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**Chapter 30 ENVIRONMENT\***

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**\*Cross references:** Buildings and building regulations, ch. 10; county forest lands, ch. 16; floodplain zoning, ch. 32; health, ch. 34; land division, ch. 38; parks, ch. 50; shoreland zoning, ch. 54; waste treatment and disposal and sanitation, ch. 62; zoning, ch. 70.

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On March 13, 2012, the County Board adopted ordinance revisions to codify Resolution No. 39-11, which restructured the County Board committees, boards, and commissions in anticipation of the downsizing of the County Board from 29 to 15 supervisors. Not all ordinance subsections were revised, but those subsections that had material changes will be specifically designated at the end of those subsections.

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**ARTICLE I. IN GENERAL**

Secs. 30-1--30-30. Reserved.

## **ARTICLE II. NONMETALLIC MINING RECLAMATION**

### **DIVISION 1. GENERALLY**

#### **Sec. 30-31. Purpose.**

The purpose of this article is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the county after the effective date of the ordinance from which this article is derived, in compliance with Wis. Admin. Code ch. NR 135 and Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.).

(Ord. No. 07-01, § 2, 07-10-2001; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-32. Statutory authority.**

This article is adopted under authority of Wis. Stats. §§ 295.13(1), 59.51, and Wis. Admin. Code ch. NR 135.

(Ord. No. 04-07, 07-10-2007, Ord. 9-10, 9-14-2010; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-33. Restrictions adopted under other authority.**

The purpose of this article is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Wis. Stats. § 295.12(1)(a) and contained in Wis. Admin. Code ch. NR 135. It is not intended that this article repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other state law.

(Ord. No. 07-01, § 4, 07-10-2001; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-34. Interpretation.**

In their interpretation and application, the provisions of this article shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by statute outside the reclamation requirements for nonmetallic mining sites required by Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.) and Wis. Admin. Code ch. NR 135. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by statute, or by a standard in Wis. Admin. Code ch. NR 135, and where the provision is unclear, the provision shall be interpreted to be consistent with the statute and the provisions of Wis. Admin. Code ch. NR 135.

(Ord. No. 07-01, § 5, 07-10-2001; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-35. Applicability.**

- (a) *Overall applicability.* The requirements of this article apply to all operators of nonmetallic mining sites within the county operating on or commencing to operate after August 1, 2001 and as provided in Wis. Admin. Code §§ NR 135.02(1) and 135.02(2) except where exempted in subsection (b) of this section and except for nonmetallic mining sites located in a city, village or town within the county that has adopted an ordinance pursuant to Wis. Stats. § 295.14 and Wis. Admin. Code § NR 135.32(2).

- (b) *Exemptions.* This article does not apply to the exempt activities listed in Wis. Admin. Code § NR 135.02(3).

(Ord. No. 07-01, § 07, 7-10-2001; Ord. No. 04-24, 03-12-2024)

**Sec. 30-36. Administration.**

The provisions of this article shall be administered by the Chippewa County Department of Land Conservation and Forest Management.

Note: The regulatory authority shall coordinate its efforts with those of the county Planning and Zoning Department in circumstances where a site or operation is subject to a conditional use permit under chapters 54 and 70, or other ordinance administered by the county Planning & Zoning Department.

(Ord. No. 09-10, 09-14-2010; Ord. No. 04-24, 03-12-2024)

**Sec. 30-37. Effective date.**

The provisions of this article shall take effect on August 1, 2001.

(Ord. No. 07-01, § 9, 07-10-2001)

**Sec. 30-38. Definitions.**

All definitions for the purposes of this article are those contained in Wis. Admin. Code § NR 135.03, as listed herein, with additional definitions as provided in this section.

- (1) *Alternative requirement* means an alternative to the reclamation standards of this article provided through a written authorization granted by the regulatory authority pursuant to sec. 30-107.
- (2) *Applicable reclamation ordinance* means a nonmetallic mining reclamation ordinance, including this article that applies to a particular nonmetallic mining site and complies with the requirements of this article, Wis. Admin. Code ch. NR 135 and Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.), unless the department is the regulatory authority as defined in subsec. (20)c. of this section. If the department is the regulatory authority, the term "applicable reclamation ordinance" means the relevant and applicable provisions of Wis. Admin. Code ch. NR 135.
- (3) *Borrow site* means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.
- (4) *Contemporaneous reclamation* means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

- (5) *Department* means the Wisconsin Department of Natural Resources.
- (6) *Environmental pollution* has the meaning in Wis. Stats. § 295.11(2).
- (7) *Financial Assurance* means a commitment of funds or resources by an operator to the County that satisfies the requirements of sec. 30-103 and Wis. Admin. Code NR 135.40, and is sufficient to pay for reclamation activities required by this article.
- (8) *Highwall* means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that is steeper than 3:1.
- (9) *Landowner* means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.
- (10) *Licensed professional geologist* means a person who is registered as a professional geologist pursuant to Wis. Stats. Chapter 470.
- (11) *Municipality* means any city, county, town or village.
- (12) *Nonmetallic mineral* means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.
- (13) *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 are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining 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.
- (14) *Nonmetallic mining reclamation* or *reclamation* mean the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this article, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface

water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

- (15) *Nonmetallic mining refuse* means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable byproducts resulting directly from or displaced by the nonmetallic mining.
- (16) *Nonmetallic mining site* and *site* mean all contiguous areas of present or proposed mining described in subsec. (16)a. of this section, subject to the qualifications in subsec. (16)b. of this section.
- a. Nonmetallic mining site means the following:
1. The location where nonmetallic mining is proposed or conducted.
  2. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.
  3. Areas where nonmetallic mining refuse is deposited.
  4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
  5. Areas where grading or regrading is necessary.
  6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots or channels for surface water diversion are located.
- b. The term "nonmetallic mine site" does not include any of the following areas:
1. Those portions of sites listed in subsec. (16)a. of this section not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.
  2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001, and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.
  3. Areas previously mined but used after August 1, 2001, for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.
- (17) *Operator* means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

- (18) *Person* means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.
- (19) *Registered professional engineer* means a person who is registered as a professional engineer pursuant to Wis. Stats. §§ 443.04 and 443.09.
- (20) *Regulatory authority* has the meaning given in Wis. Admin. Code § NR 135.03(20), and for purposes of this article, also means the Chippewa County Department of Land Conservation and Forest Management.
- (21) *Replacement of topsoil* means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved postmining land use and as required by the reclamation plan approved pursuant to this article.
- (22) *Solid waste* means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Wis. Stats. ch. 283, or source material, special nuclear material or byproduct material, as defined in Wis. Stats. § 254.31 (1).
- (23) *Topsoil* means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (24) *Topsoil substitute material* means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (25) *Unreclaimed acre* and *unreclaimed acres* mean:
- a. Those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001, and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sec. 30-137(c). However, the term does not include any areas described in subsec. (25)b. of this section.
  - b. The terms "unreclaimed acre" and "unreclaimed acres" do not include:
    1. Those areas where reclamation has been completed and certified as reclaimed under sec. 30-137(c).
    2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

3. Those portions of nonmetallic mining sites, which are included in a nonmetallic mining reclamation plan, approved pursuant to this article but is not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001, for a nonmining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. For purposes of fees under sec. 30-135, those areas within a nonmetallic mining site which the regulatory authority has determined to have been successfully reclaimed on an interim basis in accordance with sec. 30-137(c).

(Ord. No. 4-07, 7-10-2007, Ord. No. 9-10, 9-14-2010; Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024)

**Cross references:** Definitions generally, § 1-3.

Secs. 30-39—30-55. Reserved.

## **DIVISION 2. ENFORCEMENT**

### **Sec. 30-56. Right of entry and inspection.**

For the purpose of ascertaining compliance with the provisions of Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article, any authorized officer, agent, employee or representative of the regulatory authority may inspect any nonmetallic mining site subject to this article as provided in Wis. Stats. § 295.17(1) and Wis. Admin. Code § NR 135.42.

(Ord. No. 7-01, § 31, 7-10-2001; Ord. No. 04-24, 03-12-2024)

### **Sec. 30-57. Orders and citations.**

- (a) *Enforcement orders.* The regulatory authority may issue orders as set forth in Wis. Stat. § 295.19(1)(a) to enforce Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.), Wis. Admin. Code ch. NR 135, this article, a permit issued pursuant to this article or a reclamation plan required by sec. 30-102 and a permit issued under this article. A violation of this article, an order or permit issued pursuant to this article or a reclamation plan required by sec. 30-102 and a permit issued under this article shall be considered a violation of Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.) and Wis. Admin. Code ch. NR 135.
- (b) *Special orders.* The regulatory authority may issue a special order as set forth in Wis. Stats. § 295.19(1)(b) and (c) suspending or revoking a nonmetallic mining reclamation permit pursuant to sec. 30-132, or directing an operator to immediately cease an activity regulated under Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.), Wis. Admin. Code ch. NR 135 or this article until the necessary plan approval is obtained.
- (c) *Review of orders.* An order issued under subsecs. (a) or (b) of this section may be reviewed as provided in Wis. Admin. Code § NR 135.43(2).



- (d) *Citations.* The regulatory authority may issue a citation under Wis. Stats. § 66.0113 and sec. 1-12 to collect forfeitures or require any action needed to enforce Wis. Stats. ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.), Wis. Admin. Code ch. NR 135, this article, a permit issued pursuant to this article or a reclamation plan required by sec. 30-102 and a permit issued under this article. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- (e) *Enforcement.* The regulatory authority may submit any order issued under this section to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement as provided in Wis. Stats. § 295.19(1)(d).

(Ord. No. 07-01, § 32, 07-10-2001; Ord. No. 04-24, 03-12-2024)

### **Sec. 30-58. Penalties.**

Any violation of Wis. Stats. Ch. 295, subch. 1 (Wis. Stats. §§ 295.11 et seq.), Wis. Admin. Code ch. NR 135, this article, a permit issued pursuant to this article, or a reclamation plan required by sec. 30-102 and a permit issued under this article may result in forfeitures as provided in Wis. Stats. § 295.19(3) and secs. 1-11 and 1-12 of the Code of Ordinances, County of Chippewa, Wisconsin.

(Ord. No. 04-07, 07-10-2007, Ord. No. 09-10, 09-14-2010; Ord. No. 04-24, 03-12-2024)

Secs. 30-59—30-75. Reserved.

## **DIVISION 3. STANDARDS**

### **Sec. 30-76. Standards.**

All nonmetallic mining sites subject to this article shall be reclaimed in conformance with the standards contained in Wis. Admin. Code §§ NR 135.05- 135.15.

Note: The Department of Land Conservation and Forest Management has published technical guidance for site reclamation. Copies of *A Guide to Developing Reclamation Plans for Nonmetallic Mining Sites in Chippewa County, WI* (LCFM 11/17/21) may be obtained from the Department of Land Conservation and Forest Management. The guidance is also available at [www.chippewacountywi.gov/government/land-conservation-forest-management](http://www.chippewacountywi.gov/government/land-conservation-forest-management)

(Ord. No. 07-01, § 11(11.00), 70-10-2001) (Ord. No. 08-12, 03-12-2012; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024)

### **Sec. 30-77. Nonmetallic mining refuse, solid waste, and recyclable material.**

- (a) A nonmetallic mining site permitted under sec. 30-105 shall meet the requirements of all federal, state and municipal laws and ordinances regulating nonmetallic mining refuse, recyclables, solid waste and hazardous waste material disposal.

- (b) Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the department adopted pursuant to Wis. Stats. chs. 289 and 291.
- (c) Material generated from offsite sources is allowed to be stored onsite for use in reclamation if approved in the reclamation plan pursuant to sec. 30-102, and must meet the requirements of all federal, state and municipal laws and ordinances regulating nonmetallic mining refuse, recyclables, solid waste and hazardous waste material disposal.

(Ord. No. 04-07, 07-10-2007; Ord. No. 09-10, 09-14-2010; Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024)

**Sec. 30-78. Area disturbed and contemporaneous reclamation.**

Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(Ord. No. 07-01, § 11(11.12), 07-10-2001)

**Sec. 30-79. Public health, safety and welfare.**

- (a) *Compliance with public health, safety and welfare regulations.* All nonmetallic mining sites shall be reclaimed in a manner to comply with federal, state and local regulations governing public health, safety and welfare.
- (b) *Highwalls.* To determine whether designated highwalls in solid bedrock are safe and stable, in a condition consistent with the post-mining land use to be achieved, and not in need of reclamation, the regulatory authority may require a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope. In the alternative, the regulatory authority may require the operator to install, and manage a field test plot to demonstrate that a safe and stable condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

(Ord. No. 07-01, § 11(11.13), 07-10-2001; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024)

**Cross references:** Health, ch. 34.

**Sec. 30-80. Habitat restoration.**

When the land use required by the reclamation plan approved pursuant to an applicable reclamation ordinance requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(Ord. No. 7-01, § 11(11.14), 7-10-2001)

**Sec. 30-81. Environmental protection, zoning and land use control.**

*Compliance with environmental protection, zoning and land use control regulations.* Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control. Note: Other applicable environmental, zoning or land use regulations may include Wis. Admin. Code chs. NR 40, 103, 115, 116, 117, 205, 216, 269, 105, 106, 140, 150, 151, 340, 500-555, 590, and 812, Wis. Stats. chs. 23, 30, 66 and 91, and Section 404 of the Clean Water Act (33 USC 1344), which may be applicable to all or part of either an existing or proposed nonmetallic mining project.

(Ord. No. 07-01, § 11(11.15), 07-10-2001; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024)

**Sec. 30-82. Surface water and wetlands protection.**

*Compliance with water quality standards.* Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with water quality standards for surface waters and wetlands contained in Wis. Admin. Code chs. NR 102 through 105. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to an applicable reclamation ordinance. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(Ord. No. 07-01, § 11(11.20), 07-10-2001; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024)

**Sec. 30-83. Groundwater protection.**

- (a) *Groundwater quantity.* A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.
- (b) *Groundwater quality.* Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Wis. Admin. Code ch. NR 140 to be exceeded at a point of standards application.

(Ord. No. 07-01, § 11(11.30), 07-10-2001; Ord. No. 04-24, 03-12-2024)

Secs. 30-84--30-100. Reserved.

**DIVISION 4. PERMITTING****Sec. 30-101. Nonmetallic mining reclamation permit application.**

- (a) *Nonmetallic Mining Reclamation Permit Application Required.* No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued by the regulatory authority pursuant to this article, unless the activity is specifically exempted in sec. 30-35(a) or (b), or sec. 30-38(16)(b). All reclamation permit applications under this section shall be accompanied by the information required by Wis. Admin. Code §§ NR 135.181) and (2), and by a plan review fee as specified in sec. 30-134.

(Ord. No. 07-01, § 12, 07-10-2001; Ord. No. 04-24, 03-12-2024)

**Sec. 30-102. Reclamation plan.**

- (a) *Reclamation plan requirements.* All operators of nonmetallic mining sites subject to this article shall prepare and submit a reclamation plan that meets the requirements of Wis. Admin. Code § NR 135.19, including the provisions of Wis. Admin. Code §§ NR 135.19(1) through NR 135.19(7), and complies with the standards of Wis. Admin. Code §§ NR 135.05-135.15.
- (b) *Existing plans and approvals.* To avoid duplication of effort, the reclamation plan required by this section may, by reference, incorporate existing plans or materials that meet the requirements of this section.
- (c) *Approval of reclamation plan.* The regulatory authority shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to sec. 30-105. Conditional approvals of reclamation plans shall be made according to sec. 30-105(e), and denials of reclamation plans made according to sec. 30-106. The operator shall keep a copy of the reclamation plan required by this section, once approved by the regulatory authority under this article, at the mine site or, if not practicable, at the operator's nearest office or place of business.

(Ord. No. 07-01, § 13, 07-10-2001; Ord. No. 08-12, 03-12-2012; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024; Ord. No. 06-25, 08-12-2025)

**Sec. 30-103. Financial assurance.**

- (a) *Financial assurance requirements.* All operators of nonmetallic mining sites in the county shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Wis. Admin. Code § NR 135.40.

An eligible operator, qualifying as a company as defined under Wis. Stats. § 289.41(1)(b), that seeks to meet its financial assurance obligation under the net worth test of Wis. Admin. Code § NR 135.40(13) shall submit the data and financial information provided in the opinion of a certified public accountant, as required by Wis. Admin. Code §§ NR 135.40(13)(a) through (e), and Wis. Stats. §§ 289.41(4), (5) and (6).

- (b) *Public nonmetallic mining.* The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the state, a state agency, board, commission or department, or a municipality.

(Ord. No. 07-01, § 14, 07-10-2001; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024)

**Sec. 30-104. Public notice and right of hearing.**

- (a) The regulatory authority shall provide public notice and the opportunity for a public informational hearing as set forth in Wis. Admin. Code §§ NR 135.20(1) and 135.20(2) for any nonmetallic mining site for which a complete reclamation permit application that satisfies sec. 30-101 is received by posting a Class I legal notice under Wis. Stats. §985.07(1) in the manner provided under sec. 2-3 of the Chippewa County Code of Ordinances. The public notice and informational hearing provided for under this section shall not be required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sec. 30-105(c).

(Ord. No. 07-01, § 15, 07-10-2001; Ord. No. 04-24, 03-12-2024; Ord. No. 13-24, 09-10-2024)

**Sec. 30-105. Issuance of a nonmetallic mining reclamation permit.**

- (a) *Permit required.* No person may engage in nonmetallic mining or nonmetallic mining reclamation without a reclamation permit issued pursuant to this article.
- (b) *Permit issuance.* Applications for reclamation permits for nonmetallic mining sites that satisfy sec. 30-101 shall be issued a reclamation permit or otherwise acted on as provided in Wis. Admin. Code § NR 135.21. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms to sec. 30-102, and provision by the applicant of financial assurance that conforms to sec. 30-103 payable to the regulatory authority prior to beginning mining.
- (c) *Automatic permit for local transportation-related mines.* The regulatory authority shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Wis. Admin. Code § NR 135.23(1)(a). This automatic permit shall be issued according to the provisions of Wis. Admin. Code §§ NR 135.23(1)(b)-(j).
- (d) *Expedited review.* Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in sec. 30-133(b) 30-134(d). The expedited review shall be carried out according to the provisions of Wis. Admin. Code § NR 135.23(2). Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to sec. 30-104.
- (e) *Permit conditions.* Permits issued under this section may include conditions as provided in Wis. Admin. Code § NR 135.21(2). One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Wis. Admin. Code § NR 135.40.

(Ord. No. 07-01, § 16, 07-10-2001; Ord. No. 04-24, 03-12-2024)

**Sec. 30-106. Permit denial.**

An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Wis. Admin. Code § NR 135.22 exist.

(Ord. No. 07-01, § 17, 07-10-2001; Ord. No. 04-24, 03-12-2024)

**Sec. 30-107. Alternative requirements.**

- (a) *Scope of alternative requirements approvable.* An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in sec. 30-76. Such a request may be made only on the basis of the criteria set forth in Wis. Admin. Code § NR 135.26(1).
- (b) *Procedures.* The operator of a nonmetallic mining site requesting an alternate requirement in subsec. (a) of this section shall demonstrate all the criteria in Wis. Admin. Code § NR 135.26(1) in writing to the regulatory authority. The regulatory authority shall evaluate and act upon the request. The regulatory authority may grant the request, grant the request with conditions, or deny the request. Decisions of the regulatory authority, as rendered under this section, may be appealed to the county land conservation committee established under Wis. Stats. ch. 92 and acting under the authority of Wis. Stats. §§ 92.07(2) and 92.07(11).

- (c) *Transmittal of decision on request for alternate requirement.* The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.
- (d) *Notice to department.* The regulatory authority shall provide notice of its decision under subsec. (b) of this section to the department, as provided in Wis. Admin. Code § NR 135.26(3).

(Ord. No. 07-01, § 18, 07-10-2001) (Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-108. Permit duration.**

A nonmetallic mining reclamation permit issued under this article shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sec. 30-57(b), or as limited under Wis. Admin. Code § NR 135.27 where the mine operator is not the landowner.

(Ord. No. 07-01, § 19, 07-10-2001; Ord. No. 04-24, 03-12-2024; Ord. No. 06-25, 08-12-2025)

#### **Sec. 30-109. Permit transfer.**

A nonmetallic mining reclamation permit issued under this article shall be transferred to a new owner or operator upon satisfaction of the conditions in Wis. Admin. Code § NR 135.28.

(Ord. No. 07-01, § 20, 07-10-2001)

#### **Sec. 30-110. Change of regulatory authority.**

If there is a change of regulatory authority for a nonmetallic mining site, the operator's nonmetallic mining permit shall remain in effect and be enforceable until the permit is modified by the new regulatory authority.

(Ord. No. 07-01, § 21, 07-10-2001; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-111. Review.**

Pursuant to Wis. Admin. Code § NR 135.30, and notwithstanding Wis. Stats. §§ 68.001, 68.03(8) and (9), 68.06 and 68.10(1)(b), Stats., any person who meets the requirements of s. 227.42(1), Stats., may obtain a contested case hearing under Wis Stats. § 68.11, Stats., on the regulatory authority's decision to issue, deny, or modify a nonmetallic mining reclamation permit. Pursuant to Wis. Admin. Code § NR 135.43(2), and notwithstanding Wis Stats. §§ 68.001, 68.03(8) and (9), 68.06 and 68.10(1)(b), a person holding a reclamation permit who is subject to an order issued under Wis. Admin. Code §§ NR 135.43(1)(a) and (b), may obtain a contested case hearing under Wis. Stats. § 68.11.

A contested case hearing under this article shall be conducted by an impartial decision maker provided by the County. The impartial decision maker may be a licensed attorney, administrative law judge, or retired circuit court judge; or an officer, committee, board, commission or the governing body who did not participate in making or reviewing the initial determination. In addition to conducting the hearing, the person shall make the decision on the administrative appeal. In the alternative, the County may provide that the impartial person, committee, board or commission designated to conduct the hearing shall provide to the decision maker, as set forth in Wis. Stats. § 68.11(2).

(Ord. No. 07-01, § 22, 07-10-2001; Ord. No. 05-21, 01-11-2022; Ord. No. 04-24, 03-12-2024)

Secs. 30-112--30-130. Reserved.

#### **DIVISION 5. ADMINISTRATION\***

**\*Cross references:** General Government and Administration, ch. 2.

(Ord. No. 7-18; 08-14-2018)

#### **Sec. 30-131. Permit modification.**

- (a) *By the regulatory authority.* A nonmetallic mining reclamation permit issued under this article may be modified by the regulatory authority if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this article. Such modification shall be by an order conforming to the procedures in sec. 30-57 and as provided in Wis. Admin. Code § NR 135.24(1).
- (b) *At the operator's option.* If the operator of any nonmetallic mine that holds a reclamation permit issued under this article desires to modify such permit or reclamation plan approved under this article, it may request such modification by submitting a written application for such modification to the regulatory authority. The application for permit or plan modification shall be acted on using the standards and procedures of this article.
- (c) *Required by the operator.* The operator of any nonmetallic mine that holds a reclamation permit issued under this article shall request a modification of such permit if required under the circumstances set out in Wis. Admin. Code § NR 135.27. Such application for permit modification shall be acted on using the standards and procedures of this article.
- (d) *Review.* All actions on permit modifications requested or initiated under this section are subject to review under sec. 30-111.

(Ord. No. 07-01, § 23, 07-10-2001; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-132. Permit suspension or revocation.**

- (a) *Grounds.* The regulatory authority may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this article if it finds any of the grounds listed in Wis. Admin. Code § NR 135.25(1).
- (b) *Procedures.* If the regulatory authority finds grounds for suspending or revoking a nonmetallic mining reclamation permit as set forth in subsec. (a) of this section, it may issue a special order suspending or revoking such permit as set forth in sec. 30-57(b).
- (c) *Consequences.* The consequences of a reclamation permit suspension or revocation order under subsec. (b) of this section shall be as set forth in Wis. Admin. Code §§ NR 135.25(2) and (3).

(Ord. No. 07-01, § 24, 07-10-2001; Ord. No. 04-24, 03-12-2024)

**Sec. 30-133. Annual operator reporting.**

- (a) *Contents and deadline.* Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Wis. Admin. Code § NR 135.36. Annual reports shall cover activities on unreclaimed acreage for the previous calendar year and shall be submitted by January 31 of each year. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sec. 30-137.
- (b) *Inspection in lieu of report.* The regulatory authority may, at its discretion, obtain the information required in subsec. (a) of this section by written documentation of an inspection it completes during a calendar year, as set forth in Wis. Admin. Code § NR 135.36(4).
- (c) *Retention of annual reports.* Annual reports submitted under this section or inspection records that replace them shall be retained by the regulatory authority for at least ten (10) years after the calendar year to which they apply. These records, or accurate copies of them, shall be made available to the department upon written request or during the department's inspection or audit activities carried out pursuant to Wis. Admin. Code ch. NR 135.

(Ord. No. 07-01, § 25, 07-10-2001; Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024; Ord. No. 06-25, 08-12-2025)

**Sec. 30-134. Plan review fees.**

- (a) *Amount and applicability.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sec. 30-101(c) shall submit a nonrefundable plan review fee based upon a plan review fee schedule approved by the Board of Supervisors.
- (b) *Establishment of fee.* The plan review fee shall be established to equal as closely as possible the regulatory authority's cost of administering the permitting and plan review processes established in secs. 30-101 through 30-107.
- (c) *Annual review.* The plan review fee shall be reviewed annually by the Land Conservation and Forest Management Committee and shall be adjusted by the committee to account for changes in the cost of public administration. No plan review fee may be assessed under this section for any nonmetallic mine site for which an application for an automatic reclamation permit is submitted that meets the requirements of sec. 30-101(b) or for any local transportation-related mine issued an automatic permit under sec. 30-105(e). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to sec. 30-131.
- (d) *Expedited plan review fee.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sec. 30-101(c) may obtain expedited reclamation plan review by paying a fee of \$500.00. This expedited plan review process and permit action shall be completed within forty-five (45) days of the permit application. Such fee shall be in addition to that required in subsec. (a) of this section.
- (e) *Relation to annual fee.* Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under sec. 30-135.



(Ord. No. 07-01, § 26, 07-10-2001; Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024)

**Sec. 30-135. Annual fees.**

- (a) *Areas subject to fees, procedures and deadline.* Operators of all nonmetallic mining sites subject to reclamation permits issued under this article shall submit an annual fee to the regulatory authority. Fees paid under this section shall include both a share for the department under subsec. (b) of this section and a share for the regulatory authority under subsec. (c) of this section that equals as closely as possible the costs of examination and approval of nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation-sites. Annual fees shall be calculated based on the amount of unreclaimed acres of each site, as defined in Wis. Admin. Code § NR 135.39(1) and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under sec. 30-137. Annual fees shall be paid on or before January 31 for the previous year.
- (b) *Department share of fee.* Fees paid under this section shall include a share for the department equal to the amount specified in Wis. Admin. Code § NR 135.39(3). For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be the amount specified in the permit fee schedule.
- (c) *The regulatory authority share of fee.* Fees paid under this section shall also include an annual fee due to the regulatory authority, which shall be the amount specified in sec. 30-156.
- (d) *Reduced fee for inactive mines.* Any site on which no nonmetallic mining activity has taken place in a calendar year, and where no activity is planned for the following calendar year, shall be assessed at a reduced fee as specified in sec. 30-156.

(Ord. No. 07-01, § 27, 07-10-2001; Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024)

**Sec. 30-136. Regulatory reporting and documentation.**

- (a) *Reporting.* The regulatory authority shall send an annual report to the department including the information required by Wis. Admin. Code § NR 135.37.
- (b) *Documentation.* The regulatory authority shall, to the best of its ability, maintain the information set forth in Wis. Admin. Code § NR 135.47(3), and make it available to the department for that agency's audit of the regulatory authority's reclamation program pursuant to Wis. Admin. Code § NR 135.47.

(Ord. No. 07-01, § 28.00, 07-10-2001; Ord. No. 08-12, 03-12-2012; Ord. No. 04-24, 03-12-2024)

**Sec. 30-137. Completed reclamation; reporting; certification and effect.**

- (a) *Reporting.* The operator of a nonmetallic mining site shall notify the regulatory authority of completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135.
- (b) *Reporting of interim reclamation.* The operator of a nonmetallic mining site may report

completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135. Reporting of interim reclamation shall be done according to the procedures in subsec. (a) of this section.

- (c) *Certification of completed reclamation.* The regulatory authority shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this section within sixty (60) days of receipt, and make a determination in writing in accordance with Wis. Admin. Code § NR 135.40(7)(c). If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with sec. 30-102, the regulatory authority shall issue the mine operator a written certificate of completion.
- (d) *Effect of completed reclamation.* If reclamation is certified by the regulatory authority as complete under subsec. (c) of this section for part or all of a nonmetallic mining site, then:
- (1) No fee shall be assessed under sec. 30-135 for the area so certified.
  - (2) The financial assurance required by sec. 30-103 shall be released.
  - (3) For sites which are reported as interim reclaimed under subsec. (b) of this section and so certified under subsec. (c) of this section, financial assurance for reclaiming the certified area shall be waived.
- (e) *Effect of inaction following report of completed reclamation.* If no written response as required by subsec. (c) of this section for an area of the mine site reported as reclaimed or interim reclaimed is given within sixty (60) days of receiving such request, any annual fee paid to the regulatory authority for it under sec. 30-135 shall be refunded.

(Ord. No. 07-01, § 29, 07-10-2001; Ord. No. 04-24, 03-12-2024)

#### **Sec. 30-138. Permit termination.**

When all final reclamation required by a reclamation plan conforming to sec. 30-102 and required by this article is certified as complete pursuant to sec. 30-136, the regulatory authority shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

(Ord. No. 07-01, § 30, 07-10-2001; Ord. No. 04-24, 03-12-2024)

Secs. 30-139--30-155. Reserved.

### **DIVISION 6. FEES**

#### **Sec. 30-156. Fee schedule.**

Fees for the administration of the nonmetallic mining reclamation ordinance shall be set by the Land Conservation and Forest Management Committee and approved by the County Board from time to time. The fee schedule shall be available from the Department of Land Conservation and Forest Management.

(Ord. No. 7-01, 7-10-2001) (Ord. No. 08-12, 03-12-2012)

Secs. 30-157--30-180. Reserved.

### ARTICLE III. WELLHEAD PROTECTION

#### Sec. 30-181. Purpose and authority.

- (a) *Purpose.* The residents of the county depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this article is to institute land use regulations and restrictions protecting the municipal water supplies and to promote the public health, safety and general welfare of the residents of the county.
- (b) *Authority.* Statutory authority of the county to enact these regulations for groundwater protection, is Wis. Stats. §§ 59.70(6) and 62.23(7)(c) to the statutory authorization for county and municipal planning and zoning to protect the public health, safety, and welfare. In addition, under Wis. Stats. § 59.69, the county has the authority to enact this ordinance, effective in the unincorporated areas of the county, to encourage the protection of groundwater resources.

(Code 1980, § 21.01)

#### Sec. 30-182. Application of regulations.

The regulations specified in this article shall apply to the unincorporated areas of the county that lie within the recharge areas of municipal and sanitary district water supply wells, and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this article and chapter 70, the more restrictive provision shall apply.

(Code 1980, § 21.02)

#### Sec. 30-183. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Aquifer* means a saturated, permeable geologic formation that contains and will yield significant quantities of water.
- (2) *Cone of depression* means the area around a well, in which the water level has been lowered at least one-tenth of a foot by the pumping of the well.
- (3) *Five-year time of travel* means the five-year time of travel is the recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five years to reach a pumping well.
- (4) *Municipal water supply* means the municipal water supplies of the villages, cities, and towns in the county.
- (5) *Person* means an individual, partnership, association, corporation, municipality, state agency or other legal entity.

- (6) *Recharge area* means the area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
- (7) *Thirty-day time of travel* means the recharge area upgradient of a well, or its cone of depression, the outer boundary of which it is determined or estimated that groundwater will take 30 days to reach a pumping well.
- (8) *Well field* means a piece of land used primarily for the purpose of locating wells to supply a municipal water system.
- (9) *Zone of saturation* means the saturated zone is the area of unconsolidated, fractured, or porous material that is saturated with water and constitutes groundwater.

(Code 1980, § 21.03)

**Cross references:** Definitions generally, § 1-3.

**Sec. 30-184. Groundwater technical review committee.**

- (a) The county groundwater technical review committee shall consist of:
  - (1) The County Planning and Zoning Administrator;
  - (2) The Director of Land Conservation and Forest Management;
  - (3) The County Emergency Management Director;
  - (4) A local representative from the department of commerce with expertise in groundwater or groundwater contamination issues, appointed by their department and approved by the County Board;
  - (5) A local representative from the DNR with expertise in groundwater or groundwater contamination issues, appointed by their department and approved by the County Board;
  - (6) One unpaid member, appointed by the County Board chair, who has at least one of the following qualifications is:
    - a. A hydrologist with a professional engineer license; or
    - b. A certified hydrogeologist or groundwater professional;
  - (7) A local government representative for each unit of local government with a municipal water supply which has a well, or well field, with an established groundwater protection overlay district. The local government representative shall be the municipal water supply manager, administrator or superintendent and shall only participate in the review and recommendation that affect the municipal water supply for their jurisdiction.
- (b) The purpose of the county groundwater technical review committee is to review requests for

the adoption of groundwater protection overlay districts and make recommendations to the County Board on those requests, to provide objective and scientific technical review of requests for conditional use permits and make recommendations to grant or deny conditional use permits based upon the facts discovered in that review, to make recommendations on any and all conditions placed on a conditional use permit, and to give advice to the county on matters concerning groundwater.

(Code 1980, § 21.04) (Ord. No. 08-12, 03-12-2012)

**Cross references:** County Board Statutory Committees, Commissions and Board, § 2-83 et seq.

(Ord. No. 07-18; 08-14-2018)

**Sec. 30-185. Administration.**

- (a) *Delegation of authority.* The county designates the Planning and Zoning Administrator to administer and enforce this article. The Planning and Zoning Administrator shall seek the technical advice of the groundwater technical review committee in the administration and enforcement of this article.
- (b) *Administration duties.* In the administration of this article, the administrative authority or its designated representative shall:
  - (1) Keep an accurate record of all permit applications, wellhead protection facility plans, permits issued, inspections made and other official actions.
  - (2) Accept and review permit applications.
  - (3) Conduct preconstruction on-site investigations and construction and post-construction inspections in accordance with the provisions of this article.
  - (4) After on-site inspection prior to construction, issue preconstruction approval permits if all preconditions and testings have been met.
  - (5) Inspect facility construction to ensure the facility is being constructed according to plan specifications.
  - (6) Upon receipt of permittee's and contractor's certifications that the facility is built as planned and upon approval thereof issue a certificate of compliance.
  - (7) Maintain a current inventory of all point and nonpoint pollution sources, permitted and nonconforming facilities.
  - (8) Investigate complaints relating to compliance with this article.
  - (9) Perform other duties as specified in this article.
- (c) *Inspection authority.* The Planning and Zoning Administrator and designated representatives are authorized to enter upon any lands affected by this article to inspect the land prior to or after permit issuance to determine compliance with this article. If permission cannot be received from the applicant or permittee, the permit may be denied or entry by the administrative

authority shall be in accordance with Wis. Stats. § 66.0119.

(d) *Enforcement authority.*

- (1) The Planning and Zoning Administrator is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this article. Notice is given by both posting upon the land where the violation occurs, one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this article. The order shall specify that the activity must cease or be brought into compliance within five days.
- (2) Any permit revocation or order stopping work shall remain in effect unless retracted by the Planning and Zoning Committee, the administrative authority, or by a court of general jurisdiction or until the activity is brought into compliance with this article. The administrative authority is authorized to refer any violation of this article or of an order stopping work issued pursuant to this article to the corporation counsel for commencement of further legal proceedings.

(Code 1980, § 21.15) (Ord. No. 08-12, 03-12-2012)

**Sec. 30-186. Penalties and enforcement.**

- (a) *Penalties.* Any person who violates, neglects or refuses to comply with or resists the enforcement of any of the provisions of this article shall be subject to a forfeiture of not less than \$200.00 nor more than \$500.00 plus costs of prosecution for each violation. Any unlawful violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.
- (b) *Enforcement of injunction.* As a substitute for or in addition to forfeiture actions, the county may seek enforcement of any part of this article by court actions, seeking injunctions or restraining orders, the cost of which shall be charged to the defendant in such action.
- (c) *Cleanup costs.* As a substitute for, and in addition to any other action, the county may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a groundwater protection overlay district shall immediately cease such discharge and immediately initiate clean up satisfactory to the county and state and federal regulatory agencies. The person who releases such contaminants and the person who owns the facility where on the contaminants have been released shall be jointly and severally responsible for the costs of cleanup, consultant or other contractor fees, including all administrative costs for oversight, review and documentation, including county employees, equipment and mileage.

(Code 1980, § 21.15)

**Sec. 30-187. Appeals.**

- (a) *Authority.* Under authority of Wis. Stats. ch. 68, the board of adjustment, created under Wis.

Stats. § 59.694, and section 70-35, and as an appeal authority under Wis. Stats. § 59.694(4), is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by the administrative authority in administering this article.

- (b) *Procedure.* The rules, procedures, duties and powers of the board of adjustment and Wis. Stats. ch. 68 shall apply to this article.
- (c) *Who may appeal.* Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision or determination made by the administrative authority.

(Code 1980, § 21.15)

#### **Sec. 30-188. Conflict and interpretation.**

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. In their interpretation and application, the provisions of this article shall be held to be minimum and are not deemed a limitation or repeal of any other power granted by statute. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretations shall apply.

(Code 1980, § 21.16)

#### **Sec. 30-189. Groundwater protection overlay district.**

A groundwater protection overlay district may be created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare. The groundwater protection overlay district is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

(Code 1980, § 21.05)

#### **Sec. 30-190. Supremacy of overlay district.**

The regulations of an overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the groundwater protection overlay district are more stringent.

(Code 1980, § 21.06)

#### **Sec. 30-191. Zones.**

The groundwater protection overlay district is divided into Zone 1 and Zone 2 as follows:

- (a) *Zone 1 of groundwater protection overlay district.* Zone 1 of groundwater protection overlay district is the area of land which contributes water to the well in questions, out to a 30-day time of travel to the well. Time of travel delineations must be based on accepted hydrogeological

research as outlined in the *State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2* with zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey lines, one-half, one-quarter, one-eighth, or one-sixteenth section lines.

- (b) *Zone 2 of the groundwater protection overlay district.* Zone 2 of groundwater protection overlay district encompasses the area of land which contributes water to the well starting at the line which delineates the 30-day time of travel and ends at the line delineating the five-year time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the *State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2* with zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey lines, one-half, one-quarter, one-eighth, or one-sixteenth section lines.

(Code 1980, § 21.07)

**Sec. 30-192. Groundwater protection overlay districts boundaries.**

- (a) The boundaries of the groundwater protection overlay districts shall be shown on the map "Groundwater Protection Districts for Public Water Supply Recharge Areas in Chippewa County". This map will be an overlay of the "Official Zoning Maps of Chippewa County, Wisconsin" as maintained by the county Planning and Zoning Administrator.
- (b) A local unit of government may request that the Board of Supervisors adopt a groundwater protection overlay district for its municipal water supply and create the map, "Groundwater Protection Districts for Public Water Supply Recharge Areas in Chippewa County" to reflect the district. All requests to adopt a groundwater protection overlay district shall be submitted in writing to the county Planning and Zoning Administrator, and shall include:
  - (1) A one-inch equals 2,000 feet (1:24,000) or larger scale map showing municipal boundaries of the proposed wellhead protection zones which conform to the provisions in section 30-191.
  - (2) A report describing the background information, research and methodology used to develop the wellhead protection zones which conform to the provisions in section 30-191.
  - (3) A wellhead protection plan, if any, for the well or wells within the proposed wellhead protection zones.
  - (4) An existing wellhead protection ordinance for the well or wells within the proposed wellhead protection zones, effective within the incorporated areas of the proposed wellhead protection zones.
  - (5) A list of tax parcels, any part of which falls within the proposed wellhead protection zone.
  - (6) An inventory of all existing facilities which may cause or threaten to cause environmental pollution as described in requirements for existing facilities which may cause or threaten to cause environmental pollution which are within the unincorporated area of the proposed wellhead protection zones. The inventory shall



include:

- a. The county tax parcel number of each facility and the name and telephone number of a facility contact.
  - b. A list of the uses, activities, materials, structures, and facility type which establishes each facility as an existing facility which may cause or threaten to cause environmental pollution.
- (c) The Board of Supervisors may create a groundwater protection overlay district, with the map "Groundwater Protection Districts for Public Water Supply Recharge Areas in Chippewa County" after receipt of recommendations made by the county groundwater technical review committee. In creating a district and map, the County Board may accept, reject or modify the recommendations of the review committee.

(Code 1980, § 21.08) (Ord. No. 08-12, 03-12-2012)

**Sec. 30-193. Separation distance requirements and prohibited uses.**

- (a) The following permitted uses in Zone 1 are subject to separation and distance requirements and prohibited uses:
- (1) Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks.
  - (2) Wildlife and natural and woodland areas.
  - (3) Biking, hiking, skiing, nature, equestrian and fitness trails.
  - (4) Residential which is municipally sewered.
  - (5) Routine tillage, planting and field management operations in support of agricultural crop production where nutrients from legume, manure and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nitrate sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.
- (b) The following permitted uses in Zone 2 are subject to separation district requirements and prohibited uses:
- (1) All of the uses permitted in Zone 1.
  - (2) Single-family residences on a minimum lot of 20,000 square feet with a private on-site sewage treatment system receiving less than 8,000 gallons per day, which meets the county and state health standards for the effluent and is in conformance with Wis. Admin. Code SPS ch. 383.
  - (3) Commercial establishments which are municipally sewered.
  - (4) Industrial establishments which are municipally sewered.

- (5) Residential use of aboveground and belowground LP gas tanks for heating not to exceed 1,000 gallons.

(Code 1980, § 21.09) (Ord. No. 08-12, 03-12-2012)

**Sec. 30-194. Separation distance requirements.**

The following separation distances as specified in Wis. Admin. Code NR 811.16 shall be maintained:

- (a) Fifty feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA 600 specifications.
- (b) Two hundred feet between a public water supply well and any sanitary sewer main not meeting the specifications set forth in this section, any sanitary sewer lift station or single-family residential fuel oil tank.
- (c) Four hundred feet between a public water supply well and a septic system receiving less than 8,000 gallons per day, or a stormwater detention, retention, infiltration or drainage basin.

(Code 1980, § 21.10)

**Sec. 30-195. Prohibited uses.**

- (a) The following uses are prohibited in Zones 1 and 2:
  - (1) Aboveground and belowground hydrocarbon, petroleum or hazardous chemical storage tanks (Hazardous chemicals are identified by OSHA criteria under 40 CFR 370.); except when allowed as permitted or conditional uses.
  - (2) Cemeteries.
  - (3) Chemical manufacturers (Standard Industrial Classification Major Group 28).
  - (4) Coal storage.
  - (5) Dry cleaners.
  - (6) Storage or processing of extremely hazardous substances, radioactive materials or substances listed in Wis. Admin. Code NR ch. 140 Table 1. (Extremely hazardous substances are identified by SARA/EPCRA criteria under 40 CFR 302 and 355.)
  - (7) Industrial lagoons and pits.
  - (8) Landfills and any other solid waste facility, except postconsumer recycling.
  - (9) Manure and animal waste storage except animal waste storage facilities regulated by the county.

- (10) Nonmetallic earthen materials extraction, sand and gravel pits.
  - (11) Pesticide and fertilizer dealer, transfer or storage.
  - (12) Railroad yards and maintenance stations.
  - (13) Rendering plants and slaughterhouses.
  - (14) Salt or deicing material storage.
  - (15) Salvage or junkyards.
  - (16) Septage or sludge spreading, storage or treatment.
  - (17) Septage, wastewater or sewage lagoons.
  - (18) Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more; unless replacing an existing private on-site wastewater treatment system serving an existing facility as defined in section 30-197.
  - (19) Stockyards and feedlots.
  - (20) Stormwater infiltration basins without pretreatment which is defined to include vegetative filtration and/or temporary detention basins.
  - (21) Motor vehicle services, including filling and service stations, repair, renovation and body work.
  - (22) Wood preserving operations.
- (b) In Zone 1, the conditional uses of subsection 30-196(b) are prohibited. (Code 1980, § 21.11)

**Sec. 30-196. Conditional uses.**

- (a) Any person may request a conditional use permit for certain uses, activities and structures within Zone 2 of the groundwater protection overlay district not prohibited in section 30-195.
- (b) The uses, activities and structures that may be conditionally allowed within Zone 2 are:
  - (1) Jewelry plating and metal plating.
  - (2) Machine or metal working shops.
  - (3) Commercial establishments utilizing a private on-site wastewater treatment system receiving less than 8,000 gallons per day which are in conformance with Wis. Admin. Code SPS ch. 383.
  - (4) Research labs, universities and hospitals.
  - (5) Residential use of unburied fuel oil tanks used for heating, not to exceed 500 gallons.

- (c) All requests for a conditional use permit shall be submitted in writing to the county Planning and Zoning Administrator and shall include:
  - (1) A site plan map with all buildings and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells and two-foot ground elevation contours.
  - (2) A business plan and/or other documentation which describes in detail the use, activities and structures proposed.
  - (3) An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities and structures on groundwater quality.
  - (4) An operational safety plan which details the operational procedures for material processes and containment, best management practices, stormwater runoff management and groundwater monitoring.
  - (5) A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities or structures occur.
- (d) The person making the request shall reimburse the county for consultant fees and technical review committee expenses associated with this review at the invoiced amount, plus administrative costs.
- (e) All conditional use permits granted shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply. These conditions shall include, but not be limited to:
  - (1) Providing current copies of all federal, state and local facility operation approval or certificates and ongoing environmental monitoring results to the county and the local unit of government with affected municipal water supply.
  - (2) Establishing environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management and groundwater monitoring.
  - (3) Replacing equipment or expanding in a manner that improves the environmental and safety technologies being utilized.
  - (4) Preparing, filing and maintaining a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to the county and the local unit of government with affected municipal water supply.
- (f) The board of adjustment shall decide upon a request for a conditional use permit after review of the recommendations made by the county groundwater technical review committee. The conditional use permit, if granted, shall contain the mandatory conditions set forth in subsection (e) of this section and any additional conditions the board shall determine reasonable and

necessary. The board of adjustment shall schedule a public hearing prior to granting all permits, with notice to the local unit of government with affected municipal water supply and all property owners within that groundwater protection overlay district. The board of adjustment shall make its determination within 30 days of the public hearing. The determination shall be in writing, containing all conditions required when a conditional use permit is granted, or a written statement as to the reasons for not granting the conditional use permit. The conditional use permit shall be in recordable form and recorded at the office of register of deeds for the county.

(Code 1980, § 21.12) (Ord. No. 08-12, 03-12-2012)

**Sec. 30-197. Requirements for existing facilities which may cause or threaten to cause environmental pollution.**

- (a) Existing facilities within the groundwater protection overlay district at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, the state DNR draft or current list entitled "Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution", state department of commerce list of underground storage tanks, list of facilities with hazardous solid waste permits, and all other facilities which are considered a prohibited use in section 30-195, or a conditional use in subsections 30-196(b)(1), (2), and (4), all of which are incorporated herein as if fully set forth.
- (b) Such facilities as those mentioned in subsection (a) of this section which exist within the district at the time of enactment of a district shall provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and ongoing environmental monitoring results to the county and to the municipality with wells in the wellhead protection district.
- (c) Such facilities as those mentioned in subsection (a) of this section which exist within the district at the time of enactment of a district shall have the responsibility of devising, filing and maintaining with the county a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.
- (d) Such facilities as provided in subsection (a) of this section cannot engage in or employ a use, activity or structure listed in section 30-195, or in subsections 30-196(b)(1), (2), and (4), which they did not engage in or employ at the time of enactment of a district, and can only expand, replace or rebuild those present uses, activities, equipment or structures on the site or property of record associated with the facility at the time of enactment of a district and in a manner that improves the environmental and safety technologies already being utilized.

(Code 1980, § 21.13) (Ord. No. 08-12, 03-12-2012)

**Sec. 30-198. Changing technology.**

- (a) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or nonrisk materials or methods, upon petition from such use, after conferring with the county groundwater technical review committee or other expert opinion, and after appropriate public notice and hearing, the county through appropriate procedures and actions may change these provisions to remove from the designated prohibited uses such uses

as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.

- (b) In dealing with uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible. It is the intention to continue a prohibition on such uses until the technology of the uses removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

(Code 1980, § 21.14)