Polk County Board of Supervisors
Ordinance No. 86 – 17
Nonmetallic Mining Reclamation Ordinance

TO THE HONORABLE CHAIRPERSON AND SUPERVISORS OF THE COUNTY BOARD OF THE COUNTY OF POLK:

Ladies and Gentlemen:

NOW THEREFORE, BE IT ORDAINED that the Polk County Board of Supervisors, as follows:

1. Ordinance No. 86-17, Nonmetallic Mining Reclamation Ordinance, attached hereto and incorporated herein enacted.

2. Resolution No. 60-07, Nonmetallic Mining Reclamation Ordinance is repealed and superseded by Ordinance No. 86-17.

Polk County Board of Supervisors
Ordinance No. 86 – 17
Nonmetallic Mining Reclamation Ordinance

Funding Source/ Funding Amount:	None/Not Applicable
Effective Date:	Upon Passage and Publication
Dated Submitted To County Board	December 18, 2017
Submitted on Recommendation By: Environmental Services Committee	- chair -
Review By County Administrator: ☐ Recommended ☐ Not Recommended ☒ Reviewed Only Dana Frey, County Administrator	Review By Corporation Counsel: ☒ Approved as to Form ☒ Reviewed Only Jeffrey B. Fuge, Corporation Counsel

Acknowledgement of County Board Action

At its regular business meeting on the 18th of December 2017, the Polk County Board of Supervisors enacted Ordinance No. 86-17: Nonmetallic Mining Reclamation Ordinance, as follows:

☒ Enacted by simple majority of the board of supervisors by a vote of 13 in favor and 2 against. (1 absent)

☐ Enacted by unanimous vote.

SIGNED BY:

Dean Johansen, County Board Chairperson

Attest: Sharon E. Jorgenson
Sharon Jorgenson, County Clerk

Certification of Publication

Ordinance No.86-17: Nonmetallic Mining Reclamation Ordinance was published in the Inter-County Leader on the 3rd. day of January, 2018.

Sharon Jorgenson Dated: 12-18-17
Sharon Jorgenson, County Clerk

Polk County Ordinance No. 86-17, Nonmetallic Mining Reclamation Ordinance

Notice is hereby given that the Polk County Board of Supervisors adopted the ordinance listed above during the Monday, December 18, 2017, regular meeting of the Polk County Board of Supervisors.

Ordinance No. 86-17 shall be effective upon publication on January 3rd, 2018.

The purpose and goal of the ordinance is to ensure a safe and environmentally sound land use for the mining site after mining operations have ceased. The ordinance in effect means that any proposed mining site (gravel, sand or other nonmetallic minerals) will be required to have an approved reclamation permit to continue mining operations in Polk County. Exceptions include a mining site less than one acre in size and sites used for agricultural or personal uses.

Complete copies of Ordinance No. 86-17 may be obtained by contacting the Polk County Clerk office, located at 100 Polk County Plaza, Suite 110, Balsam Lake, Wisconsin or by calling 715-485-9226. The complete documents may also be viewed on line on the Polk County Website at: www.co.polk.wi.us under Land & Water Resources.

CERTIFIED COPY OF POLK COUNTY ORDINANCE

STATE OF WISCONSIN)
) SS
COUNTY OF POLK)

I, Sharon E. Jorgenson, Polk County Clerk, do hereby certify that the attached hereto and incorporated herein is a full, true and correct copy of Polk County Ordinance - Nonmetallic Mining Reclamation Ordinance No. 86-17 that was adopted by the Polk County Board of Supervisors on the 18th day of December, 2017.

Sharon E. Jorgenson 12/18/17

Sharon E. Jorgenson Date
Polk County Clerk

SUBCHAPTER XXX.XX: NONMETALLIC MINING RECLAMATION ORDINANCE

Section 1. Title, Statutory Authority, Restrictions Adopted Under Other Authority, Interpretation, Severability, Purpose and Intent, Applicability, Definitions

1.01. Title. This ordinance shall be known as the Nonmetallic Mining Reclamation Ordinance for the County of Polk.

1.02. Statutory Authorization. This ordinance is adopted under authority of Section 295.13 (1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 59.51, Wisconsin Statutes.

1.03. Restrictions Adopted Under Other Authority. The purpose of this ordinance is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Section 295.12 (1) (a), Wisconsin Statutes., and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

1.04. Interpretation. In their interpretation and application, the provisions of this ordinance 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 the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Subchapter I of Chapter 295, Wisconsin Statutes and ch. NR 135, Wisc. Admin. Code. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in ch. NR 135, Wis. Admin. Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of ch. NR 135, Wis. Admin. Code.

1.05. Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

1.06. Purpose and Intent. The purpose of this ordinance is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Polk County after the effective date of this ordinance, in compliance with ch. NR 135, Wis. Admin. Code and subch. I of ch. 295, stats.

1.07. Applicability.

a. *Overall Applicability*. The requirements of this ordinance apply to all operators of nonmetallic mining sites within Polk County except as exempted in sub. 1.07.b. of the Polk County Nonmetallic Mining Reclamation Ordinance: and for nonmetallic mining sites located in a city, village or town within Polk County that has adopted an ordinance pursuant to s. 295.14, Stats, and s. NR 135.32 (2), Wis. Admin. Code. This ordinance does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased before August 1, 2001. This ordinance applies to nonmetallic mining conducted by or on behalf of a county, municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in sub. 3.03.c.

b. *Exemptions*. This ordinance does not apply to the following activities:

1. Nonmetallic mining at a site or that portion of a site this is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under s. 30.19, 30.195 or 30.20, Stats., and complies with ch. NR 340, Wis. Admin. Code.
2. Excavations subject to the permit and reclamation requirements of s. 30.30 or 30.31, Stats.
3. Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
4. Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
5. Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
6. Excavations for building construction purposes conducted on the building site.

7. Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.
8. Any mining operation, the reclamation of which is required in a permit obtained under ch. 293, Stats., or under subch. III of ch. 295, Stats.
9. Any activities required to prepare, operate or close a solid waste disposal facility under ch. 289, Stats., or a hazardous waste disposal facility under ch. 291, Stats., that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this ordinance 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 where 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.
10. Wisconsin Department of Transportation sites.
    (a). Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.
    (b). This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.
    (c). If a nonmetallic mining site covered under par. (a) and par. (b) is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.
11. Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

1.08. Definitions. The following definitions apply to the provisions of this ordinance:

a. *Alternative Requirement* means an alternative to the reclamation standards of this ordinance provided through a written authorization granted by the Polk County LWRD pursuant to sub 3.07.
b. *Applicable Reclamation Ordinance* means a nonmetallic mining reclamation ordinance, including this ordinance, that applies to a particular nonmetallic mining site and complies with the requirements of ch. NR 135, Wis. Admin. Code and subch. I of ch. 295, Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in sub. 1.08.t.3.. If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of ch. NR 135, Wis. Admin. Code.
c. *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.
d. *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.
e. *Department* means the Wisconsin Department of Natural Resources.
f. *Environmental Pollution* has the meaning in s. 295.11 (2), Stats.
g. *Financial Assurance* means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in sub. 3.03 and is sufficient to pay for reclamation activities required by this ordinance.
h. *Highwall* means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.
i. *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.

j. *Licensed Professional Geologist* means a person who is licensed as a professional geologist pursuant to ch. 470, Stats.
k. *Municipality* means any city, town or village.
l. *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.
m. *Nonmetallic Mining* or *Mining* means all of the following:
    1. 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.
    2. 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.
n. *Nonmetallic Mining Reclamation* or *Reclamation* means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this ordinance, 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.
o. *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 by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.
p. *Nonmetallic Mining Site* or *Site* mean all contiguous areas of present or proposed mining described in par. 1., subject to the qualifications in par. 2.
    1. Nonmetallic mining site means the following:
        (a). The location where nonmetallic mining is proposed or conducted.
        (b). Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.
        (c). Areas where nonmetallic mining refuse is deposited.
        (d). Areas affected by activities such as the construction or improvement of private roads of haulage ways for nonmetallic mining.
        (e). Areas where grading or regrading is necessary.
        (f). 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.
    2. Nonmetallic mine site does not include any of the following areas:
        (a). Those portions of sites listed in par. 1. not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.
        (b). 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.
        (c). Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of minerals used for an industrial process unrelated to nonmetallic mining.

q. *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.
r. *Person* means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.
s. *Registered Professional Engineer* means a person who is registered as a professional engineer pursuant to s. 443.04, Stats.
t. *Regulatory Authority* means one of the following:
   1. The county in which the nonmetallic mining site is located, that has an applicable reclamation ordinance under s. 295.13, Stats., except where a municipality has adopted an applicable reclamation ordinance pursuant to par. 2.
   2. The municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance under s. 295.14, Stats.
   3. The department, in cases where a county mining reclamation program is no longer in effect under s. 295.14, Stats., but only if there is no applicable reclamation ordinance enacted by the municipality in which the nonmetallic mining site is located.
u. *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 for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this ordinance.
v. *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 ch. 283, Stats., or source material, special nuclear material or by product material, as defined in s. 254.31 (1), Stats.
w. *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.
x. *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.
y. *Un-reclaimed Acre* or *Un-reclaimed Acres* means those un-reclaimed acres 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 sub. 4.07.c. However, the term does not include any areas described in par. 1.
   1. Un-reclaimed acre or un-reclaimed acres does not include:
      (a). Those areas where reclamation has been completed and certified as reclaimed under sub. 4.07.c.
      (b). Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
      (c). Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this ordinance but are not yet affected by nonmetallic mining.
      (d). Areas previously mined but used after August 1, 2001 for non-mining 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 used products produced from nonmetallic mining.
      (e). For purposes of fees under sub. 4.05, those areas within a nonmetallic mining site which Polk County has determined to have been successfully reclaimed on an interim basis in accordance with sub. 4.07.c.

Section 2. Standards.

2.01. Standards. All nonmetallic mining sites subject to this ordinance shall be reclaimed in conformance with the standards contained below.

a. *General Standards.*
   1. Refuse and other solid wastes. 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 Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.
   2. 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.
   3. Public Health, Safety and Welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.
   4. Habitat Restoration. While the land use required by the reclamation plan approved pursuant to this 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.
   5. Compliance with Environmental 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.

b. *Surface Water and Wetland Protection.* Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in chs. NR 102 through NR 105, Wis. Admin. Code. 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 this ordinance. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

c. *Groundwater Protection.*
   1. 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.
   2. Groundwater Quality. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in ch. NR 140, Wis. Admin. Code to be exceeded at a point of standards application defined in that chapter.

d. *Top Soil Management.*
   1. Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this ordinance in order to achieve reclamation to the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed prior to any mining activity associated with any specific phase of the mining operation.
   2. Volume. The operator shall obtain the volume of the soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this ordinance.
   3. Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this ordinance, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which top soil or topsoil substitute material is stockpiled.

e. *Final Grading and Slopes.*
   1. All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to sub. 3.02 to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate high walls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: 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, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.
   2. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under sub. 3.07; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.
   3. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

f. *Topsoil Redistribution for Reclamation.* Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this ordinance in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

g. *Revegetation and Site Stabilization.* Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this ordinance, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

h. *Assessing Completion of Successful Reclamation.*
   1. The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this ordinance. Criteria to evaluate reclamation success shall be quantifiable.
   2. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:
      (a). On-Site inspections by Polk County or its agent;
      (b). Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo-documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
      (c). A combination of inspections and reports.
   3. In those cases when the post-mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain basement data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
   4. Revegetation success may be determined by:
      (a). Comparison to an appropriate reference;
      (b). Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

(c). Comparison to an approved alternate technical standard.

5. Revegetation using a variety of plant indigenous to the area is favored.

i. *Intermittent Mining*. Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to sub. 3.03 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and have not been reclaimed.

j. *Maintenance*. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this ordinance.

Section 3. Permitting.

3.01. 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 pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in sub. 1.07.a, 1.07.b or 1.08.p.2.

a. *Required Submittal*. All operators of nonmetallic mining sites shall apply for a reclamation permit from Polk County. All applications for reclamation permits under this section shall be accompanied by the following information:

1. A brief description of the general location and nature of the nonmetallic mine.
2. A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
3. The names, addresses and telephone numbers of all persons or organizations who are owners of lessors of the property on which the nonmetallic mining site is located.
4. The name, address and telephone number of the person or organization who is the operator.
5. A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by Section 2.

b. *Reclamation Permit Application Contents*. The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to Polk County Land and Water Resources Department, 100 Polk County Plaza, Suite 120, Balsam Lake, WI 54810 prior to beginning operations.

1. The information required by sub. 3.01.a
2. The plan review and annual fees required by sub. 4.04 and 4.05.
3. A reclamation plan conforming to sub. 3.02.
4. A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by sub. 3.03 upon granting of the reclamation permit and before mining begins.
5. To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this ordinance.

3.02. Reclamation Plan

a. *Reclamation Plan Required*. All operators who conduct or plan to conduct nonmetallic mining shall submit to Polk County a reclamation plan that meets all of the following requirements and compiles with the reclamation standards of Section 2.

b. *Site Information*. The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

1. Maps of the nonmetallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the location of surface waters and the existing drainage patterns, the approximate elevation of ground water, as determined by existing hydro geologic information. In specific instances, where the existing hydro geologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.

2. Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to the approved post-mining land use, can be identified using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin Soil Science Extension Agent or other available information resources.
3. Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
4. Existing topography as shown on contour maps of the site at five (5) feet or less contour intervals.
5. Location of manmade features on or near the site.
6. For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash pons and sediment basins.

c. *Post-Mining Land Use.*
   1. The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state or federal laws in effect at the time the plan is submitted.
   2. Land use for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to subch. III of ch. 91, Stats., shall be restored to agricultural use.

d. *Reclamation Measures.* The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:
   1. A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and, if necessary, a site-specific engineering analysis performed by a registered professional engineer as provided by sub. 2.01.e., par. 1. or par. 2.
   2. The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.
   3. A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.
   4. A plan or map which shows surface structures, roads and related facilities after the cession of mining.
   5. The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
   6. A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
   7. Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.
   8. A plan and, if necessary, a narrative showing erosion control measure to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface and groundwater.
   9. A description of any areas which will be reclaimed on an interim basis sufficient to quality for the waiver of fees pursuant to sub. 4.07.b and 4.07.d and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in Section 2 and timing of interim and final reclamation.
   10. A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

e. *Criteria for Successful Reclamation*. The reclamation plan shall contain criteria for assuring successful reclamation in accordance sub. 2.01.h.

f. *Certification of Reclamation Plan*. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. If the operator does not own the land, the landowner or lessor, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.

g. *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 ordinance.

h. *Approval of Reclamation Plan*. Polk County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with sub. 3.05.b for mines that apply for a reclamation permit in conformance with sub. 3.01. Conditional approvals of reclamation plans shall be made according to sub. 3.05.e. and denials of reclamation plans shall be made pursuant to sub. 3.06. The operator shall keep a copy of the reclamation plan approved under the subsection at the mine site, or if not practicable, at the operator's nearest place of business.

3.03. Financial Assurance.

a. *Financial Assurance Requirements*. All operators of nonmetallic mining sites in Polk County shall prepare and submit a proof of financial assurance that meets the following requirements:

1. Notification. The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under sub. 3.03.a.3.
2. Filing. Following the approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with Polk County. The financial assurance shall provide that the operator shall faithfully perform all requirements in ch. NR 135, Wis. Admin. Code, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to Polk County. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to Polk County only if it currently has primary regulatory responsibility.
3. Amount and Duration of Financial Assurance. The amount of financial assurance shall equal as closely as possible the cost to Polk County of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by Polk County to assure it equals outstanding reclamation costs. Any financial assurance filed with Polk County shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Polk County may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to affect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designated to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.
4. Form and Management. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to Polk County and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurances shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of Polk County, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

5. Multiple Projects. Any operator who obtains a permit from Polk County for two (2) or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by Polk County.
6. Multiple Jurisdictions. In cases where more than one regularly authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.
7. Certification of Completion and Release.
   (a). The operator shall notify the regulatory authority, by filling a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. Polk County shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. Polk County may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete, Polk County shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.
   (b). Polk County shall make a determination of whether or not the certification in par. (a) can be made with 60 days that the request in received.
   (c). Polk County may make a determination under this subsection that:
      (1) Reclamation is not yet complete;
      (2) It is not possible to access whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
      (3) Reclamation is complete in part of the mine; or
      (4) Reclamation is fully complete.
8. Forfeiture. Financial assurance shall be forfeited if any of the following occur:
   (a). A permit is revoked under sub. 4.04 and the appeals process has been completed.
   (b). An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.
9. Cancellation. Financial assurance shall provide that it may not be cancelled by the surety or other holder or issuer except after not less than a 90-day notice to Polk County in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to Polk County a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.
10. Changing Methods of Financial Assurance. The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to sub. 3.03.a.12. The operator shall give Polk County at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of Polk County Land and Water Resources.
11. Bankruptcy Notification. The operator of a nonmetallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceedings under bankruptcy code 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.
12. Adjustment of Financial Assurance. Financial assurance may be adjusted when required by Polk County. Polk County may notify the operator in writing that adjustment is necessary and the reasons for it. Polk County may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

13. Net Worth Test.
    (a). Only an operator that meets the definition of 'company' in s. 289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.
    (b). The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of s. 289.41 (4), Stats. The criteria in s. 289.41 (6) (b), (d), (e), (f), (g), (h), and (i), Stats.. shall apply.
    (c). An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with s. 289.41 (6), Stats.
    (d). Determinations under the net worth test shall be done in accordance with s. 289.41 (5), Stats.
    (e). In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this ordinance.

b. *Private Nonmetallic Mines*. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sub. 3.01 shall submit the proof of financial assurance required by sub. 3.03.a. as specified in the reclamation permit issued to it under this ordinance.

c. *Public Nonmetallic Mining*. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

3.04. Public Notice and Right of Hearing.

a. *Reclamation Plan Hearing*. Polk County shall provide public notice and the opportunity for a public informational hearing as set forth below:
    1. Public Notice.
        (a). When Polk County receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies sub. 3.01.
        (b). The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to s. 985.07 (1), Stats., in the official newspaper of Polk County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.
        (c). Copies of the notice shall be forwarded by Polk County to the county or applicable municipal zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.
    2. Hearing. Polk County shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:
        (a). If it conducts a zoning-related hearing on the nonmetallic mining site, Polk County shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. Polk County shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this ordinance.
        (b). If there is no opportunity for a zoning-related hearing on the nonmetallic mining site as described in sub. 3.04.a.2.(a), opportunity for public hearing required by this section shall be provided as follows:
            (1) Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed, may request a public informational hearing. Polk County shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. 3.04.a. This public informational hearing shall be held no sooner than 30 days nor no later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation plan only.

(2) The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

b. *Local Transportation-Related Mines*. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 3.05.c.

3.05. Issuance of a Nonmetallic Mining Reclamation Permit.

a. *Permit Required*. No person may engage in nonmetallic mining or nonmetallic mining reclamation in Polk County without first obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this ordinance under sub. 1.07.a., 1.07.b., 1.08.p.2.

b. *Permit Issuance*. Applications for reclamation permits for nonmetallic mining that satisfy sub. 3.01 shall be issued a reclamation permit or otherwise acted on as provided below.

1. Unless denied pursuant to sub. 3.06, Polk County shall approve in writing a request that satisfies the requirements of sub. 3.01 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.
2. Polk County may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of sub. 3.02. The regulatory authority may issue a reclamation permit subject to conditions in sub. 3.05.e. if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application that meets the requirements in sub. 3.01. and reclamation plan that meets the requirements in sub. 3.02., unless a public hearing is held pursuant to sub. 3.04. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to sub. 3.05.e if appropriate, or shall deny the permit as provided in sub. 3.06, no later than 60 days after completing the public hearing.
3. Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of sub. 3.02 and provision by the applicant of financial assurance required under sub. 3.03 and payable to Polk County prior to beginning mining.

c. *Automatic Permit for Local Transportation-Related Mines*

1. Polk County shall automatically issue an expedited permit under this subsection to any borrow site that:
   (a). Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;
   (b). Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or other transportation facility under contract with the municipality.
   (c). Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites;
   (d). Is not a commercial source;
   (e). Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any and;
   (f). Is not otherwise exempt from the requirements of this ordinance under sub. 1.07.b.10
2. In this subsection, "municipality" has the meaning defined in s. 299.01 (8), Stats.
3. Automatic permits shall be issued under the subsection in accordance with the following provisions:
   (a). The applicant shall notify Polk County of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.
   (b). The applicant shall provide evidence to Polk County to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
   (c). Polk County shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under sub. 3.02.
   (d). Polk County shall accept the contractual provisions in lieu of the financial assurance requirements in sub. 3.03.
   (e). The public notice and hearing provisions of sub. 3.04 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.

(f). Mines permitted under this subsection shall pay an annual fee to Polk County as provided in sub. 4.05, but shall not be subject to the plan review fee or expedited plan review fee provided in sub. 4.04.

(g). Polk County shall issue the automatic permit within 7 days of the receipt of a complete application.

(h). If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.

(i). Notwithstanding sub. 4.03, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

d. *Expedited Review*. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under par. (1) or par. (2) as follow:

1. The operator may submit a request for expedited permit review with payment of the expedited review fee specified in sub. 4.04.b. This request shall state the need for such expedited review and the date by which such expedited review is requested.
2. The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.
3. Following receipt of a request under this subsection, Polk County shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under par. (1) shall be returned.
4. Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to sub. 3.04. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

e. *Permit Conditions*. Any decision under this section may include conditions as provided below:

1. Polk County may issue a reclamation permit or approve a reclamation plan subject to general or site specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this ordinance. The approvals may not include conditions that are not related to reclamation.
2. One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to sub. 3.03 prior to beginning mining.

3.06. Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

a. *Application Denial*. An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in sub. 3.05, if Polk County finds any of the following:

1. The applicant has, after being given an opportunity to make corrections, failed to provide to Polk County an adequate permit application, reclamation plan, financial assurance or any other submittal required by ch. NR 135, Wis. Admin. Code or this ordinance.
2. The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this ordinance, ch. NR 135, Wis. Admin. Code or subch. I of ch. 295, Stats.
3. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered, shown a pattern of serious violations of ch. NR 135, Wis. Admin. Code, this ordinance or of federal, state or local environmental laws related to nonmetallic mining reclamation. The following may be considered in making this determination of a pattern of serious violations:

(a). Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

(b). Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this ordinance, other reclamation ordinances or ch. NR 135, Wis. Admin. Code

(c). Forfeitures of financial assurance.

4. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

b. *Review of Denial.* A decision to deny an application to issue a reclamation permit may be reviewed under sub. 3.011.

3.07. Alternative Requirements.

a. *Scope of Alternative Requirements Approvable.* An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in sub. 2.01. Polk County may approve an alternative requirement to the reclamation standard established in this ordinance if the operator demonstrates and Polk County finds that all of the following criteria are met:

1. The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.
2. Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.
3. Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

b. *Procedures.*

1. The operator of a nonmetallic mining site requesting an alternate requirement in sub. 3.07.b shall demonstrate all the criteria in sub. 3.07.a. This shall be submitted in writing to Polk County Land and Water Resources, 100 Polk County Plaza, Suite 120, Balsam Lake, WI 54810.
2. The Polk County Environmental Services Committee shall hold a public hearing concerning the request for alternative requirements within 60 days of the request of the application. The nearing shall be posted as a class 1 notice pursuant to s. 985.07 (1), Stats., in the official newspaper of Polk County; the applicant may appear on his/her behalf to offer testimony. The Polk County Land & Water Resources Department shall provide testimony and it may require an on-site visit by the committee. Opportunity for comments for or against the request will be provided for. The vote of the majority of the quorum shall be necessary to decide any request. Decisions will be made within 90 days of the public hearing.
3. A request for alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

c. *Transmittal of Decision on Request for Alternative Requirement.* The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

d. *Notice to Wisconsin Department of Natural Resources.* Polk County shall provide notice to the Wisconsin Department of Natural Resources as set forth in this subsection. Written notice shall be given to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing held under sub. 3.07.b on a request for an alternative requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

3.08. Permit Duration. A nonmetallic mining reclamation permit issued under this ordinance shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sub. 4.02 or sub. 5.02.b. If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to sub. 3.09.

3.09. Permit Transfer. A nonmetallic mining reclamation permit issued under this ordinance shall be transferred to a new owner or operator upon satisfaction of the following conditions:

a. *Required Submittal.* A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to Polk County of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be compiled with.

b. *Financial Assurance Conditions.* The transfer is not valid until financial assurance has been submitted by the new operator and accepted by Polk County and Polk County makes a written finding that all

conditions of the permit will be compiled with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

3.010. Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to ch. NR 135, Wis. Admin. Code that becomes subject to reclamation permitting authority of Polk County, the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Polk County pursuant to sub. 4.01.a.

3.011. Review. Any permitting decision or action made by Polk County under this ordinance may be reviewed as set forth in this section. Notwithstanding ss. 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 s. 68.11, Stats., on Polk County's decision to issue, deny or modify a nonmetallic mining reclamation permit.

Section 4. Administration.

4.01. Permit Modification.

a. *By Polk County.* A nonmetallic mining reclamation permit issued under this ordinance may be modified by Polk County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with ch. NR 135, Wis. Admin. Code or this ordinance. Such modification shall be by an order modifying the permit in accordance with sub. 5.02. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with ch. NR 135, Wis. Admin. Code or this ordinance.

b. *At the Operator's Option.* If operator of any nonmetallic mine that holds a reclamation permit issued under this ordinance desires to modify such permit or reclamation plan approved under this ordinance, it may request such modification by submitting a written application for such modification to Polk County LWRD at 100 Polk Plaza, Suite 120, Balsam Lake, WI 54810. The application for permit or plan modification shall be acted on using the standards and procedures of this ordinance.

c. *Required by Operator.* The operator of any nonmetallic mine that holds a reclamation permit issued under this ordinance shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this ordinance. Such application for permit modification shall be acted on using the standards and procedures of this ordinance.

d. *Review.* All actions by Polk County on permit modifications requested or initiated under this section are subject to review under sub. 3.011.

4.02. Permit Suspension and Revocation.

a. *Grounds.* Polk County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this ordinance if it finds the operator has done any of the following:
   1. Failed to submit a satisfactory reclamation plan within the time frames specified in this ordinance.
   2. Failed to submit or maintain financial assurance as required by this ordinance.
   3. Failed on a repetitive and significant basis to follow the approved reclamation plan.

b. *Procedures.* If Polk County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 4.02.a, it may issue a special order suspending or revoking such permit as set forth in sub. 5.02.b.

c. *Consequences.*
   1. Suspension. If Polk County makes any of the findings in sub. 4.02.a, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to sub. 5.02.
   2. Revocation. If Polk County makes any of the findings in sub. 4.02.a, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this ordinance to Polk County. Polk County may use forfeited financial assurance to reclaim the site to the extent needed to comply with ch. NR 135, Wis. Admin. Code and the applicable reclamation ordinance.

4.03. Annual Operator Reporting.

a. *Contents and Deadline.* Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites on a form supplied by Polk County.

1. Contents. The annual report required by this section shall include all of the following:
   (a). The name and mailing address of the operator.
   (b). The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.
   (c). The identification number of the applicable nonmetallic mining permit, if assigned by Polk County.
   (d). The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
   (e). The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
   (f). A plan, map or diagram accurately showing the acreage described in par. (d) and par. (e).
   (g). The following certification, signed by the operator: "I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and ch. NR 135, Wis. Admin. Code."
2. Deadline. The annual report shall cover activities on un-reclaimed acreage for the previous calendar year and be submitted by January 31.
3. When Reporting May End. Annual reports shall be submitted by an operator for all active and intermittent mining sites to Polk County for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to sub. 4.07.c or at the time of release of financial assurance pursuant to sub. 3.03.a.7.

b. *Inspection in Lieu of Report.* Polk County may, at its discretion, obtain the information required in sub. 4.03.a for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If Polk County obtains and documents the required information, the annual report need not be submitted by the operator. If Polk County determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, Polk County shall require the operator to submit the certification required in sub. 4.03.a.1.g.

c. *Retention of Annual Reports.* Annual reports submitted under sub. 4.03.a or inspection records that replace them under sub. 4.03.b shall be retained by Polk County at the Land and Water Resources office for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources, upon written request or during its inspection or audit activities carried out pursuant to ch. NR 135, Wis. Admin. Code.

4.04. 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 sub. 3.01 shall submit a non-refundable reclamation plan review fee set forth in the Fee Schedule, to the office of the Polk County Land & Water Resources Department. No reclamation plan review fee may be assessed under this section for any local transportation-relating mining receiving an automatic permit under sub. 3.05.c. A separate reclamation plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to sub. 4.01.

b. *Expedited Reclamation Plan Review Fee.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 3.01 may obtain expedited reclamation plan review by paying a fee as set forth in the Fee Schedule, to the office of the Polk County Land & Water Resources Department. Such fee shall be in addition to that required in sub. 4.04.a.

c. *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 sub. 4.05.

4.05. Annual Fees.

a. *Areas Subject to Fees, Procedures, Deadline and Amount.*

1. Operators of all nonmetallic mining sites subject to reclamation permits issued under this ordinance shall pay annual fees to Polk County Land and Water Resources Department, 100 Polk County Plaza, Suite 120, Balsam Lake, WI 54810
2. Fees paid under this section shall be calculated based on the un-reclaimed acres of a nonmetallic mining site, as defined below:
   (a). "Un-reclaimed acre" or "Un-reclaimed acres" means those un-reclaimed 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 sub. 3.03.a.7. However, the term does not include any areas described in par. (b).
   (b). "Un-reclaimed acre" or "un-reclaimed acres" does not include:
      (1) Those areas where reclamation has been completed and certified as reclaimed under sub. 3.03.a.7.
      (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 an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.
      (4) Areas previously mined but used after August 1, 2001 for a non-mining activity, including stockpiling of materials, provided the stock piles are associated with on-site industrial processes, used for an industrial activity unrelated to nonmetallic mining, such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
      (5) Those areas within a nonmetallic mining site which Polk County has determined to have been successfully reclaimed on an interim basis in accordance with sub. 4.07.b and sub. 4.07.c.
   (c). Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.
3. Fees assessed pursuant to this section shall be based on un-reclaimed acres at the end of the year. 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 sub. 4.07. Fees shall be paid to Polk County no later than January 31st for the previous year. Polk County shall mail an Annual Report-Fee form to all Polk County operators of nonmetallic mining sites who have been issued a permit by January 1.
4. If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by Polk County pending certification of completed reclamation pursuant to sub. 4.07.c and sub. 3.03.a.7. Upon such certification Polk County shall refund that portion of the annual fee that applies to the reclaimed areas. If Polk County failed to a make a determination under sub. 4.07.c and sub. 3.03.a.7 within 60 days of the request, it shall refund the portion of the annual fee that applies to the reclaimed areas.
5. The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in sub. 4.05.b, the share of Polk County described in sub. 4.05.c, and, if applicable, the reclamation plan review fee described in sub. 4.04.

b. *Wisconsin Department of Natural Resources Share of Fee.*

1. Fees paid under this section shall, except where provided in par. (2), include a share of for the Wisconsin Department of Natural Resources equal to the amount specified in Table 1.

TABLE 1:
Wisconsin Department of Natural Resources' Share of Annual Fees Collected by Polk County

Mine Size in Un-reclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres, (does not include mines less than 1 acre)	$ 35
6 to 10 acres	$ 70
11 to 15 acres	$ 105
16 to 25 acres	$ 140
26 to 50 acres	$ 160
51 acres or larger	$ 175

2. For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be $15, or an amount as modified by the Wisconsin Department of Natural Resources.
3. Polk County shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st.

c. *Polk County's Share of Fee.*
1. Fees paid under this section shall also include an annual fee due to Polk County which shall be by Fee Schedule, to be established on an un-reclaimed acre basis, and equal as closely as possible to the county or municipal cost of administering the reclamation program – see s. 295.12 (3) (e) 1., Stats., for details. s. NR 135.39 (4) (b), Wis. Admin. Code further requires that annual fees must equal as closely as possible the county or municipality's expenses to administer the program, including but not limited to the examination and approval of plans, cost to ensure compliance, inspecting nonmetallic mining sites and administering the reclamation program set up under this ordinance. s. NR 135.39 (4) (b) 1, Wis. Admin. Code also provides the county or municipality may use these fees only for reasonable expenses associated with administration of a nonmetallic mining reclamation program.
2. The annual fee collected by Polk County under this subsection for local transportation-related mines issued permits under sub. 3.05.c may not exceed the amounts set by Fee Schedule. The amount listed shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the Wisconsin Department of Natural Resources and Polk County.

d. Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee for the following calendar year of $100.00 or as set in the Fee Schedule.

4.06. Regulatory Reporting and Documentation.

a. *Reporting.* Polk County shall send an annual report to the Wisconsin Department of Natural Resources by March 31st for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program.
1. The total number of nonmetallic mining reclamation permits in effect.
2. The number of new permits issued within the jurisdiction of Polk County.
3. The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
4. The number of acres being mined or un-reclaimed acres.
5. The number of acres that have been reclaimed and have had financial assurance released pursuant to sub. 3.03.a.7.

6. The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to sub. 4.07.a and sub. 4.07.b.
7. The number and nature of alternative requirements granted, permit modifications, violations, public hearing, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

b. *Documentation*. Polk County shall, to the best of its ability, maintain the information set forth below and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Polk County's reclamation program pursuant to ch. NR 135, Wis. Admin. Code:
1. Documentation of compliance with ch. NR 135, Wis. Admin. Code and this ordinance.
2. The procedures employed by Polk County regarding reclamation plan review, and the issuance and modification of permits.
3. The methods for review of annual reports received from operators.
4. The method and effectiveness of fee collection.
5. Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.
6. Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
7. Responses to citizen complaints.
8. The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
9. The maintenance and availability of records.
10. The number and type of approvals for alternative requirements issued pursuant to sub. 3.07.
11. The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to sub. 3.03.a.7.
12. Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Polk County to implement its nonmetallic mining reclamation program under this ordinance.
13. The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
14. Any other performance criterion necessary to ascertain compliance with ch. NR 135, Wis. Admin. Code.

4.07. <u>Completed Reclamation – Reporting, Certification and Effect</u>.

a. *Reporting*. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this ordinance and ch. NR 135, Wis. Admin. Code. Polk County Land and Water Resources will supply a Notice of Completion form, to be completed and returned to their office at 100 Polk County Plaza, Suite 120, Balsam Lake, WI 54810.

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 ordinance and ch. NR 135, Wis. Admin. Code. Reporting of interim reclamation shall be done according to the procedures in sub. 4.07.a.

c. *Certification of Completed Reclamation*. Polk County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with sub. 3.03.a.7.(c). If it is determined that interim or final reclamation is complete, including re-vegetation as specified in a reclamation plan that conforms with sub. 3.02, Polk County shall issue the mine operator a written certificate of completion.

d. *Effect of Completed Reclamation*. If reclamation is certified by Polk County as complete under sub. 4.07.c for part or all of a nonmetallic mining site, then:
1. No fee shall be assessed under sub. 4.05 for the area so certified.
2. The financial assurance required by sub. 3.03 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

e. *Effect of Inaction Following Report of Completed Reclamation.* If no written response as required by sub. 4.07.c for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to Polk County for it under sub. 4.05 shall be refunded.

4.08. Permit Termination. When all final reclamation required by a reclamation plan conforming to sub. 3.02 and required by this ordinance is certified as complete pursuant to sub. 3.03.a.7 and sub. 4.07.c, Polk County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

Section 5. Enforcement

5.01. Right of Entry and Inspection. For the purpose of ascertaining compliance with the provisions of subch. I of ch. 295, Stats., ch. NR 135, Wis. Admin. Code, or this ordinance, any authorized officer, agent, employee or representative of Polk County may inspect any nonmetallic mining site subject to this ordinance as provided below:

a. *Entry Authorization.* No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of Polk County or the Wisconsin Department of Natural Resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, this ordinance, ch. NR 135, Wis. Admin. Code or ch. 295, subch. I, Stats.

b. *Entry Conditions.* Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

5.02. Orders and Citations.

a. *Enforcement Orders.* Polk County may issue orders as set forth in s. 295.19 (1) (a), Stats., to enforce subch. I of ch. 295, Stats., ch. NR 135, Wis. Admin. Code, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required by sub. 3.02 and a permit issued under this ordinance. A violation of this ordinance, an order or permit issued pursuant to this ordinance or a reclamation plan required by sub. 3.02 and a permit issued under this ordinance shall be considered a violation of subch. I of ch. 295, Stats. and ch. NR 135, Wis. Admin. Code.

b. *Special Orders.* Polk County may issue a special order as set forth in s. 295.19 (1), (b) and (c), Stats. suspending or revoking a nonmetallic mining reclamation permit pursuant to sub. 4.02, or directing an operator to immediately cease an activity regulated under subch. I of ch. 295, Stats., ch. NR 135, Wis. Admin. Code or this ordinance until the necessary plan approval is obtained.

c. *Review of Orders.* A person holding a reclamation permit who is subject to an order pursuant to this section shall have the right to review the order in a contested case hearing under s. 68.11, Stats., notwithstanding the provisions of ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats.

d. *Citations.* Polk County may issue a citation under s. 66.0113, Stats., and Polk County Ordinance No. 60-07 "Amendment to Non-Metallic Reclamation Ordinance" adopted by the County Board July 17, 2007, to collect forfeitures to enforce subch. I of ch. 295, Stats., ch. NR 135, Wis. Admin. Code, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required by sub. 3.02 and a permit issued under this ordinance. 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.* Polk County may submit any order issued under sub. 5.02 to abate violations of this ordinance to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

1. Written Order. When a violation of this ordinance is encountered, the Polk County Land & Water Resources Department shall issue the violator a written order, served personally or by certified mail, return receipt requested. This order shall specify the following:
   (a). The nature of the violation and the steps needed to abate and/or correct it.
   (b). The time period in which the violation must be corrected and/or abated shall be stated in the order.

(c). The penalty or penalties the violator would be subject to if the apparent violation is not abated and/or corrected within the given time period, see sub. 5.0.3.c and sub. 5.03.d.

2. Noncompliance With Order. If a person does not comply with a written order from the Polk County Land & Water Resources Department, the person may be subject to one or more of the following actions and/or penalties:
   (a). Commencement of legal action, seeking a court imposed forfeiture and corrective remedy.
   (b). Commencement of legal action seeking an injunction to abate the violation and/or correct the damage created by the violation.
   (c). Any other action authorized by this ordinance or by other applicable laws as deemed necessary by the Polk County Land & Water Resources Department.
   (d). The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section or under any other federal, state or local law.

5.03. Penalties. Any violation of subch. I of ch. 295, Stats., ch. NR 135, Wis. Admin. Code, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required by sub. 3.02 and a permit issued under this ordinance may result in forfeitures as provided in s. 295.19 (3), Stats. as follows:

a. *Chapter NR 135.* Any person who violates ch. NR 135, Wis. Admin. Code or an order issued under sub. 5.02 may be required to forfeit not less than $25 nor more than $1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under sub. 5.02 is suspended, stayed or enjoined, this penalty does not accrue.

b. *Chapter 295.* Except for the violations referred to in par. a, any person who violates subch. I of ch. 295, Stats., ch. NR 135, Wis. Admin. Code, any reclamation plan approved pursuant to this ordinance or an order issued pursuant to sub. 5.02 shall forfeit not less than $10 nor more than $5,000 for each violation. Each day of violation is a separate offense. While an order issued under sub. 5.02 is suspended, stayed or enjoined, this penalty does not accrue.

c. *Penalties.*
   1. Any person that maintains a violation of this ordinance or resists the enforcement of this ordinance shall be subject to a forfeiture of not less than $25 and not more than $1000 for each violation under the Nonmetallic Mining Reclamation Ordinance.
   2. In addition to any forfeiture, the person shall also pay court costs and the reasonable costs incurred by Polk County or its designee in correcting or abating violations of this ordinance.
   3. Each day of continued violation is a separate offense.

d. *Initiation of Legal Action.*
   1. Legal action may be initiated against a violator, as requested by the Polk County Land & Water Resources Department. Upon making such determination, the Director/ Designee of the Polk County Land & Water Resources Department shall refer the violation to the Polk County Corporation Counsel who may obtain an injunction to correct and/or abate the violation or seek a court-imposed forfeiture under this ordinance.
   2. Issuance of Citations.
      (a). Method Pursuant to s. 66.0113 (1) (a), Stats., the County of Polk adopts and authorizes the use of a citation to be issued for violations to this ordinance.
      (b). Form. The citation shall contain the following:
         (1) The full name and address of the alleged violator.
         (2) Deposit permitted amount.
         (3) The time at which the alleged violator is notified to appear in court.
         (4) The time and place of the offense.
         (5) The section of the ordinance violated.
         (6) A description of the violation.
         (7) A statement which informs the alleged violator:
            A. A deposit may be made. Make a check payable to the Clerk of Court and mail or deliver the deposit amount to the court address shown on the citation by the court date.
            B. If a deposit is made, no appearance in court is necessary unless subsequently summoned.

C. If a deposit is made and the alleged violator does not appear in court, the Court will either accept the nonappearance as a plea of no contest, find violator guilty and keep the deposit amount as payment for the citation; or if the court declines to accept the deposit, order violator to appear in court by summons or warrant.

D. If no cash deposit is made and the alleged violator does not appear in court at time specified, the court may either: issue a warrant, issue a summons to appear in court or find the violator guilty for failing to appear in court and order payment of the forfeiture and costs imposed by the court.

(8) Such other information as the County deems necessary.

(c). Schedule of Deposits. Any person who receives a citation shall be subject to the penalty provision under sub. 5.03.c.

(d). Who May Issue. The following Polk County officials may issue citations, which are directly related to their official responsibilities.

(1) Director of Land & Water Resources Department

(2) Designee authorized by the Director

(e). Procedure. s. 66.0113 (3), Stats. relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(f). Non exclusivity.

(1) Adoption of this ordinance does not preclude the Polk County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.

(2) The issuance of a citation hereunder shall not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order.

EFFECTIVE DATE. This revised Nonmetallic Mining Reclamation Ordinance shall take effect upon passage and publication, but in no event earlier than December 18th, 2017.