

CHAPTER 8

ROCK CRUSHING, BLASTING, QUARRYING AND NONMETALLIC MINING RECLAMATION

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ROCK CRUSHING, BLASTING AND QUARRYING

8.01 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) ASPHALT BATCH PLANT. The term "asphalt batch plant" shall mean any operation or activity involving the production of asphalt in any quantity.
- (2) 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.
- (3) COMPANY. The term "company" shall mean a sole proprietor, a partnership or a corporation doing business under the laws of the State of Wisconsin.
- (4) CONCRETE BATCH PLANT. The term "concrete batch plant" shall mean any operation or activity involving the production of concrete in any quantity.
- (5) CONSTRUCTION. The term "construction" shall mean any activity involving the construction of buildings, structures or underground utilities both public and private.
- (6) 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.
- (7) PERSON. The word "person" shall mean any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.
- (8) QUARRY. The term "quarry" shall mean activity or enterprise, the purpose of which is to remove rock material from the earth by blasting and/or excavating including topsoil and overburden removal.
- (9) ROCK CRUSHER. A 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 1/4 inch or larger. Not included are secondary operations which produce pulverized stone or products such as agricultural lime.
- (10) ROCK CRUSHING. Operation of a rock crusher.
- (11) SITE. The term "site" shall mean any separately described parcel of land with an individual tax key number or a separately identified project in a public road right-of-way.

8.02 OPERATION. Scope: No person or company shall 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 Village except in compliance with this Chapter and all other applicable Village, Waukesha County, State of Wisconsin, or federal ordinances, statutes, codes, regulations and lawful orders.

8.03 MAP AND DESCRIPTION. Each person or company operating a quarry or gravel pit shall file within sixty (60) days of the effective date of this ordinance a map which shows the physical extent of the quarry or gravel pit operation, as to area and depth, along with a written description of the current activities being conducted on the property and the locations where the current activities are taking place.

8.04 ANNUAL REPORT. An annual report shall be filed in writing with the Village Engineer on or before February 1st of each year for each quarry and gravel pit site that is located in whole or in part in the Village. Said annual report shall include, as a minimum, a summary of the quarry and gravel pit operations for the preceding calendar year, a listing of all materials removed from the quarry or gravel pit in the preceding

calendar year, the maximum depth of the quarry or gravel pit floor reached in the preceding calendar year, a copy of any written complaints received during the preceding calendar year, and any other information as required by the Village Engineer.

8.05 PERMIT. It shall be unlawful for any person to operate a quarry, a gravel pit, a rock crusher, an asphalt batch plant, a concrete batch plant, or to perform blasting at any site within the Village unless a permit has first been issued by the Village as described herein.

(1) **APPLICATION.** All applications for permits hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk, and shall be signed by the applicant and shall be filed with the Village Clerk. All permits shall be issued on an annual basis commencing on June 1st and ending on May 31st of the succeeding year. Applications for renewal of annual permits shall be filed with the Village Clerk no later than April 1st.

(2) **ADMINISTRATIVE FEE.** The operator of each site shall pay an annual administrative permit fee for each site in the sum of \$500.00. Such administrative permit fee shall be paid on or before February 1st of each year. This administrative permit fee shall represent pre-payment for anticipated expenses incurred by the Village for monitoring the operation, legal fees, engineering charges, inspection charges and other administrative expenses. This fee may be increased from time to time by a separate resolution of the Village Board in the event the expenses exceed the administrative fee established for the preceding year, and the increased amount shall be required for each year thereafter, unless further modified by separate resolution of the Village Board.

(3) **TEMPORARY BLASTING OR ROCK CRUSHING.** A person or company may seek a temporary blasting or rock crushing permit if their blasting or rock crushing activities are necessary for the efficient development or construction of an approved subdivision, development, building, or public improvement project within the Village limits and said blasting and or rock crushing for said project will occur and be completed within 75 days from start of blasting or rock crushing to finish. No person shall temporarily blast or temporarily rock crush without first obtaining a permit from the Director of Public Works pursuant to this section.

(A) **Permit.** Application for a permit shall be made on a form provided by the Director of Public Works and shall be accompanied by a fee. The fee for each permit will be based on the minimum building permit fee established by resolution of the Village Board.

(B) **Term of Permit.** A permit must be completed for each blast or crushing site/project. The permit shall expire 90 days from the date of issuance.

(C) **Restrictions and Operation Rules.**

1. Compliance with Wis. Admin. Code SPS 307 and this Chapter 8 of the Village Code any other Federal, State, and local Codes, Rules Regulation and laws that are applicable.
2. All blasting shall be under the supervision of a person holding a properly licensed blaster.
3. Time of blasting and crushing shall be between 8:00 a.m. and 5:00 p.m. No operations shall take place on holidays or weekends.
4. The blasting or crushing company shall provide written notice to all affected properties at least 10 days prior to the start of activities. Affected properties shall be those outlined by State law. The notice shall at a minimum include the following items:
 - a. The activity will occur within the limits of State law and will be monitored by seismograph in compliance with the law.
 - b. The company will provide the Village of Sussex with a copy of the blasting log within 48 hours.
 - c. The company is required by law under SPS 307.41 to offer to perform a pre-blasting survey. This pre-blasting survey is to establish a baseline

- record of the structure against which the effects of the blasting can be assessed in the rare instance where a dispute arises after the blasting.
- d. The blasting company shall provide the name and address for the private entity that hired them. The blasting company also assumes full responsibility under the law for the performance of the blasting activities.
 - e. Contact information to address concerns and how to setup the pre-blasting survey.
5. The Public Works Director may add additional conditions to the permit to ensure the public safety and welfare of the community is maintained through the temporary blasting or rock crushing activities.

(4) EXCEPTION. This Section 8.05 shall not apply to any person or company operating a quarry, a gravel pit, a rock crusher, an asphalt batch plant, a concrete batch plant, or performing blasting at any site within the Village, if the person or company is operating under a current plan of operation on file in the office of the Village Clerk, which has been approved by the Village Board, provided the operation is being operated in full compliance with the approved plan of operation. The annual fee requirement contained within the approved plan of operation shall control for such operations.

8.06 BLASTING PROCEDURES AND CONTROLS. Blasting shall be subject to the requirements of this section, in addition to all other applicable Village, Waukesha County, State of Wisconsin, and federal ordinances, statutes, codes, regulations and lawful orders.

(1) VERIFICATION. The operator of a quarry operation shall, upon the request of the Village Engineer, submit data to substantiate compliance with the formula set forth below at subsection 8.06(4). This verification shall be performed by a seismological engineering firm, explosive distributor, or blaster, or employee of any such firm, acceptable to the Village Engineer. Instrumentation shall be seismograph similar to VME Seismology Model "E" or an approved equivalent. All expense for these tests shall be paid by the quarry operator.

(2) NOTIFICATION.

(A) The quarry operator shall notify the Village Engineer at least two (2) hours before any blast whether for building stone or crushed stone and whether such blast occurs in the Village or neighboring municipality in which a portion of the same quarry operation may be conducted.

(B) A resident call list shall be established by the quarry operator for the purpose of notifying neighbors at home in the vicinity of the quarry site of imminent blasting activity. This call list shall be maintained and utilized by the quarry operator on a "request basis only" for all residents in the vicinity of the quarry site who as to be notified prior to any blast. The quarry operator's responsibility to provide such pre-blast notification shall be satisfied by a single telephone call whether or not the resident requesting notice is actually reached. A telephone directory of neighbors requesting notification shall be kept at the on-site quarry office and at the Village Hall. A pre-blast contact diary shall be maintained by the quarry operator on-site at the quarry office, including the date of blast, neighbors contacted or attempted to be contacted, and any pertinent remarks. The quarry operator shall promptly submit a copy of such diary entries to the Village upon written request.

(C) The quarry operator shall give a warning signal of sufficient volume to be heard by all residents in the area adjacent to the quarry of any blast which shall occur. Such notice shall be given at least fifteen (15) seconds before any blast occurs. The type and volume of such warning signal shall be approved by the Village Engineer before it is used.

(3) BLASTING LOG. A log in duplicate shall be kept of each blast. The original copy of this blasting log shall be filed with the Village Engineer (paper copy or e-mail) within four calendar days after the blast, and a copy shall be kept on file at the quarry's office.

(4) LIMITS ON BLASTING RESULTANTS.

(A) Ground Vibration. Ground vibration shall not exceed the State or Village of Sussex limitation on blasting resultants (State or Village of Sussex limitations). See Appendix A.

(B) Air blast. Air blast resulting from at least 85% of the quarry operator's blasts within any single calendar year shall not exceed 123dB; air blast resulting from the remaining 15% of the blasts within any single calendar year shall not exceed the State limitation (currently 133dB). All blasts shall comply with the State air blast limitation.

(C) Flyrock. Flyrock traveling in the air or along the ground shall remain in the controlled blasting site area (the area surrounding the blasting site which is owned by the quarry operator or controlled by the quarry operator in such a way that the quarry operator can take reasonably adequate measures to exclude or assure the safety of persons and property). Additionally, such flyrock shall not be cast from the site of the blasting more than one-half of the distance to the nearest inhabited building.

(D) Monitoring. The quarry operator shall monitor and record levels of ground vibration and air blast for each blast, measured at or near the dwelling, public building, place of employment, school, church, or community or institutional building located closest to the site of the blast which is not owned or controlled by the quarry operator.

(5) LIMITS ON DEPTH AND NUMBER OF CHARGES. Quarry operator agrees to abide by State requirements. Ground vibrations from operation will be controlled such that 100% of points below State Limits and 90% of points shall be below Village of Sussex limits, refer to chart herein attached as Appendix A of this Ordinance.

(6) RESOLUTION OF DIFFICULTIES. In the event that any problems or difficulties are encountered that relate to vibration, air blasts, noise, dust, etc., then the quarry operator shall meet with the Village Engineer on request to attempt to revise blasting procedures in a mutually agreeable manner.

(7) LICENSED BLASTER. All blasting is to be done by a state-licensed blaster.

(8) TIME FOR BLASTING. No blasting shall take place on weekends. Blasts for crushed stone and building stone in quarries and gravel pits may be detonated only between the hours of 11:00 a.m. and 3:00 p.m. on weekdays.

(9) METHOD OF BLASTING.

(A) All blasting shall be done so that the charges are detonated in sequence rather than simultaneously to lessen the effect of the shock and noise.

(B) The blasting shall be so regulated as to absolutely safeguard all adjoining property owners from ever being subject to flying stone or rock.

8.07 CONDITIONS OF OPERATION.

(1) HOURS OF OPERATION. The hours of operation shall be from 6:00 a.m. to 8:00 p.m., Monday through Friday, and 6:00 a.m. to 4:00 p.m. on Saturday. There shall be no operations on Sunday or legal holidays. There shall be no rock crushing prior to 6:00 a.m. If business conditions require additional hours of operation, the operator shall make application to the Village Plan Commission for additional hours, which application shall be granted unless clear and substantial reasons exist which justify denial of such application.

(2) WATER PROTECTION. Operators of sites regulated by this Chapter shall be liable to pay all costs to correct any problems caused by the operations to water and/or sewer mains, or to the presence or quality of water in the area of their operations. Operators shall also pay all reasonable costs and expenses incurred by the Village, including, but not limited to, engineering, inspection, and attorney fees, incident to investigating and correcting the problems, to the extent it is attributable to the operator.

8.08 PENALTY. Any person or company who shall violate any provision of this Chapter shall be subject to a penalty of not less than \$100.00 nor more than \$10,000. In the event that convictions for the violation of provisions of this Chapter establish a pattern of intentional, flagrant or continued violation of this Chapter, the Village Board, after hearing, shall have the power to revoke any permit issued hereunder including those as set forth by an approved Plan of Operation. Each violation and each day a violation continues or occurs shall constitute a separate offense.

The penalties described in this section shall be in addition to all other penalties or remedies that the Village may have with regard to violation of the matters described herein. Violations of this Chapter 8 are declared to be a public nuisance.

8.09 Intentionally Left Blank (Reserved For Future Use)

NONMETALLIC MINING RECLAMATION

8.10 GENERAL

(1) **PURPOSE.** The purpose of the Nonmetallic Mining reclamation Code sections is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the Village after March 1, 2007, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes and is adopted under authority of Section 295.14(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 61.34(1), Wisconsin Statutes.

(2) **RESTRICTIONS ADOPTED UNDER OTHER AUTHORITY.** The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this code repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

(3) **INTERPRETATION.** In their interpretation and application, the provisions of the code 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 Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this code may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this code is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

(4) **APPLICABILITY.**

(A) **Overall Applicability.** The requirements of this code apply to all operators of nonmetallic mining sites within the Village and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in 8.10(4)(B).

(B) **Exemptions.** This code does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

(5) **ADMINISTRATION.** The provisions of this code shall be administered by the Village Administrator or designee.

(6) **DEFINITIONS.** All definitions for the purposes of the Nonmetallic mining reclamation Code are those contained in Section NR 135.03, Wisconsin Administrative Code.

8.11 STANDARDS All nonmetallic mining sites subject to this Code shall be reclaimed in conformance with the standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

8.12 PERMITTING

(1) **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 subs. 8.10(4)(A) or (B).

(A) **Required Submittal.** The operator of all nonmetallic mining sites shall apply for a reclamation permit from Village. All reclamation permit applications under this section shall be accompanied by the information required by Section NR 135.18(1), Wisconsin Administrative Code.

(B) **Reclamation Permit Application Contents.** The operator of any nonmetallic mine site shall submit an application that meets the requirements of Sections NR 135.18(2), Wisconsin Administrative Code and the submittals required under sub. 8.12(1)(A) to the Village Administrator prior to beginning operations.

(2) **RECLAMATION PLAN.**

(A) **Reclamation Plan Requirements.** All operators of nonmetallic mining sites subject to this code shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

(B) **Existing Plans and Approvals.** To avoid duplication of effort, the reclamation plan required by sub. 8.12(2)(A) may, by reference, incorporate existing plans or materials that meet the requirements of this code.

(C) **Approval of Reclamation Plan.** The Village shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to sub. 8.12(5)(B). Conditional approvals of reclamation plans shall be made according to sub. 8.12(5)(E), and denials of reclamation plans made according to 8.12(6). The operator shall keep a copy of the reclamation plan required by this section, once approved by the Village under this code at the mine site or, if not practicable, at the operator's nearest office or place of business.

(3) **FINANCIAL ASSURANCE.**

(A) **Financial Assurance Requirements.** All operators of nonmetallic mining sites in the Village shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section 135.40, Wisconsin Administrative Code.

(B) **Private Nonmetallic Mines.** The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with 8.12(1) shall submit the proof of financial assurance required by sub. 8.12(3)(A) as specified in the reclamation permit issued to it under this code

(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.

(4) **PUBLIC NOTICE AND RIGHT OF HEARING.**

(A) **Reclamation Plan Hearing.** The Village shall provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies 8.12(1) is received.

(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. 8.12(5)(C).

(5) ISSUANCE OF A NONMETALLIC MINING RECLAMATION PERMIT.

(A) Permit Required. Every operator of a nonmetallic mining site in the Village who engages in or plans to engage in nonmetallic mining shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this chapter as provided in 8.10(4)(B). No person may engage in nonmetallic mining or nonmetallic mining reclamation without a reclamation permit issued pursuant to this code.

(B) Permit Issuance. Applications for reclamation permits for nonmetallic mining sites that satisfy 8.12(1) shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms with 8.12(2)(A) and provision by the applicant of financial assurance that conforms with 8.12(3) payable to the Village prior to beginning mining.

(C) Automatic Permit for Local Transportation-Related Mines. The Village shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(b) through (j), Wisconsin Administrative Code.

(D) Expedited Review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in 8.13(4)(B). The expedited review shall be carried out according to the provisions of Section NR 135.23(1), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to 8.12(4).

(E) Permit Conditions. Permits issued under this section may include conditions as provided in Section NR 135.21(2), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

(6) PERMIT DENIAL. An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

(7) ALTERNATIVE REQUIREMENTS.

(A) Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in 8.11. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

(B) Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in 8.12(7)(A) shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Village Plan Commission, which shall hear and determine such requests with its usual and customary rules and regulations.

(C) Transmittal of Decision on Request for Alternate Requirements. The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

(D) Notice to Wisconsin Department of Natural Resources. The Village shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.

(8) PERMIT DURATION. A nonmetallic mining reclamation permit issued under this code shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to 8.14(2)(B), or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.

(9) PERMIT TRANSFER. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

(10) PREVIOUSLY PERMITTED SITES. Not applicable.

(11) REVIEW. Any permitting decision or action made by the Village under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

8.13 ADMINISTRATION

(1) PERMIT MODIFICATION.

(A) By the Village. A nonmetallic mining reclamation permit issued under this code may be modified by the Village if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this code. Such modification shall be by an order conforming with the procedures in 8.14(2) and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

(B) At the Operator's Option. If operator of any nonmetallic mine that holds a reclamation permit issued under this code desires to modify such permit or reclamation plan approved under this code, it may request such modification by submitting a written application for such modification to the Sussex Village Administrator. The application for permit or plan modification shall be acted on using the standards and procedures of this code.

(C) Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this code shall request a modification of such permit if required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this code.

(D) Review. All actions on permit modifications requested or initiated under this section are subject to review under 8.12(11).

(2) PERMIT SUSPENSION OR REVOCATION.

(A) Grounds. The Village may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this code if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

(B) Procedures. If the Village finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in 8.13(3)(A), it may issue a special order suspending or revoking such permit as set forth in 8.14(2)(B).

(C) Consequences. The consequences of a reclamation permit suspension or revocation order under 8.13(2)(B) shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

(3) ANNUAL OPERATOR REPORTING.

(A) Contents and Deadline. Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year to the Village Administrator. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 8.13(7) on forms provided by the Village Administrator.

(B) Inspection in Lieu of Report. The Village may, at its discretion, obtain the information required in 8.13(3)(A) by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

(C) Retention of Annual Reports. Annual reports submitted under this section or inspection records that replace them shall be retained by Village of Sussex for at least 10 years after the calendar year to which they apply. These records, or 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 Chapter NR 135, Wisconsin Administrative Code.

(4) 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 8.12(1) shall submit a non-refundable plan review fee of \$900 (1-25 acres), \$1,200 (26-50 acres), and \$1,500 (51 or more acres). Fees shall be paid to the Village Clerk. No plan review fee may be assessed under this section for any local transportation-related mine issued an automatic permit under 8.12(5)(C). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to 8.13(1).

(B) Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under 8.12(1) may obtain expedited reclamation plan review by paying a fee double that required in 8.13(4)(A) for the size of the mine. Such fee shall be in addition to that required in 8.13(4)(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 8.13(5).

(5) ANNUAL FEES.

(A) Areas Subject to Fees, Procedures, Deadline and Amount. Operators of all nonmetallic mining sites subject to reclamation permits issued under this code to the Village. These fees shall be calculated based on amount of unreclaimed acres of each site, as defined in Section NR 135.39(1)(a), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under 8.13(7). Fees shall be paid no later than January 31 for the previous year to the Village Clerk along with a form provided by the Village Administrator.

(B) Wisconsin Department of Natural Resources Share of Fee. Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be \$15.00. The Village shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st.

(C) Village of Sussex's Share of Fee.

1. Fees paid under this section shall also include an annual fee due to the Village which shall be as set forth in the table below:

Site size in unreclaimed acres, rounded to nearest whole acre	Annual Fee
Less than or equal to 5 acres	\$450.00
6 to 10 acres	\$600.00
11 to 15 acres	\$750.00
16 to 25 acres	\$1,000.00
26 to 50 acres	\$1,100.00
51 or more acres	\$1,250.00

2. The annual fee collected by the Village under this subsection for local transportation-related mines issued permits under 8.12(5)(C) may not exceed the amounts set forth in Table 2 of Section NR 135.39 and shall include both a share for the Wisconsin Department of Natural Resources and the Village of Sussex.

(D) Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall not be assessed a fee for the following calendar year.

(E) Documentation of Village Share of Fee. If the annual fee in 8.13(5)(C) is greater than that established in Section NR 135.39(4)(c), Wisconsin Administrative Code, the Village shall document in writing its estimated program costs and the need for its annual fees established in 8.13(5)(C). This documentation shall be available for public inspection.

(6) REGULATORY REPORTING AND DOCUMENTATION.

(A) Reporting. The Village shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code by March 31st for the previous calendar year.

(B) Documentation. The Village shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of the Village's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

(7) COMPLETED RECLAMATION - REPORTING, CERTIFICATION AND EFFECT

(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 chapter and Chapter NR 135, Wisconsin Administrative Code. Reports should be filed with the Village Administrator.

(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 chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in 8.13(7)(A).

(C) Certification of Completed Reclamation. The Village 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 Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with 8.12(2),

The Village shall issue the mine operator a written certificate of completion.

(D) Effect of Completed Reclamation. If reclamation is certified by the Village as complete under 8.13(7)(C) for part or all of a nonmetallic mining site, then:

1. No fee shall be assessed under 8.13(5) for the area so certified.
2. The financial assurance required by 8.12(3) shall be released.
3. For sites which are reported as interim reclaimed under 8.13(7)(B) and so certified under 8.13(7)(C), financial assurance for reclaiming the certified area shall be reduced.

(E) Effect of Inaction Following Report of Completed Reclamation. If no written response as required by 8.13(7)(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 the Village for it under 8.13(5) shall be refunded.

(8) PERMIT TERMINATION. When all final reclamation required by a reclamation plan conforming to 8.12(2) and required by this code is certified as complete pursuant to 8.13(7)(C), the Village shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

8.14 ENFORCEMENT

(1) RIGHT OF ENTRY AND INSPECTION. For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this code, any authorized officer, agent, employee or representative of the Village may inspect any nonmetallic mining site subject to this code as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

(2) ORDERS AND CITATIONS.

(A) Enforcement Orders. The Village may issue orders as set forth in Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this code, a permit issued pursuant to this code or a reclamation plan required by 8.12(2) and a permit issued under this code. A violation of this code, an order or permit issued pursuant to this code or a reclamation plan required by 8.12(2) and a permit issued under this code shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

(B) Special Orders. The Village may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to 8.13(2), or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

(C) Review of Orders. An order issued under 8.14(2)(A) or (B) may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

(D) Citations. The Village may issue a citation under s. 66.0113, Stats. and 25.04, of the Village Municipal Code, and to collect forfeitures or require any action needed to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this code, a permit issued pursuant to this code or a reclamation plan required by 8.12(2) and a permit issued under this code. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

(E) Enforcement. The Village may submit any order issued under 8.14(2) to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement

for enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes.

(3) PENALTIES. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this code or a reclamation plan required 8.12(2) and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes and 25.04, of the Village Municipal Code.