

## Chapter 219

### MINING, NONMETALLIC

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[HISTORY: Adopted by the Village Board of the Village of Black Creek as Title 7, Ch. 11, of the 1987 Village Code. Amendments noted where applicable.]

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#### § 219-1. Statutory provisions adopted.

This chapter is adopted pursuant to § 295.14, Wis. Stats., which is adopted by reference and made a part of this chapter as if fully set forth herein.

#### § 219-2. Definitions. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

The terms used in this chapter shall have the meanings provided in § 295.11, Wis. Stats.

#### § 219-3. Existing nonmetallic mining operations.

This nonmetallic mining reclamation chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this chapter.

#### § 219-4. Exempt activities. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

This nonmetallic mining reclamation chapter shall not apply to those activities exempted under § 295.16(4), Wis. Stats., as follows:

- A. Excavations or grading by a person solely for domestic or farm use at his or her residence or farm.
- B. Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or any other transportation facility if the excavation or grading is within the property boundaries of the transportation facility.
- C. Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- D. Excavations for building construction purposes.
- E. Nonmetallic mining sites of less than one acre.

- F. Any mining operation, the reclamation of which is required in a permit obtained under Ch. 293, Wis. Stats., or Subchapter III of Ch. 295, Wis. Stats.
- G. Any activities required to prepare, operate or close a solid waste disposal facility under Subchapters II to IV of Ch. 289, Wis. Stats., or a hazardous waste disposal facility under Ch. 291, Wis. Stats., that are conducted on the property on which the facility is located, but a nonmetallic mining reclamation ordinance and the standards established under § 295.12(1)(a), Wis. Stats., apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property on which the solid waste or hazardous waste disposal facility is located such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- H. Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from that dredging.

**§ 219-5. Permit required for nonmetallic mining.**

- A. Permit required. No person shall operate any nonmetallic mining site or operation within the Village unless he obtains a nonmetallic mining permit from the Village Board. The fee for such permit shall be as set forth in the General Fee Schedule, on file in the Village offices, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within 30 days of the effective date of this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. Required permit information. An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
  - (1) An adequate description of the operation, including a legal description of the property;
  - (2) A plan of the site showing the proposed and existing roads and drives and the sources, quantity and disposition of water to be used, if any;
  - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
  - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
  - (5) Methods of screening from adjacent properties;
  - (6) Hours of operation;
  - (7) Dust and noise control;
  - (8) Maximum depth;
  - (9) Blasting procedures;
  - (10) Location and height of stockpiles; and

- (11) Such other information the Village Board deems pertinent to the operation.
- C. Reclamation plan. The reclamation plan shall contain adequate provision that:
- (1) All final slopes around the area be flatter than a three to one horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle of repose in a quarrying operation;
  - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
  - (3) Excavations made to a water-producing depth shall be not less than three feet measured from the low-water mark;
  - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
  - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Village Board;
  - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- D. Applications. All applications for a permit hereunder shall be made, in writing, upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least 60 days prior to the licensing period. The Village Clerk-Treasurer shall immediately refer all applications for a permit hereunder to the Village Board for public hearing and approval. The operator shall receive written notice of the public hearing. The permit shall be for a period of time as stated in the application or as modified by the Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Board shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Board may approve, approve conditionally or reject the application and reclamation plan.
- E. Financial assurance. Before a permit and reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
  - (2) Guaranteed completion of the required reclamation within a period determined by the Board.
  - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of a similar nature.

- (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
  - (5) The required performance bond or cash escrow agreement shall be equal to 1 1/4 times the Village Engineer's estimated cost of the required improvements.
  - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- F. Fences. Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- G. Inspection. An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under § 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation chapter.
- H. Prohibitions and orders. Nonmetallic mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this chapter or if other requirements of this chapter are not met.

#### **§ 219-6. Permit revocation.**

If any permit is revoked, cancelled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him or the reasons proposed for revocation and shall have an opportunity to be heard before the Village Board.