



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 44739

File ID: 44739	File Type: Ordinance	Status: Recessed Public Hearing
Version: 2	Reference:	Controlling Body: PLAN COMMISSION
Lead Referral: PLAN COMMISSION	Cost:	File Created Date : 10/11/2016
File Name: Adding Nonmetallic Mineral Extraction District as a Special District		Final Action:

Title: SUBSTITUTE Creating Sections 28.100 and amending Sections 28.151 and 28.211 of the Madison General Ordinances to add Nonmetallic Mineral Extraction District (ME) as a Special District.

Notes: 5831miningSUB

Code Sections:

CC Agenda Date: 02/07/2017

Indexes:

Agenda Number: 5.

Sponsors: Samba Baldeh and Denise DeMarb

Effective Date:

Attachments: Substitute, Version 1, Zoning Text Memo_11-21-16.pdf, Comments.pdf

Enactment Number:

Author: John Strange

Hearing Date:

Entered by: dalthaus@cityofmadison.com

Published Date:

Approval History

Version	Date	Approver	Action
1	10/11/2016	Michael May	Approved as to Form
1	10/12/2016	Benjamin John	Approve
2	11/30/2016	Michael May	Approved as to Form
2	11/30/2016	Benjamin John	Approve

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office/Approval Group	10/11/2016	Referred for Introduction				
Action Text: This Ordinance was Referred for Introduction							

Notes: Plan Commission (11/21/2016), Common Council (12/6/2016)

1 COMMON COUNCIL 10/18/2016 Refer PLAN 11/21/2016 Pass
COMMISSION

Action Text: A motion was made by Verveer, seconded by Rummel, to Refer to the PLAN COMMISSION. The motion passed by voice vote/other.

1 PLAN COMMISSION 11/21/2016 RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING Pass

Action Text: A motion was made by Sheppard, seconded by Rewey, to RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING. The motion passed by voice vote/other.

Notes: On a motion by Sheppard, seconded by Rewey, the Plan Commission found that the standards for Zoning Map Amendments were met and recommended approval of a substitute Zoning Text Amendment ordinance to include the following modifications to be drafted by the City Attorney:

- That the ordinance will articulate that the City may not impose conditions that result in blasting requirements which are more stringent than those set by the state in the Wisconsin Administrative code .
- That the process for five year renewal will remain, but that the ordinance shall specify that renewal shall be presumptive if the operator demonstrates that there have been no violations of the mining ordinance and that the facility has been operated in accordance with the stated conditions of their conditional use approval.

The above main motion passed by voice vote/other. The first condition was added after being moved by Ald. King, seconded by Rewey, and approved by voice vote/other. The second condition was added after being moved by Ald. King, seconded by Ald. Zellers, and approved by the following 4-1 Vote: AYE: Ald. King, Ald. Zellers, Sheppard, and Oeth; NO: Rewey; NON-VOTING: Opin; EXCUSED: Ald. Carter, Berger, Cantrell, Polewski, and Bendata. A third amendment to remove the five-year mandatory renewal requirement in sub-section (q) was made by Rewey and failed for lack of a second.

2 COMMON COUNCIL 12/06/2016 Re-refer for COMMON 12/06/2017 Pass
Recessed Public COUNCIL
Hearing

Action Text: A motion was made by DeMarb, seconded by Rummel, to Re-refer for Recessed Public Hearing to the COMMON COUNCIL. The motion passed by voice vote/other.

Notes: Common Council Meeting 2/7/2017

2 COMMON COUNCIL 02/07/2017

Text of Legislative File 44739

Fiscal Note

The proposed ordinance has no fiscal impact.

Title

SUBSTITUTE Creating Sections 28.100 and amending Sections 28.151 and 28.211 of the Madison General Ordinances to add Nonmetallic Mineral Extraction District (ME) as a Special District.

Body

DRAFTER'S ANALYSIS: The City of Madison zoning code does not permit mining in the city. Yet, the City currently contains mines that operate as legal nonconforming uses because they were operating legally when they were annexed into the City. These mines may continue operating as nonconforming uses until the mine's resources are exhausted or the operator decides to transition the mine to a different use.

Additionally, most mine operators own additional property, often adjacent to the nonconforming mine, that they cannot mine because it was not part of the original legal nonconforming use. Some of these operators have approached the City about the ability to mine these additional

properties.

Thus, the City currently contains active mines over which it has no zoning regulations, and mine operators own additional property they cannot mine because the city zoning code does not permit it.

Wis. Stat. § 62.23(7)(am) grants cities the power to regulate mining through zoning. This ordinance recognizes that the City contains active nonconforming quarries and that the City benefits from the close proximity of quarry resources for local road and other construction projects. The ordinance also recognizes that quarrying operations near the city present potential health and welfare concerns to neighboring property owners and that these concerns may be attenuated through a cohesive set of quarrying regulations enforceable by the City through zoning. Accordingly, this ordinance creates a new Special District under the zoning code called the nonmetallic mineral extraction district (ME).

Under this ordinance, mining operators may apply to rezone their property to combine any legal nonconforming use with other adjacent property to create a ME district. Applications to rezone as a ME district would go through the normal rezoning process and be subject to the usual standards for rezoning under Sec. 28.181, MGO. Any property rezoned ME would be subject to the supplemental regulations contained in this ordinance. Additionally, blasting in a ME District would require conditional use approval that must be renewed every five years.

This substitute amends the original version of this ordinance as a result of two amendments recommended by the Plan Commission. The Plan Commission's first amendment resulted in a change in sub. (q) that makes it clear that any additional conditions the Plan Commission places on a blasting conditional use approval may not impose regulations or restrictions that are more stringent than state blasting regulations. The Plan Commission's second amendment, found in sub. (q) 11., relates to the blasting conditional use renewal process: it states that if an operator applies for the renewal of a blasting conditional use and shows that in the previous five (5) years the Nonmetallic Mining Site has operated in compliance with the blasting conditions listed in sub. (q) 1.-10. and any additional blasting conditions imposed by the Plan Commission, then there shall be a presumption that the standards for conditional use approval are met and that the Plan Commission will grant renewal of the conditional use approval. These amendments were recommended after testimony from mining operators requesting more certainty in the blasting conditional use process.

The Common Council of the City of Madison do hereby ordain as follows:

Please see "Substitute" in Attachments.