Review be performed by the Department of Natural Resources and that the site review has been completed. A copy of the site review report must be provided the County prior to the issuance of a Conditional Use Permit.
- (13) The County upon its review of the conditional use permit application may require screening from adjacent public highways and adjacent non-compatible land uses. Existing vegetation shall be taken into consideration provided it is of sufficient height and density.
- (14) If a mine site will utilize a haul route on a county or town road, the permit shall have a condition that requires a road use agreement between the permit holder and the county/town, unless the county/town waives a road agreement.
- (15) **All mining and reclamation activities must follow the operation and timeline of commencement that were approved with the conditional use permit for non-metallic mining.**

13.03 Term of Conditional Use Permit. Subject only to reclamation activities which may take place after the end of a permit term with the permission of the County, a conditional use permit for non-metallic mining operation shall be established by the County based on the information submitted by the applicant. Applicants may apply for extensions of a non-metallic mining permit for a period not to exceed an additional two (2) years at a time. Upon the filing of a request for an extension of a permit the County shall review the conformity of the applicant's operations/reclamation activities to date with the conditional use permit in effect, together with the current degree of compatibility of the non-metallic mining operation with surrounding land uses for the purpose of determining to what extent that further or additional permit conditions should be imposed in accord with this section and the ordinance in general. There shall be no limitation upon the number of permit extensions which may be applied for subject only to the right of the County to deny extensions on a case by case basis.

- (1) Non-metallic mining operations shall be inspected as needed, but at a minimum annually, by the Zoning Administrator to ensure compliance with the requirements of the conditional use permit. An inspection fee is required to be paid by the owner or operator. To determine the amount of the inspection fee, refer to 13.06 of this Ordinance.
- (2) Permit Modifications. In the event that during the life of a permit the operator seeks to have permit conditions modified or, in the event that the County recommends further or additional permit conditions as being required to meet with concerns of the County under this section or under the ordinance in general, upon request of either the operator or the Zoning Administrator the County shall hold a public hearing in the matter of altering the original permit conditions for the remaining life of the permit. Upon the basis of the public hearing and information received and reviewed, the County shall have the discretion to either impose additional and further permit conditions, to remove permit conditions or to allow the original permit conditions to stand. **All requests for permit modifications or changes to permit conditions shall be based on substantial evidence.**
- (3) Factors to be Considered for Conditional Use Permits.
 - (a) When considering an application for a non-metallic mineral mine permit, the County shall consider, among other factors, the following: the effect or impact of the proposed operation upon; (1) public infrastructure, including but not limited to streets and highways, schools, established bicycle routes/loops, and other public facilities; (2) present and proposed uses of land in the vicinity of the proposed operation; (3) surface water drainage, water quality and supply; (4) soil erosion; (5) aesthetics, including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness; (6) the market value of lands in the vicinity of the proposed operation; (7) the physical practicality of

reclamation of the site after the operation has been concluded; and (8) the public interest from the standpoints of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and the operation of heavy machinery and equipment.

- (b) **Other important factors to consider for a conditional use permit for non-metallic mineral mining are**, that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of non-metallic mineral deposits; proximity of site to transportation facilities and to markets; and the ability of the operator to avoid harm to the public health, safety and welfare and to the legitimate interests of properties in the vicinity of the proposed operation.
- (4) **The County reserves the right to impose additional site specific requirements and conditions upon an applicant. Any requirement or condition must be based on substantial evidence and follow the purpose of this ordinance. If all requirements and conditions are agreed to be met by the applicant, the permit will be preliminarily approved. The County reserves the right to deny an application for conditional use permit to engage in non-metallic mining if there is substantial evidence that any requirements of this section, zoning code, or site specific conditions are not able to be met. In the event that the County decides to deny a permit application it shall do so only in writing, setting forth the reasons and evidence for such denial.**
- (5) **Lapsing of Permits: Conditions Causing and Effect Of.**
 - (a) The County may preliminarily approve a conditional use permit if the County requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependent upon the satisfaction of all identified preliminary conditions.
 - (1) The applicant shall be allowed twelve (12) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions. **No mining will commence until all preliminary conditions have been met.** The preliminarily approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twelve (12) month period.
 - (2) The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time in the discretion of the County. In order to seek such an extension, the applicant must submit a written

request to the Department of Land Management prior to the expiration of the 12-month period.

- (b) After a conditional use permit has been issued and if no activity has taken place at an Industrial Sand mining site, or rail load out facility under the permit whatsoever or, alternatively, where activity was originally commenced but then has been terminated and such condition of non-activity, exclusive of required, ongoing reclamation under such a permit, has continued for a period of twelve (12) months in succession, the permit shall lapse as a matter of law and no further or other activities in operating the site other than reclamation will be allowed. Conditional use permits for Construction Aggregate mining sites shall not lapse regardless of whether activity is taking place or not. The County shall identify at the time of permitting whether a site is Industrial Sand or Construction Aggregate.
- (1) The Zoning Administrator shall determine whether activity or non-activity has taken place at a mining site. **The Zoning Administrator shall consider whether progress is being made at a mining site to produce a finished product intended to leave the site in determining whether a mining site is active. All activity shall follow the operation plan and timeline of commencement that were approved by the county at the time of permitting. All modifications to the conditional use permit for non-metallic mining must be approved as specified in section 13.03(2). If requested, the permit holder will supply substantial evidence to the County that activity has taken place at the mining site.**
- (2) The legislative purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product, and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mine sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate.
- (c) In order to seek to engage in further operations pertaining to a non-metallic mineral mine whose permit has lapsed, it shall be required that the applicant file a new application for operation as if no permit had been granted in the first place and such permit application shall be processed in accord with all of the requirements of this action.

- (d) Upon the lapsing of a permit under this section the Zoning Administrator shall immediately inform the permit holder of the lapsing of the permit and notify of their obligation to engage in reclamation activities to the extent that they are required under and in order to fulfill the requirements of the original permit.
 - (e) Should a permit holder wish to contest the conclusion of the Zoning Administrator that no activity on site has taken place during the 12 month period immediately preceding notice to that effect, the holder may request a public hearing before the County to present evidence of activity at the site. At such hearing the burden shall be upon the permit holder to establish to the satisfaction of the County **and the stipulations of this ordinance** that activity did take place within that 12 month period of time other than site restoration or reclamation efforts. **All activity shall follow the operation plan and timeline of commencement that were approved by the county at the time of permitting.** The permit holder shall be responsible for all costs associated therewith. In the event the County shall conclude that the Zoning Administrator was in error, it shall continue the permit for the period of time remaining under the original permit commencing with the date of notice of its decision.
- (6) **Impact of Lapsed or Expired Permits Upon Application for New Permit.** No permit holder shall have a right to a new permit based upon their faithful performance under a lapsed or expired permit. In the event that a permitted operation has been completed and the site reclaimed in accord with the original permit or if it has been terminated due to a cessation of operations and the lapsing of the permit, future applications for operation of a non-metallic mineral mine at the same site shall be required to comply with and shall be subject to all of the terms and conditions of this section. With respect to future permit applications, the County may, however, take into consideration the nature and degree of cooperation and compliance of the permit holder with a previous conditional use permit for such activity on the site in question and may take such information into account in the process of either granting or refusing to grant a permit and in establishing permit conditions.
- (7) **Effect of Owner/Operator transfer on conditional use permit.** A conditional use permit issued under this chapter shall be transferable to a new owner or operator upon compliance with the terms and conditions of the existing conditional use permit. **All new owners or operators must meet with the Zoning Administrator to review the terms and conditions of the existing conditional use permit.**

13.04 Reclamation Plans. For non-metallic mining sites of less than one acre, the reclamation requirements as specified in 13.04 (2) and (3) shall apply. For sites of one acre or greater or in the event that a non-metallic mining site permitted under the reclamation requirements of this Ordinance expands to one acre or greater, the owner/operator of the non-metallic mining site must comply with the non-metallic mining reclamation requirements of Chapter 20 of the County Comprehensive Zoning Ordinance.

- (1) Goals or Purposes of Reclamation. In deciding upon the appropriateness of a reclamation plan for sites under one acre the County shall at a minimum, base its determination upon the following goals or purposes. It shall be the intent of the County that upon reclamation the site shall be restored as closely as possible to its physical condition immediately prior to the commencement of construction and operation of the non-metallic mineral mine but for the removal of the non-metallic minerals. To this extent topsoil and overburden shall be stockpiled for use in restoring the site, all buildings and structures erected and used in the course of the operations and reclamation shall be destroyed, access driveways or roads shall be removed and through means of appropriate soil conservation and vegetation practices erosion shall be prevented and the site shall be restored to a vegetative state which is consistent with sound land management practices. The County may approve alternative final designs that enhance property values and/or natural habitat through wetland development and/or surface water creation.

- (2) Required reclamation plan contents for all non-metallic mining operations are as follows:
 - (a) Two (2) copies of a map of the site described in the original application showing the final, proposed contours of all restored excavations including but not limited to final slope angles and measures to be taken to stabilize all slopes.
 - (b) A description of the methods used during the course of operations and reclamation for topsoil stripping, stabilization and conservation and the process proposed to be utilized for its replacement during site restoration efforts.
 - (c) Two (2) copies of a plan and description of proposed revegetation and anticipated future land use of the site.
 - (d) A description of the proposed means of destruction of or other disposition of surface structures and related facilities and restoration of access roads after mining operations have ceased.
 - (e) The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned. Include in the estimate the number of man-hours and equipment hours needed for the reclamation.
 - (f) A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
 - (g) An estimated timetable of the commencement, duration, and cessation of reclamation activities.

- (h) The County may require additional or further information, data or materials so as to enable it to adequately analyze the proposed operation in light of the standards imposed in this section.
- (3) Minimum reclamation standards for sites under one acre are as follows:
- (a) Slopes. Final reclaimed slopes may not be steeper than a 3:1 horizontal to vertical incline. The County may approve final slopes steeper than 3:1 horizontal to vertical ratio, such as existing stable slopes or rock faces that do not require final grading and seeding, if the applicant demonstrates to the County's satisfaction that the proposed final slope is not a safety or environmental hazard.
 - (b) Groundwater. Upon completion of reclamation of the site it must be established to the satisfaction of the County that the finished grade is at least ten (10) feet above the water table level. This condition may be waived by the County if the applicant demonstrates to County satisfaction that a finished grade which is closer to or below the water table level will not adversely impact upon the quality of the groundwater.
 - (c) Topsoil storage and reapplication.
 - 1. All topsoil on a nonmetallic mining site shall be saved for future application, unless it can be proven that it is not all needed for reclamation.
 - 2. Topsoil shall be reapplied to the slopes as uniformly as possible. Sites which lack stored topsoil in amounts sufficient to restore all disturbed areas shall have the topsoil preferentially applied to the sloped areas; nonetheless, the County reserves the option to require that alternative means of surface restoration be engaged in if topsoil reserves are insufficient.
 - (d) Seeding/re-vegetation/stabilization.
 - 1. Seeding shall be done in accord with a specific Natural Resource Conservation Service Critical Area Plan or the most recent edition of the "State of Wisconsin, Department of Transportation Standard Specification for Road and Bridge Construction", standards at Sec. 630, entitled "Seeding", whichever is determined to be more appropriate for the site in question by the County.
 - 2. Alternative seeding mixtures shall be considered by the County on a case by case basis. Evidence must be provided showing that the proposed mix will be sufficient to deter erosion on the site.
 - 3. Planting of woody vegetation may be accepted in combination with other stabilization techniques if approved by the County.

4. Drainage ways, ditches or other highly erodible areas shall be protected by sod or riprap as approved by the County.

13.05 Definitions. The following definitions shall apply in the interpretation of an application of this chapter.

- (1) “Activity” shall include, but is not limited to: Blasting, Construction, Crushing, Drying, Extraction, Hauling (truck/rail load out), Washing, Screening, Stripping, Non-metallic Mining, Operation, and Processing, as defined in this section. With the ultimate goal of selling and/or removing non-metallic minerals from a given mining site to produce a finished product.
- (2) “Applicant” shall mean the person, corporation, partnership or other legal entity which makes application for a conditional use permit under this section.
- (3) “Blasting” is the act of using a set charge of dynamite or other explosive at one firing to free up, loosen, or dislodge a desired product at the permitted mine site.
- (4) “Construction” shall mean the process involved in preparing a site for non-metallic mineral extraction activities, including but not limited to the stripping of topsoil and overburden, the destruction of tree cover and other vegetation, the building of access roads and the construction of accessory structures and buildings to be used in the course of mining activities.
- (5) “County” shall mean the standing committee of the County Board of Supervisors that is assigned the responsibility for the implementation of the County Non-metallic Mining Ordinance.
- (6) “Crushing” is the act of breaking down, squeezing, pressing and pounding an object or material so that the action destroys or deforms the object into a usable or desired form.
- (7) “Drying” is the action to remove moisture from the intended marketable material.
- (8) "Exploration" shall mean the on-site geological examination from the surface of an area by core, rotary, percussion or other drilling, where the diameter of the hole does not exceed eighteen inches (18"), for the purpose of searching for nonmetallic minerals or establishing the nature of known mineral deposits, and includes associated activities such as clearing and preparing sites or constructing roads for drilling.
- (9) “Extraction” shall mean obtaining the raw material from the permitted site following the permitted conditions. This also includes the acts of “Blasting”, “Stripping,” “Hauling,” and “Construction.”

- (10) “Hauling” is the action of carting or transporting of any material on public roadways, either raw or processed, from the original location of the raw or processed material to another location not on the permitted grounds.
- (11) “Holiday” shall mean those legal holidays recognized by the State of Wisconsin on which no work is performed by employees of the State. These shall include; New Year’s Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Year’s Eve Day.
- (12) “Non-Metallic Mineral-Mining” or “Non Metallic Mining” shall mean all or any part of the process involved in the mining of non-metallic minerals including but not limited to the commercial extraction, agglomeration, beneficiation, removal of overburden and the production of refuse. It does not mean exploration, prospecting, or mining of non-metallic minerals for a property-owner’s sole use on the property-owner’s property.
- (a) “Industrial Sand” is a high purity silica sand or silicon dioxide (SiO_2). It is nearly pure quartz, very well rounded, of uniform particle shape and size, having a high compressive strength, and meeting size gradation standards for its various uses. Industrial sand is sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, moldings, abrasives, and otherwise preparing sand for uses other than construction. It is most commonly used by the oil and gas industry as a proppant for the hydraulic fracturing of shale for the exploration, drilling, production, and recovery of oil and gas (i.e. “frac sand”). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System), and as 1446 Industrial Sand, and 1481 Nonmetallic Mineral Services except fuels, according to the SIC (Standard Industrial Classification) System.
- (b) “Construction Aggregate” is sand gravel, or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes. Construction aggregate is sold for any of the following uses: asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorate stone, retaining walls, revetment stone, and other similar uses. It is also used in agriculture for fertilizers, aglime, and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting. It is historically viewed as for agricultural use on the farm and to construct the infrastructure needed to transport supplies to the farm and products from the farm to various markets. This aggregate is classified as 212321 Construction Sand and Gravel Mining according to the NAICS (North American Industry Classification System), and as 1422 Crushed and Broken Limestone, 1429 Crushed and Broken

Stone not elsewhere classified, and 1442 Construction Sand and Gravel, according to the SIC (Standard Industrial Classification) System.

- (13) “Operation” shall mean the conducting of all activities associated with the mining of non-metallic minerals from the site, their removal from the ground and their processing on site.
- (14) “Operator” shall mean a person or corporation, its subsidiaries and parent corporations which have been granted a permit under this Section for mineral exploration, or mining.
- (15) "Parent corporation" shall mean a duly incorporated for profit or nonprofit corporation which is engaged in the business of mining but shall not include a corporation five percent (5%) or more of whose outstanding common stock is owned by another corporation.
- (16) “Permit Holder” shall mean that person to whom a permit has been issued under this section.
- (17) “Processing” shall mean to convert raw material into a marketable form, on site, by a special process that includes the actions of “crushing”, “washing”, “screening”, “drying” and “rail-load out”. Processing shall also include moving material by way of conveyor system or other forms of transportation, but shall not include moving material on public roadways.
- (18) “Rail-load out” means to load the marketable material at a rail site and transport the material to the necessary location by train.
- (19) “Reclamation” shall mean the restoration efforts required to be engaged to restore the Site pursuant to Wisconsin Statutes Chapter 295, Wisconsin Administrative Code NR 135, Trempealeau County Comprehensive Zoning Ordinance Chapter 20, a reclamation permit, and/or any approved reclamation plan.
- (20) “Screening” is sorting or sizing of material into a marketable product size.
- (21) “Site” shall mean the entire legally described location of a non-metallic mining operation including but not limited to the actual sites of land disturbing activities, non-metallic mineral extraction, storage, access roadways and associated structures, buildings and other facilities.
- (22) “Stripping” is to take away or remove soil, rock, or other overburden materials from nonmetallic minerals and use that material in the reclamation process, where applicable.
- (23) “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions

an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

- (24) “Washing” is the action that involves water or some other liquid for the purpose of cleansing by removing impurities or undesirables from the intended product.
- (25) “Water table” shall mean the upper surface of the unconfined saturated zone where the pore pressure is equal to the atmospheric pressure. It is measured by installing wells extending a few feet into the zone of saturation and then measuring the water level in those wells.
- (26) “Zoning Administrator” shall mean the person(s) designated by the County to administer the County Zoning Ordinances.

13.06 Fees. Permit fees which apply to this chapter are established annually by Trempealeau County and are listed in the Trempealeau County fee schedule. Copies of the current fee schedule shall be kept on file at the Trempealeau County Department of Land Management.