

TOWN OF COTTAGE GROVE
ORDINANCE 2021-07-06

**AMENDING THE CODE OF ORDINANCES WITH RESPECT TO RENEWAL
APPLICATIONS FOR NONMETALLIC MINING PERMITS**

WHEREAS, the Town Board deems it in the public interest to amend the Code of Ordinances to permit, but not require, mailed notice to owners of property in the vicinity of a nonmetallic mining site, if the application is a renewal without change from the prior year.

NOW, THEREFORE, the Town Board of the Town of Cottage Grove, Dane County, Wisconsin, do ordain as follows:

SECTION 1. Section 17.02 of the Code of Ordinances is hereby amended to read as set forth in Exhibit A attached hereto.

SECTION 2. All other provisions of Code of Ordinances not specifically amended herein shall remain unmodified and in full force and effect.

SECTION 3. This ordinance shall take effect upon passage and publication as provided by law.

The above and foregoing ordinance was duly adopted at a meeting of the Town Board of the Town of Cottage Grove on the 6th day of July, 2021, by a vote of 5 in favor and 0 opposed.

TOWN OF COTTAGE GROVE


Kris Hampton, Town Chair

Attested by:


Kim Banigan, Town Clerk

Requested By: Kim Banigan, Town Clerk – 5/11/21
Drafted By: William S. Cole, Town Attorney – 5/19/21

EXHIBIT A

17.02 NONMETALLIC MINING PERMIT

(1) APPLICATION

(a) No person may conduct nonmetallic mining within the Town without first obtaining a nonmetallic mining permit from the Town Board.

(b) Application shall be made to the Town Clerk a minimum of 30 working days prior to the proposed effective date of the permit, using the Town of Cottage Grove nonmetallic mining permit application form. A current copy of this form is available from the Town Clerk's office.

(c) An application for nonmetallic mining will not be processed until the appropriate fee, set by resolution of the Town Board, has been paid to the Town and the operation plan specified in s. TCG § 17.03 has been received by the Clerk. This fee shall be in addition to any fee specified in s. TCG § 15.19(1) if the application requires a change of land use.

(2) BOARD REVIEW AND PUBLIC HEARING

(a) Upon receipt of an application, the Town Board may request the applicant to submit additional information if the Town Board determines that the application is incomplete. The Town Board may retain the services of an engineering firm or other qualified person with appropriate expertise ("Retained Expert") to review the application and report to the Town Board whether additional information is required for review of the application and to determine whether the application meets the standards of this Chapter. If the Town Board determines that additional expertise is required or will provide valuable assistance to the Board in its review of the application, the Town shall give written notice to the applicant of the estimated additional administrative fee to be charged beyond the base administrative fee to cover the cost of the services of any such Retained Expert. The estimated additional fee shall be paid before the additional review is undertaken. If the amount of the final administrative fee exceeds the estimated fee, the applicant shall pay the additional amount within 30 days of invoicing by the Town. Any permit issued shall be conditioned upon the payment of all administrative fees when due. If the final administrative fee is less than the estimated amount, the overpayment shall be refunded to the applicant.

(b) Once an application is complete and any report by a Retained Expert has been completed the Town Clerk shall place the application on the agenda for the next regular meeting of the Town Board. If a special meeting is warranted, the applicant shall pay the Town's cost incurred for the special meeting. The Town Board shall set a date for a public hearing and give public notice at least 15 days prior to the date scheduled for the hearing. In the case of an initial application, the Town Clerk shall provide with the notice mailed to the owners of any property within 1/2 mile of the proposed mining site regardless of whether there is a residence or structure on the property. In the case of a renewal application without change from the prior year, the Town Clerk may provide notice to the owners of any property as deemed appropriate in the public interest. At the public hearing, the Town Board shall take public comment on the proposed permit.

Following the public hearing, the Town Board may take immediate action or set a date for the meeting at which time they shall make a final decision on the application. The Town Board shall grant the permit if it determines that the operation of the mine will be consistent with the purpose of this Chapter and will comply with the minimum standards set forth in this Chapter and does not create adverse cumulative impacts on the Town's public health, safety and welfare. If the Town Board determines that the operation of the mine will be inconsistent with the purpose of

this Chapter, will not comply with the minimum standards set forth in this Chapter or will create adverse cumulative impacts on the Town's public health, safety and welfare, it may deny the permit. In order to protect and promote the health, safety and welfare of the general public and Town residents, the Town Board may require permittees to limit their hours of operation, take measures to limit noise exposure to those levels set forth in s. TCG § 11.06, install additional fencing or signs to comply with s. TCG § 17.04, take measures to comply with the blasting requirements under s. TCG § 18.01, or take other measures to adequately protect and promote public health, safety and welfare. A permit may be approved, conditionally approved or denied subject to such measures and requirements.

(3) PERMIT REQUIRED

(a) Except as otherwise specifically noted, all nonmetallic mining permits shall be valid from July 1 of one year, through June 30 of the following year.

(b) The Town Clerk shall send a notice of renewal, along with a blank application form, to permit holders annually no later than April 1 by certified mail, return receipt requested.

(4) FEES

A fee, set by resolution of the Town Board, shall accompany each application for a nonmetallic mining permit. The fee shall be paid to the Town Treasurer in US currency, money order, or check payable to: the Town of Cottage Grove. An itemized receipt shall be provided for all currency received. Failure to submit the total of all Town fees due at the time of application will delay processing of the application and may be considered grounds for refusal to issue or re-issue the nonmetallic mining permit.

(5) REVOCATION, SUSPENSION, REFUSAL TO ISSUE OR RENEW

(a) No permit shall be granted to any nonmetallic mining site until all requirements under s. TCG § 17.02 have been met and until an operation plan as described in s. TCG § 17.03 has been submitted to and approved by the Town Board. Failure to meet the requirements under s. TCG § 17.02 or failure to receive Town Board approval of an operation plan under s. TCG § 17.03 may be the basis for nonrenewal of a Town nonmetallic mining permit.

(b) No permit shall be granted to any nonmetallic mining site for which taxes, assessments, or other claims of the Town are delinquent and unpaid, or to any operator delinquent in payment of such claims to the Town.

(c) No permit shall be granted to any nonmetallic mining site until the operator specifies in writing, how the noise exposure to adjoining and adjacent residents will be limited to the permissible sound levels incorporated under s. TCG § 11.06(1)(a)5.

(d) The Town Board, on its own motion or following due review and investigation of a written complaint, may revoke a nonmetallic mining permit for any violation of provisions or requirements of this ordinance or of other applicable state and federal law. Before revocation of any nonmetallic mining permit, the Clerk shall give written notice to the operator, a minimum of 30 working days prior to the renewal date, of any alleged violations, charges, reasons for revocation, any written complaint, and/or a copy of any motion for revocation made by the Town Board. The operator shall have an opportunity to be heard before the Town Board at the next scheduled Town Board meeting, following such notice.

(e) Whenever a permit is revoked under subsection 17.02(5)(d), there shall be a 6-month waiting period before another permit may be granted for the same nonmetallic mining site and a 12-month period shall elapse before another permit may be granted to the operator whose permit

was revoked.

(f) Before renewal of any nonmetallic mining permit is refused, the Town Clerk shall give written notice to the operator, a minimum of 30 working days prior to the renewal date, of any alleged violations, charges against them, reasons for non-renewal, any written complaint and/or a copy of any motion for non-renewal made by the Town Board. The operator shall have an opportunity to be heard before the Town Board at the next scheduled Town Board meeting, following such notice.

AFFIDAVIT OF POSTING OF
TOWN OF COTTAGE GROVE ORDINANCE

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, Kim Banigan, Cottage Grove Town Clerk, being first duly sworn, on oath, state as follows:

On July 7, 2021, the following Town of Cottage Grove Town Ordinance was duly posted on the Town of Cottage Grove's internet site and on the Cottage Grove Town Hall Bulletin board, all in accordance with TCG 25.01(4) and Wis. Stats., §60.80.

Town Board Ordinance 2021-07-06
Amending the code of ordinances with respect to renewal application for non-metallic mining permits

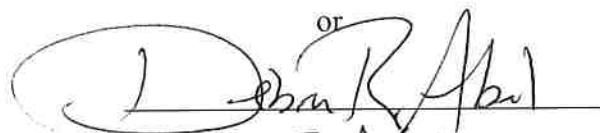


Kim Banigan, Cottage Grove Town Clerk

Subscribed to and sworn before me
this 7th day of July, 2021.

Signature of Town Board Chair

OR



Debra R. Abel (print name)

Notary Public, State of Wisconsin
My Commission expires: March 7, 2023