

Possible Alternative Provisions For A Non-Metallic Mining Licensing Ordinance

1. Registration License Provision

This is a provision that creates a simple general permit for small existing and future nonmetallic mining operations such as routine sand and gravel operations within the Town. It provides for registration and compliance with best management practices without the time and expense associated with the regular licensing process. It is based on general permit or registration permits used in state environmental permitting.

Section 2.04. License Required

(6) Registration License. Nonmetallic mining operations that meet the following criteria may apply for a registration license under §2.14 in lieu of an operator's license:

- (a) The nonmetallic mining operation where less than 15 acres of total affected acreage occurs over the life of the mine or the processing facility.
- (b) The nonmetallic mining operation does not involve blasting.
- (c) The nonmetallic mining operation does not involve processing of materials from off-site.
- (d) The nonmetallic mining operation does not involve mining at a depth below the point that is 5 feet above the groundwater table.

Section. 2.14 Registration License.

(1) For nonmetallic operations that qualify for a registration license under Section 2.04(6), the Town Board shall grant a registration license if the operator submits the following information to the Town Board:

- (a) A certification from the operator that it meets the requirements in Section 2.04(6)
- (b) Ownership information under Section 2.06(1)
- (c) A copy of any reclamation plans filed with the County and any permits issued by other federal, state or local agencies for the nonmetallic mining operation.

(d) A certification that it will use best management practices to control noise, dust, light, surface water runoff and other off-site impacts from the operations.

(2) Registration licenses shall be subject to renewal every five years as set forth in Section 2.08(2) and subject to the inspection, enforcement and provisions of Section 2.09.

(3) Unless specifically enumerated above, operators seeking registration licenses shall not be required to comply with the provisions in Sections 2.05 to 2.08, or the provisions in 2.10 and 2.11.

2. Additional Provisions on Light, Noise and Dust

(g) The operator shall limit night lighting on site, to that which is minimally necessary for security. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties. At a minimum such measures shall include the following:

(i) The use of full cutoff shrouds on all lights.

(ii) Portable lighting shall be used only as necessary to illuminate temporary work areas.

(iii) The use of berms of sufficient height coupled with other methods of visual screening to block light from neighboring properties.

(iv) The design and location of access roads to minimize lights from traffic and operations to neighboring properties.

(h) The operator shall control off-site noise levels to the maximum extent practicable. The noise levels at the boundaries of the mining or processing site shall not exceed 60dB. The use and regulation of compression release engine brakes, commonly known as jake-brakes is at the discretion of the Town Board, where posted.

(j) Air monitors.

(i) If an applicant is applying for an operator's license for a mining operation that includes a frac-sand processing plant, the operator shall be required to monitor the ambient level of airborne particulate matter of 2.5 microns in size (PM_{2.5}) and Total Suspended Particulates (TSP) as measured by the method described in Appendices L and B, respectively, of 40 CFR part 50 (2011) or a method approved in writing by the Town. The type and number of monitors needed, the location of the monitors, and frequency and duration of the monitoring program shall be determined by agreement of the operator,

the Town Board and its consultant, but all costs associated with monitoring shall be borne by the operator.

- (ii) If the air monitors show an exceedance of 35 micrograms per cubic meter of $PM_{2.5}$ in any 24 hour period, the operator shall evaluate and implement additional best management practices to minimize $PM_{2.5}$ emissions.
- (iii) If the air monitors show an exceedance of 150 micrograms per cubic meter of TSP in any 24 hour period, the operator shall evaluate and implement additional best management practices to minimize TSP.
- (iii) The operator shall compile a quarterly summary of monitoring results report within 10 days of the end of each month that shall be available to the Town Board.