

**COVER PAGE FOR NONMETALLIC MINERAL EXTRACTION
REGULATION AND CONTROL ORDINANCE**

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CHAPTER 31

NONMETALLIC MINERAL EXTRACTION REGULATION AND CONTROL

31.01 PURPOSE.

(A) Purpose: The purpose of this ordinance is to regulate and control the operation of nonmetallic mineral extraction operations in the Town of New Denmark so as to assure such operations are conducted in a manner that promotes successful operation consistent with the standards established in this chapter, to monitor ongoing operation and development of nonmetallic mineral extraction operations in the Town of New Denmark as a prelude to adequate reclamation requirements being instituted at the conclusion of mining activities, pursuant to Chapter NR 135 of the Wisconsin Administrative Code and local regulations adopted in this chapter, to protect the environment surrounding such deposits, including air and water quality as well as the preservation and access to mineral deposits, and to address the health, safety, and welfare concerns of the Town of New Denmark community, especially residents living in close proximity to any such present or future mineral extraction operations.

(B) Determination: The Town Board of the Town of New Denmark determines that if thirty (30) or more families reside in a band two thousand six hundred forty (2,640) feet wide around the perimeter of the proposed site boundaries of a nonmetallic mineral extraction operation that the residential density of the surrounding neighborhood of the land proposed to be used as a quarry or gravel pit is too great to allow location of a nonmetallic mineral and processing operation to be located on such a proposed site due to traffic safety, noise pollution, dust emissions, attractive nuisance to children, and potential contamination/depletion of wells to allow permit to be issued under this Chapter.

(C) Severability: If any provision of this Chapter, or the application thereof to any person, company or other party, is held by a court of law to be invalid, such invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

31.02 DEFINITIONS.

The following definitions are applicable to interpretation and enforcement of this chapter:

Asphalt Batch Plant: The term “asphalt batch plant” shall mean any operation or activity involving the production of asphalt in any quantity.

Blasting: The term “blasting” shall denote a method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, building stone or other purposes.

Company: The term “company” shall mean a sole proprietor, a partnership or a corporation doing business under the laws of the State of Wisconsin.

Concrete Batch Plant: The term “concrete batch plant” shall mean any operation or activity involving the production of concrete in any quantity.

Construction: The term “construction” shall mean any activity involving the construction of buildings, structures or underground utilities both public and private.

Gravel Pit: The term “gravel pit” shall mean any activity or enterprise, the purpose of which is to remove naturally occurring deposits of sand and gravel from the earth by excavating including topsoil and overburden removal.

Nonmetallic Mineral Extraction and Processing: Nonmetallic mineral extraction processing operations include the removal of rock slate, sand, gravel and stone from a quarry, gravel pit, stone, or any other minerals from the earth by means of excavating, stripping, leveling or washing, which does not include blasting or rock crushing; the erection of buildings, scales or structures and the installations of necessary machinery used in said extraction or processing; and the preparation of hot-mix asphalt and ready-mix concrete on the same site.

Operator: The term “operator” means the person or company, which maintains direct supervision and financial control over the day-to-day conduct or business of a nonmetallic mineral extraction operation operating within the Town. Such person or company may also include the property owner of the land, if such entity is a separate person or company. All the terms and conditions of this Chapter apply with equal force and effect to the operator or operators as defined.

Operating: The term “operating” shall mean that substantial mineral extraction activities occurring over a period of 30 or more non-consecutive days in a 12 month period.

Person: The word “person” shall mean any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.

Quarry: The term “quarry” shall mean an activity or enterprise, the purpose of which is to remove rock material from the earth by nonmetallic mineral extraction processing operations, including topsoil and overburden removal.

Rock-Crusher: The term “rock crusher” shall mean any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone to a size of ¼ inch or larger. Not included are secondary operations, which produce pulverized, stone or products such as agricultural lime.

Rock Crushing: The term “rock crushing” shall mean the physical operation of a rock crusher.

Site: The term “site” shall mean any separately described parcel of land with an individual tax key parcel number or a separately identified project in a public road right-of way.

Town: The term “town” shall mean the Town of New Denmark, Brown County, Wisconsin, and its elected supervisors of the Town Board. If any person or company is required

to provide notification, application, filing or other actions with the Town, this term used in that context shall mean the Town Clerk of the Town of New Denmark.

31.03 PERMIT REQUIRED.

(A) No person or company shall conduct nonmetallic mineral extraction and processing, operate a quarry, a gravel pit, a rock crusher, an asphalt batch plant, a concrete batch plant or perform any blasting at any site within the Town except in compliance with this Chapter, and all other applicable Town, Brown County, State of Wisconsin, or Federal Ordinances, Statutes, Codes, Regulations and lawful orders. A permit shall be required for any such operation.

(B) The initial term of such permit shall be for a period of not to exceed three (3) years. An existing permit for additional three (3) year intervals may be renewed by the operator by providing written notice to the Town at least 60 days and no more than 120 days prior to expiration of the original or any renewal permit. Any application or notification after such date shall be treated as an original application.

(C) The renewal of an existing permit shall not be unreasonably withheld by the Town as long as (i) there is no uncured default in compliance with the terms and conditions of the permit existing at the time the permit renewal is either applied for or is granted by the Town; and (ii) the operator is not engaged in a pattern of flagrant and repeated violations of the terms of the permit during the prior term. Repeated violations shall mean three (3) or more separate violations of this Chapter, which are identified by written notice from the Town. Any permit issued under this Chapter may be revoked and rescinded after a public hearing before the Town Board. A new permit shall be required for the operator to resume nonmetallic mineral extraction and processing at the site.

(D) Any alleged violation of the permit shall be identified to the operator or to the operator and property owner if they are separate persons or companies, in writing, stating with particularity the nature of the alleged violation. The operator shall have thirty (30) days to cure such violation unless the violation will result in imminent and immediate harm to the health and safety of the residents of the Town, especially the residents immediately adjacent to the nonmetallic mineral extraction and processing operation, in which case the operator shall take prompt and immediate actions to cure such violation within five (5) days after receipt of notice thereof.

31.04 PROCEDURE FOR APPLICATION AND APPROVAL OF PERMIT.

(A) Application Process: Application for the permit shall be made on forms supplied by the Town Clerk and shall be accompanied by an application fee of \$300 for all operating, as defined above Sec. 31.02, non-metallic mineral extraction operations. Such fee shall be paid by cash, check or money order to the Town. The applicant shall also pay all costs associated with the application process including, but not limited to, engineering, surveying, hydrologic review, attorney's fees, or similar expenses incurred by the Town in evaluating and issuing the permit. At a minimum the application shall include the following terms:

1. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment, which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition should be made part of the operational description.

2. A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed public highways adjacent to the site which will be effected by the operation, all buildings and other structures to be constructed on the proposed site and the names and addresses of all property owners who reside within a radius of two thousand six hundred forty (2,640) feet of the proposed site boundaries.

3. A topographic map of the area at a minimum contour interval of two (2) feet extending beyond the site of the nearest public street or highway or to a minimum distance of three hundred (300) feet from all sides of the proposed site boundaries.

4. An operations plan for the site outlining how the site is going to be developed. The operations plan shall include such details as property boundaries, extraction setbacks, phasing and duration of extraction, depth and of all existing and proposed excavations, location of proposed extraction area, staging area and equipment storage, location of proposed temporary and permanent structures including scales and offices, proposed fencing and gates, and the proposed location and type of screening, including berms and landscaping.

5. A reclamation plan that meets the requirements of the Brown County Nonmetallic Mining Ordinance, as from time to time amended, and Chapter NR 135 of the Wisconsin Administrative Code. The reclamation plan shall include such items outlined in the reclamation ordinance, such as the future land use for the site and compliance with the underlying zoning place at time of reclamation. Final slopes shall be covered with topsoil and seeded and provisions for adequate erosion control practices are to be used during reclamation. After completion of the extraction operations, the site shall be cleared of all the debris, unnecessary outbuildings, machinery, and left in a sanitary and restored condition.

(B) Town Board Approval: The application and all data and information pertaining thereto shall be referred to the town Board for public hearing and issuance of the permit within forty-five (45) days after the public hearing. Applicant must also comply with all Brown County Zoning Ordinances and procedures separate from this permit. This Ordinance is an exercise of the police power by the Town of New Denmark, not the zoning power.

(C) Public Hearing: Within thirty (30) days after filing and receipt of application, the Town Board shall schedule a public hearing at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all Town of New Denmark land owners who reside within two thousand six hundred forty (2,640) feet of the site boundaries of the proposed mineral extraction operation. These notices shall be mailed or delivered at least 10 days prior to the date of the hearings as well as posted on the Town Web Site. Publication of a Class 2 Notice, under Chapter 985 of the Wisconsin Statutes of the date of the public hearing must be made once during each of the two weeks prior to such hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient. Following the public hearing, the Town Board shall schedule

the matter for its consideration and review at a meeting separate from the meeting at which the public hearing was held.

(D) Action By Town Board: The Town Board shall within forty-five (45) days after the public hearing take action by a simple majority vote to approve or disapprove the application for the proposed mineral extraction operation. The Town Board shall be guided by consideration of the public health, safety, and welfare of the residents of the Town and shall give particular consideration to the following factors in making their decision:

1. The recommendations, information and reports elicited at the public hearing.
2. The effect of the proposed mineral extraction operation on existing roads and traffic movement in terms of adequacy, safety, wear and efficiency.
3. The effect of the proposed mineral extraction operation on drainage, water supply/wells and sanitary septic systems on the adjacent lands and on the land contained in the proposed mineral extraction operation.
4. The possibility of soil erosion as a result of the proposed mineral extraction operation on the adjacent lands and on the land contained in the proposed mineral extraction operation.
5. The degree and effect of dust and noise as a result of the proposed mineral extraction operation.
6. The practical possibility and financial feasibility of restoration and reclamation of the site.
7. The effect of the proposed mineral extraction operation on the natural beauty, community character, tax base, property resale values and land uses in the area.
8. The most suitable future land use for the area after cessation of the mineral extraction operation with particular consideration for future residential value, except in an A-1 Agricultural district where consideration should be given to the ability to reclaim the land to an agricultural use.
9. The concerns of adjacent property owners who reside within a radius of two thousand six hundred forty (2,640) feet to the extent that they are demonstrable and to the extent they negatively impact said adjacent property owners.
10. The assurances, contractual agreements or written warranties undertaken by the Applicant to adequately address the concerns of the impacted, adjacent property owners within a radius of two thousand six hundred forty (2,640) feet.
11. The fact that no mineral extraction operation shall be permitted if thirty (30) or more residences lie within a radius of two thousand six hundred forty (2,640) feet around the perimeter of the proposed mineral extraction operation.

(E) Action By Town Board After Protest:

1. The term “owner” as used in this section shall mean the holder of record of an estate in possession in fee simple or in a life estate in land or real property or a purchaser under a land contract for the sale of an estate in possession in fee simple or for a life estate, but does not include the vendor (seller) under a land contract. A tenant in common or joint tenant is an “owner” to the extent of his or her interest.

2. The term “assessed value” as used in this section means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any application under this ordinance.

3. In case of a protest against the proposed application duly signed and acknowledged by either of the following:

a. The majority of the number of qualified electors residing in the area within a radius of two thousand six hundred forty (2,640) feet of the proposed mineral extraction operation (“the territory”) equal to at least the majority of votes cast for Governor in said territory at the last gubernatorial election; and

b. Either the owners of one-half (1/2) of the land in area within said territory; or

c. The owners of one-half (1/2) of the real property in assessed value within said territory.

4. If no qualified electors reside in the territory within a radius of two thousand six hundred forty (2,640) feet adjacent to the site boundaries of the proposed mineral extraction operation, then the protest, to be considered valid may be duly signed and acknowledged by the owners of one-half (1/2) of the land in area within said territory and the owners of one-half (1/2) of the real property in assessed value within said territory.

5. In the event of a duly signed and acknowledged protest filed by the requisite number of adjacent land owners, the Town Board shall be required to make a determination to approve the Application for the permit under this Chapter that is unanimous.

(F) Additional Conditions: Any additional conditions to the granting of a permit shall be in writing and copies made a part of the records of the determination by the Town Board.

(G) Renewals: The procedure as designated in Sub-Paragraphs (A) through (F) above, shall apply to applications for renewal of a permit under this Chapter.

31.05 REQUIREMENTS OF PERMIT ISSUED.

(A) Setback Requirements: No part of the mineral extraction operation other than access roads or screening measures shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile or office building be permitted closer than one hundred (100) feet to the building setback line along any street or highway. Excavating and other processing operations and activities shall not take place within three hundred (300) feet of a residence, or within five hundred (500) feet of a school or institution. The setback requirements do not apply to accessory uses to the mineral extraction operations such as fencing, berms, landscaping, or other non-extraction activities.

(B) Offset (Side Yard) Requirements: No part of the mineral extraction operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road parking area or office building be closer than fifty (50) feet to any property line except with the written consent of the owner of the adjoining property, or abutting an existing mineral extraction operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting mineral extraction operations, or be in conflict with County ordinances relating to preservation topography. The offset (side yard) requirements do not apply to accessory uses to the mineral extraction operations such as fencing, berms, landscaping, or other non-extraction activities.

(C) Operational Requirements:

1. Fencing, berms, landscaping or other suitable barrier shall be erected and maintained around portions of the site where in the determination of the Town Board such fencing, berms or barrier is necessary for the protection of the public, and shall be of a type approved by the Town Board.

2. All machinery and equipment used in the mineral extraction operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by a Town representative.

3. Blasting or rock crushing on the site of a nonmetallic mineral extraction or processing operation is expressly prohibited.

4. The washing, refining, or other processing other than the initial removal of mineral material or overburden may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.

5. In quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the side shall be considered a permissible part of the operation, provided such production does not require the use of rock crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of the permit.

6. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mix concrete or hot-mix concrete or hot-mix asphalt and any similar production or manufacturing processes which might be related to the extraction operation shall not be permitted except as allowed explicitly in the grant of the permit.

7. The washing of sand and gravel shall be prohibited in any operation where the source of water is doubtful capacity or where the quantity of water required will seriously affect the water supply for other users in the area.

8. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Board to screen the operation so far as practical from normal view, and to minimize the damaging effect of the operation on the beauty and the

character of the surrounding countryside. Such planting shall be started as soon as practical, but no later than one (1) year after mineral extraction and processing operations commence, and shall be done according to the Town recommendations.

9. The Town Board shall set the allowable extraction hours at the time of permit issuance. Hours of operation will reflect the location of the site in relationship to the surrounding properties and the impact they may have on “quiet enjoyment”. Typically hours would be from 7:00 a.m. and shall not continue past 6:00 p.m.; and no operation shall take place past 12:00 p.m. on Saturdays or anytime on Sundays or legal holidays. During periods of a declared emergency by national, state or local emergency government authorities, time and hours may be altered at the discretion of the Town Board and through the issuance of a special permit, which shall be renewable at thirty-day intervals.

(D) Haul Road Maintenance: If material removed from the site is hauled over Town roads to a county or state trunk highway, the operator shall make the necessary improvements to the Town roads, as required by the Town Board and as stated in the grant of the permit, prior to the start of the mineral extraction operation. Any improvements to the site entrance and Town road from the site entrance to the nearest county or state trunk highway shall be improved at the operator’s expense in accordance with the submitted operations plan and standards set by the Town Board to allow for safe truck movements in and out of the site. Examples of considerations to be taken into account by the Town are the width of the access Town road, the weight-bearing classification of the Town road and the current maintenance condition of the Town road.

(E) Hydrologic Review: A hydrologic review shall be submitted by the applicant to the Town as part of the permit application. The Town may have the study reviewed by an independent consultant, at the applicant’s sole expense, for verification that the mineral extraction operation will not effect the quantity or quality of water in nearby wells, lakes, streams or wetlands.

(F) Well Protection: Before work on the extraction site is initiated, the operator must offer property owners within a radius of two thousand six hundred forty (2,640) feet of the extraction site boundaries an opportunity to have an outside agency perform a baseline well test to establish water quality and quantity in said wells. The offer must be made in the form of written notices (certified mail, return receipt requested) to each property owner with a state registered well. Operator must submit to the Town a list of the property owners to whom the notices were sent and a second list which enumerates those property owners who have requested the baseline well test. The purpose of such inspections shall be to provide baseline comparative data in the event of any future claims of well problems allegedly resulting from extraction operations. Operator shall be responsible for the costs of conducting such inspections. Selection of the consultant shall be by the operator, subject to Town approval.

(G) Well Guarantee: Operator shall be responsible for any damage associated with area wells resulting from its extraction operations. Any property owner in the designated area experiencing well problems, which may be caused by extraction operations, shall immediately notify the operator and the Town representative verbally and in writing. If there is a problem with any such tested well after extraction operations have begun, a disinterested third party will be brought in at operator’s expense to investigate the situation. If it is determined that the well problem resulted from the extraction operations and if it is determined that measures to correct

the well problem require increased depth, casing or lowering of pumps, or other measures, in the property owner's well; to the extent that this well problem is caused by the extraction operations, any work to correct the well problem, as recommended by the third-party investigator, shall be done at the operator's sole expense, to include if necessary, total replacement to bring such wells up to code. If the situation is urgent, (i.e. loss of use of affected well) the operator shall immediately provide the property owner with adequate potable water to sustain previously existing conditions on the property owner's land.

(H) Claims Procedures: The operator, in accordance with the following procedures, shall compensate any well problems caused by extraction operations.

1. Any claim for damage shall be presented to operator in written form, with a sworn certification, estimate of damage, and request for payment.

2. Operator shall have the right to inspect the property or well to determine in its own good faith judgment that the damage was caused by its mineral extraction operations.

3. In the event of a good faith dispute, operator shall post as a surety bond 125% of the amount of the claimed damage as an escrow account in a bank of record in an interest-bearing account and the matter shall be referred to a qualified, neutral consultant for determination of the cause of the damage claimed by the property owner. Such consultant shall promptly render his or her determination to both the property owner and the operator. If the operator is found at fault, the claim shall be paid within five (5) business days from the escrow account. If the property owner or some third party is found at fault, the bond shall be terminated and returned to operator within five (5) business days.

(I) Dust Control: Operator shall meet Brown County's performance standard for dust. No solid or liquid particles shall be emitted in concentrations greater than 0.3 grams per cubic foot of the conveying gas or air. Dust shall be controlled so that there are not visible emissions (0% opacity) at the boundaries of the permitted extraction area. A fugitive dust control plan for the extraction site shall be submitted to the Town prior to operator commencing extraction operations.

(J) Noise: Operator shall meet Brown County's performance standards for noise. Processing and stockpiling operations shall be located in an area to minimize noise. Operator shall require all trucks entering and leaving the site to have proper muffler systems and controls, which meet or exceed the most current industry standards for noise abatement. The use of Jake brakes on trucks entering or leaving the site shall not be allowed except in an emergency.

(K) Safety: Operator shall abide by all safety rules and regulations as enforced by the Mine Safety and Health Administration. In addition there shall be a safety fence around the entire active extraction area at all times. The safety fence shall be at a minimum height of eight (8) feet in height with a single strand of barbed wire on the top. A locking gate shall be installed at all entrances to the mineral extraction site. Signs warning of the mineral extraction operation shall be installed every 300 feet around the perimeter of the active mineral extraction area.

(L) Liability: The operator shall submit to the Town Board proof of sufficient liability insurance coverage and maintain said policy in full force and effect during the term of the

original permit and any renewal periods. Public liability insurance in the amount of \$1,000,000 for sites of less than ten acres and \$5,000,000 for all other sites in excess of ten acres shall be the minimum required.

(M) Extraction Permit Fee: Operating nonmetallic mineral extraction operations shall be required to pay an annual fee to the Town. The annual fee shall be \$300.00 for all sites. Operating shall be defined as substantial mineral extraction activity occurring over a period of 30 or more non-consecutive days in a 12 month period.

(N) Storm, Water and Erosion Control: Operator shall secure and maintain in full force and effect during the term of the permit an additional permit pursuant to Chapter NR 216 of the Wisconsin Administrative Code for the extraction site from the Wisconsin Department of Natural Resources.

(O) Permits and Environmental Compliant: Operator shall secure and maintain in full force and effect during the term of the permit all permits required from local, state, and federal authorities to open and operate a mineral extraction operation on the site.

(P) Screening Regulations: Operator shall meet Brown County's performance standard for screening. Extraction operations shall be contained within an opaque fence or wall eight (8) feet high, or a visual screen consisting of evergreen or evergreen-type hedges or shrubs with spacing not more than six (6) feet on center, located and maintained in good condition erected within fifteen (15) feet of the property line, so as to shield out the view the mineral extraction operation from the public.

(Q) Reclamation Requirements: In order to insure that the area of the extraction operation shall be reclaimed to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall obtain prior to beginning extraction activities a reclamation permit from the Brown County Land Conservation Department and post the appropriate financial assurance for reclamation with Brown County, pursuant to Chapter NR 135, Wisconsin Administrative Code.

(R) Financial Assurances:

1. Operational Standards: Following approval of a permit for nonmetallic mining the operator shall file a financial guarantee with the Town. The financial assurance shall provide that the operator will faithfully comply with all applicable operational standards, such as road maintenance and well guarantees, contained in this Chapter and the associated permit. The financial assurance shall be sufficient to cover the costs of implementing the standards in its entirety. In no case, shall the financial assurance be less than \$100.00 per site acre.

2. Reclamation Standards: Operator shall post the appropriate financial assurance for reclamation with Brown County as outlined in the County's nonmetallic mining reclamation ordinance.

3. Form and Management: Financial assurance shall be provided by the operator and shall consist of a bond or an alternate financial assurance. Financial assurance shall be payable to the Town of New Denmark and released upon termination of operations. Alternate financial

assurances may include, but are not limited to cash, certificates of deposit, irrevocable letters of credit, irrevocable trusts, established escrow accounts, or government securities. Any interest from the financial assurance arrangements may include at the discretion of the Town Board, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site is situated or a combination of other financial assurance methods.

31.06 APPLICATION TO EXISTING OPERATIONS.

(A) Permit: Within sixty (60) days after the adoption of this Chapter by the Town Board, all existing mineral extraction operations that are deemed to be operating as defined in Sec. 31.05(M), shall be required to register with the town Clerk by submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership in a form substantially compatible with Section 31.04 (A) of this Chapter. A “conditional permit” shall be granted and is applicable to such existing operations, subject to compliance with the terms and conditions of this Chapter where they can be reasonably applied under existing circumstances. Existing operations shall be exempt from any application fees to obtain a “conditional permit”.

(B) Renewal Permit: Within three (3) years after the date of the grant of the “conditional permit” any such existing operations shall be required to make application for a renewal permit in order to continue their operations, and shall be treated the same as for a new application under this Chapter.

31.07 PENALTIES AND ENFORCEMENT.

(A) Orders and Citations: Failure to comply with the regulations and standards stated in this Chapter may result in the issuance of citation(s), orders, revocation of the permit, injunctive relief or any other applicable remedy required by law. In the event the operator fails to comply with the provisions of this Chapter, the Town may issue a compliance order directing cure of the default, or a suspension order directing the immediate cessation of an activity regulated under this Chapter until the operator complies with the provisions hereof, pursuant to alleged violations of this Chapter.

1. Citations may be issued for each violation. Each day a violation continues or occurs unabated shall be considered a separate offense subject to a separate citation.

2. A suspension order may only be issued by the Town Board for a violation of the permit and its applicable regulations, which may result in imminent harm to the health and safety of those Town of New Denmark neighbors immediately adjacent to the mineral extraction operation. Such order shall be promptly complied with and appropriate measures taken to correct the violation. Extraction operations may resume once the violation has been corrected.

(B) Review of Orders and Citations: An operator holding a permit issued under this Chapter who is subject to a citation or an order issued under Sub-Paragraph (A) above shall have the right to review the order in a contested case hearing as allowed by state law, under Section 68.11 of the Wisconsin Statutes. The operator under a permit consents to jurisdiction in the Circuit Courts of Brown County, Wisconsin for resolution of all disputes under this Chapter.

(C) Citations: The Town of New Denmark may issue a citation under Section 66.0113 of the Wisconsin Statutes to collect forfeitures or take any other required action needed to enforce this Chapter. 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.

(D) Penalties: Any violation of this Chapter or a permit issued under this Chapter may result in forfeitures as allowed by state law, which penalties are adopted herein by reference. Where a specific penalty is not provided in any other law, any person or company found guilty of violating a provision of this Chapter or of a permit issued hereunder shall be subject to a forfeiture of not less than \$100.00 nor more than \$1,000.00 upon a conviction for a first offense within the current term of the permit, or subject to a forfeiture of not less than \$200.00 nor more than \$2,000.00 upon a conviction for a second and each subsequent offense within the current term of the permit, together with the costs of prosecution.

(e) Inspection: The Town Board members or an advisory group of citizens appointed by the Town Board may inspect the premises at any reasonable time in order to ascertain compliance with this Chapter. The operator and its employees, agents and assigns shall grant permission to inspect to such duly identified Town representatives or advisory group, subject only to such limited delays as may be reasonably necessary for the protection of person and property to conform with applicable safety regulations at the site. A representative of the operator must be present during any such inspection. The Town shall furnish the operator any report prepared by the Town or its representatives regarding the inspection.

31.08 SEVERABILITY

(1) The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or application to any person or circumstance is held invalid, the remainder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

3/9/2009