Legislation Details (With Text)

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Title: Amending Sections 21.07, 21.11 through 21.19, 21.24, 21.28, 21.30, 21.33 and 21.34 of the Madison General Ordinances modifying portions of the Nonmetallic Mining Reclamation Ordinance to conform with changes in the Wisconsin Administrative Code.

Sponsors: Common Council By Request

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
10/2/2007	1	COMMON COUNCIL	Adopt	Pass
9/26/2007	1	Engineering Division	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	
8/29/2007	1	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office (AFTER CC INTRO)	
8/7/2007	1	COMMON COUNCIL	Refer	
8/7/2007	1	Engineering Division	Fiscal Note Required / Approval	
8/1/2007	1	Finance Dept/Approval Group	Fiscal Note Pending	
8/1/2007	1	Attorney's Office	Referred for Introduction	
7/30/2007	1	Attorney's Office/Approval Group	Approved As To Form	
7/30/2007	1	Attorney's Office	Fiscal Note Required / Approval	

Fiscal Note

It is anticipated that fee revenues will cover any related costs. No appropriation is required.

Title

Amending Sections 21.07, 21.11 through 21.19, 21.24, 21.28, 21.30, 21.33 and 21.34 of the Madison General Ordinances modifying portions of the Nonmetallic Mining Reclamation Ordinance to conform with changes in the Wisconsin Administrative Code.

Body

DRAFTER'S ANALYSIS: Recent changes to Chapter NR 135, Wisconsin Administrative Code require amendment of Chapter 21, M.G.O. as a municipality's non-metallic mining ordinance must not be more or less restrictive than Chapter NR 135, Wisconsin Administrative Code.

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

1. Section 21.07 entitled "Applicability" of the Madison General Ordinances is amended to read as follows:

"21.07 APPLICABILITY. The requirements of this chapter apply to all nonmetallic mining sites as follows:

(1) This chapter applies to all operators of nonmetallic mining sites within the City of Madison ~~operating on or commencing to operate after August 1st, 2001 and~~ as provided in Sections NR 135.02(1) and (2),

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Wisconsin Administrative Code, except where exempted in Section NR 135.02(3), Wisconsin Administrative Code."

2. Section 21.11 entitled "Permit Application" of the Madison General Ordinances is amended to read as follows:

"21.11 PERMIT ~~APPLICATION~~ REQUIRED. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit pursuant to Sec. 21.11, unless specifically exempted in Section NR 135.02(1), 135.02(3) or 135.03(16)(b), Wisconsin Administrative Code. The operator of all nonmetallic mining sites ~~that operate on or after August 1st, 2001~~ shall apply for a reclamation permit from the City Engineer. All reclamation permit applications under this section shall be accompanied by the information required by Section NR 135.18~~(3)~~(1) and Section NR 135.18(2), Wisconsin Administrative Code.

~~(1)~~ ~~Existing Mines. The operator of any existing nonmetallic mine shall apply for an automatic reclamation permit from the City Engineer by providing the information required by Section NR 135.18(1), Wisconsin Administrative Code and the submittals required under Section NR 135.18(3), Wisconsin Administrative Code, no later than August 1st, 2001 to the City Engineer.~~

~~(2)~~ New Mines. ~~The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1st, 2001 or which has not applied for an automatic reclamation permit pursuant to Sec. 21.11(1) shall submit an application that meets the requirements of Sections NR 135.18(2), Wisconsin Administrative Code and the submittals required under Section NR 135.18(3), Wisconsin Administrative Code to the City Engineer prior to~~ beginning operations. ~~This~~ The application shall be accompanied by a plan review fee as specified in Sec. 21.30."

3. Section 21.12 entitled "Reclamation Plan" of the Madison General Ordinances is amended to read as follows:

"21.12 RECLAMATION PLAN. All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

~~(1)~~ ~~Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with Sec. 21.11(1) shall submit the reclamation plan by September 1, 2002.~~

~~(2)~~ ~~New Mines. The operator of any nonmetallic mining site that applies for a permit in conformance with Sec. 21.11(2) shall submit the reclamation plan with its application for a reclamation permit.~~"

4. Section 21.13 entitled "Existing Plans and Approvals" of the Madison General Ordinances is amended to read as follows:

"21.13 EXISTING PLANS AND APPROVALS. To avoid duplication of effort, the reclamation plan required by Sec. 21.12 may, by reference, incorporate existing plans or materials that meet the requirements of this chapter. ~~Previous approvals for nonmetallic mining sites that apply in accordance with Sec. 21.11(1) shall satisfy the requirements of Sec. 21.12 if they meet the requirements of Section NR 135.21(1)(d), Wisconsin Administrative Code.~~"

4. Section 21.14 entitled "Existing Plans and Approvals" of the Madison General Ordinances is amended to read as follows:

"21.14 APPROVAL OF RECLAMATION PLAN. The City of Madison shall approve, conditionally approve, or deny in writing the reclamation plan submitted under this section as part of permit issuance pursuant to ~~Sec. 21.17(1) for existing mines and~~ Sec. 21.17~~(2) for new mines~~. Conditional approvals of reclamation plans shall be made according to Sec. 21.19, and denials of reclamation plans made according to Sec. 21.20. The operator shall keep a copy of the reclamation plan required by this section, once approved by the City Engineer, at the mine site or, if not practicable, at the operator's nearest office or place of business."

5. Section 21.15 entitled "Financial Assurance" of the Madison General Ordinances is amended to read as follows:

"21.15 FINANCIAL ASSURANCE. All operators of nonmetallic mining sites in the City of Madison shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code. No proof of financial assurance is required for

~~(1)~~ ~~Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with Sec. 21.11(1) shall submit the financial assurance required by Section NR 135.40, Wisconsin Administrative Code by September 1, 2002.~~

~~(2)~~ New Mines. ~~The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with Sec. 21.11(2) shall submit the proof of financial assurance required by Section NR~~

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~~135.40, Wisconsin Administrative Code as specified in the reclamation permit issued to it under this chapter.~~

~~(3)~~ ~~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."

6. Section 21.16 entitled "Public Notice and Right to Hearing" of the Madison General Ordinances is amended to read as follows:

"21.16 PUBLIC NOTICE AND RIGHT TO HEARING. ~~The following public notice requirements apply to nonmetallic mine operators seeking permits under Sec. 21.11.~~

~~(1)~~ ~~New Mines.~~ The City Engineer 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 Sec. 21.11(2) is received, except that.

~~(2)~~ ~~Existing Mines. No public notice or informational hearing is required on an application for a reclamation permit for an existing mine that satisfies Sec. 21.11(1), except as provided in Section NR 135.20(4)(c), Wisconsin Administrative Code.~~

~~(3)~~ ~~Local Transportation-Related Mines. N~~no public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to Sec. 21.17~~(3)~~(2)."

6. Section 21.17 entitled "Issuance Of Nonmetallic Mining Reclamation Permit" of the Madison General Ordinances is amended to read as follows:

"21.17 ISSUANCE OF NONMETALLIC MINING RECLAMATION PERMIT. ~~Every operator of a nonmetallic mining site in the City of Madison who engages in or plans to engage in nonmetallic mining after September 1st, 2001 shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this chapter as provided in Sec. NR 135.02(3), Wisconsin Administrative Code. No person may engage in nonmetallic mining or nonmetallic mining reclamation after September 1st, 2001 without a reclamation permit issued pursuant to this chapter.~~

~~(1)~~ ~~Automatic Permit for Existing Mines. The City Engineer shall issue an automatic reclamation permit to the operator of any nonmetallic mining that submits an application meeting the requirements of Sec. 21.11(1) as set forth in Section 135.21(1), Wisconsin Administrative Code. The automatic permit shall be issued within 30 days of such application. Mines covered by automatic permits issued under this section shall submit a reclamation plan in accordance with Sec. 21.12(1) and proof of financial assurance in accordance with Sec. 21.15(1) by the deadlines established in those sections. The reclamation plan and proof of financial assurance shall be evaluated using the criteria and procedures in Sections NR 135.21 (1)(d), (e) and (f), Wisconsin Administrative Code.~~

~~(2)~~(1) Permit Issuance ~~for New Mines~~. Applications that satisfy the requirements in Sec. 21.11(2) 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 Sec. 21.12 and provision by the applicant of financial assurance that conforms with Sec. 21.15, payable to the City of Madison, prior to beginning mining.

~~(3)~~(2) Automatic Permit for Local Transportation-Related Mines. The City Engineer 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."

7. Section 21.18 entitled "Expedited Review" of the Madison General Ordinances is amended to read as follows:

"21.18 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 Sec. 21.31. The expedited review shall be carried out according to the provisions of Section NR 135.23~~(2)~~(1), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to Sec. 21.16."

8. Section 21.19 entitled "Permit Conditions" of the Madison General Ordinances is amended to read as follows:

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"21.19 PERMIT CONDITIONS. Permits issued under this section may include conditions as provided in Section NR 135.21~~(3)~~(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."

9. Section 21.24 entitled "Permit Modification" of the Madison General Ordinances is amended to read as follows:

"21.24 PERMIT MODIFICATION. A nonmetallic mining permit may be modified as follows:

(1) ~~At the r~~Request of the City of Madison. If the City Engineer finds that, because of changing conditions, the nonmetallic mining site no longer is in compliance with this chapter or the applicable reclamation ordinance, it shall issue an order modifying the permit in accordance with Section NR 135.24, Wisconsin Administrative Code.

(2) ~~At the r~~Request of the Operator. If operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, it may request such modification by submitting a written application for such modification to the City Engineer. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

(3) ~~When~~ Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter 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 chapter."

10. Section 21.28 entitled "Plan Review Fees" of the Madison General Ordinances is amended to read as follows:

"21.28 INSPECTION IN LIEU OF REPORT. The City Engineer may, at his/her discretion, obtain the information required to be submitted by the operator of a nonmetallic mining site in Section NR 135.36~~(1),~~ Wisconsin Administrative Code by written documentation of an inspection by the City Engineer during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code."

11. Section 21.30 entitled "Plan Review Fees" of the Madison General Ordinances is amended to read as follows:

"**21.30 PLAN REVIEW FEES.** A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under Sec. 21.11(2) shall submit a non-refundable plan review fee specified in Table 1. No plan review fee may be assessed under this section for any nonmetallic mine site for which an application for ~~an automatic reclamation permit is submitted or for~~ any local transportation-related mine issued an automatic permit under Sec. 21.17(3). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to Sec. 21.24.

TABLE 1. Plan Review Fee

Proposed Mine Site Size Rounded to Nearest Whole Acre	One-Time Plan Review Fee
1 to 25 acres	$ 900
26 to 50 acres	$1200
51 or more acres	$1500

11. Section 21.33 entitled "Annual Fees" of the Madison General Ordinances is amended to read as follows:

"21.33 ANNUAL FEES. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to the City of Madison. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources and a share for the City of Madison. Fees shall be calculated based on the number of unreclaimed acres of each site according to Section 135.39(1)(a), Wisconsin Administrative Code, as specified in Table~~s~~ 2 ~~and 3~~. 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 Sec. 21.35. Fees shall be paid no later than ~~December~~ January 31 for the ~~subsequent~~ previous year. 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 and shall be forwarded to the Wisconsin Department of Natural Resources by March 31.. 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. If the annual fee is greater than that established in Section NR 135.39(4)(c), Wisconsin Administrative Code, the City Engineer shall document in

writing its estimated program costs and the need for its annual fees on or before June 1, 2001. This documentation shall be available for public inspection.

~~**TABLE 2. Annual Fees Due On or Before December 31, 2003**~~

~~**Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre**~~	~~**Annual Fee**~~
~~1 to 5 acres, does not include mines < 1 acre~~	~~$450~~
~~6 to 10 acres~~	~~$600~~
~~11 to 15 acres~~	~~$750~~

TABLE ~~3~~ 2. Annual Fees ~~Due On or After January 1, 2004~~

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	**Annual Fee**
1 to 5 acres, does not include mines < 1 acre	$150
6 to 10 acres	$300
11 to 15 acres	$450
16 to 25 acres	$600
26 to 50 acres	$700
51 acres or larger	$750

11. Section 21.34 entitled "Regulatory Reporting And Documentation" of the Madison General Ordinances is amended to read as follows:

"21.34 REGULATORY REPORTING AND DOCUMENTATION. The City Engineer 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 31 for the previous year. The City Engineer 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 City of Madison's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code."

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