

KENOSHA COUNTY BOARD OF SUPERVISORS

COUNTY BOARD CHAMBERS

COUNTY ADMINISTRATION BUILDING

April 9, 2002

The **Regular Meeting** was called to order by Chairman Noble at 7:30 p.m., in the County Board Room located in the Administration Building. Roll call was taken.

Present: Supervisors Noble, Haen, Boyer, Rose, Kessler, Huff, Molinaro, Marrelli, Bergo, Carbone, Modory, Reed, Johnson, Pitts, O'Day, Singer, Ruffolo, Montemurro, Larsen, Wisnefski, Carey-Mielke, Koessler, Gorlinski, Smitz, Elverman.

Excused: Supervisors West and Kerkman.

Present. 25. Excused. 2.

CITIZEN COMMENTS

There were no Citizen Comments

CHAIRMAN'S ANNOUNCEMENTS

Chairman Noble presented Supervisors Reed and Koessler with Plaques of Recognition for their many years of service. He thanked both supervisors for their hard work and for representing their constituents very well.

Chairman Noble stated that last week he asked Supervisor Carbone to put KABA on the Finance Committee agenda relative to KABA's position on the \$40,000 contribution to the Study on Governmental Services. Supervisors should have received a letter formalizing the commitment.

Chairman Noble reported that last night they had a 4 hour interview process for the Gateway Technical College Board. Two new people were appointed.

SUPERVISOR REPORTS

Supervisor Elverman reported the Highway & Parks Committee set a date of May 6th, which they will be having their first meeting with the consultant architect designer hired for the master plan for the west end park.

Supervisor Wisnefski reported that around Memorial Day, the Medical Examiners office will be finished and will be opened up. There is some interest from Walworth and Racine Counties to contract with us to do some autopsy work for them. Rash Construction is the low bidder for Job Center project, the work should start about the 15th of April. The locker rooms in the Safety Building will be completed next week.

Supervisor Carbone reported that last week the Finance and Administration Committees met to try to establish elected officials salary for the next term. Salary's were not set. There is an action which will come before the board tonight to suspend Policy Resolution 1 established May of 2000. Personnel & Finance were asked to put together a packet for the supervisors of information to help set the salaries for the elected officials and non-reps.

Supervisor Larsen spoke regarding the Kenosha County Heart Walk on April 20th, at Parkside, which County Executive Allan Kehl is Chairman. Anyone wishing to walk or donate money may contact Supervisor Larsen.

Supervisor Huff reported there was some confusion at the last meeting regarding the cabaret license. A copy of the Judiciary & Law Committee minutes have been provided to each of the supervisors to help clarify and answer the question.

Supervisor Johnson thanked the Board for the flowers and cards that were sent to him while he was hospitalized.

Supervisor Carey-Mielke thanked Edna Highland for giving everyone a copy of Policy Resolution #1. She also asked for a copy of the Critical Path Study. Supervisor Carbone responded she should contact the Finance Department to receive a copy.

Supervisor Ruffolo requested that since there will be new members of the Board, he would like the whole board to receive a copy of the Critical Path. He also spoke regarding concerns of the public riding the elevators in the courthouse with inmates and asked for this to be referred to a committee for review. Supervisor Ruffolo commented on the great job Fred Patrie did getting the traffic signals on Washington Rd. and 47th Ave. He would also like to see traffic signals on 47th Ave. and 52nd St. and requested this be referred to the proper committee. He also requested that the issue regarding the use of envelopes and or stationary be referred to a committee so there can be a concise form of rules on the use of these items.

Supervisor Pitts requested a workshop be conducted concerning the Board of Supervisor's responsibilities. Wisconsin Counties Association is willing to conduct a workshop for all supervisors.

OLD BUSINESS

Ordinances - Second reading, two required

ORDINANCE 56

56. From Land Use Committee regarding Creating Chapter 13 of the Municipal Code of Kenosha County relating to Nonmetallic Mining Reclamation regulations.

Create Chapter 13 of the Municipal Code of Kenosha County relating to Nonmetallic Mining Reclamation regulations per the attachment.

**CHAPTER 13
KENOSHA COUNTY NON-METALLIC MINING
RECLAMATION ORDINANCE**

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CHAPTER 13

KENOSHA COUNTY NON-METALLIC MINING RECLAMATION ORDINANCE

I. GENERAL

13.01-1		Title. Kenosha County Non-Metallic Mining Reclamation Ordinance.
13.01-2		Purpose. The purpose of this chapter is to establish a local program to ensure effective reclamation, including but not limited to the control and prevention of soil erosion, the prevention of water pollution of the surface and subsurface waters, and the promotion of sound future land use, of non-metallic mining sites on which non-metallic mining takes place in Kenosha County after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.
13.01-3		Statutory Authority. This chapter is adopted under authority of <u>Section 295.13(1), Wisconsin Statutes</u> , Section NR 135.32, Wisconsin Administrative Code, and <u>Section 59.51, Wisconsin Statutes</u> .
13.01-4		Restrictions Adopted Under Other Authority. The purpose of this chapter is to adopt and implement the uniform statewide standards for non-metallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits concerning non-metallic mining reclamation previously adopted pursuant to other Wisconsin law.
13.01-5		Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for non-metallic 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 non-metallic 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 chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter 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.

13.01-6 **Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

13.01-7 **Applicability.**

(1) **Overall Applicability.** The requirements of this chapter apply to all operators of non-metallic mining sites within Kenosha County operating on or commencing to operate after, August 1, 2001, except as exempted in **section 13.01-7(2)** and for non-metallic mining sites located in a city, village or town within Kenosha County Department of Planning and Development, Division of County Development that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code. This chapter does not apply to non-metallic mining sites where non-metallic mining permanently ceased before, August 1, 2001. This chapter applies to non-metallic mining conducted by or on behalf of the State of Wisconsin, by or on behalf of a municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in **section 13.03-3(4)**.

(2) **Exemptions.** This chapter does not apply to the following activities:

- (a) Non-metallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under secs. 30.19, 30.195 or 30.20, Stats., and complies with Chapter NR 340, Wisconsin Administrative Code.
- (b) Excavations subject to the permit and reclamation requirements of secs. 30.30 or 30.31, Stats.
- (c) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (d) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
- (e) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- (f) Excavations for building construction purposes conducted on the building site.
- (g) Non-metallic mining at non-metallic mining sites that affect less than one acre of total area over the life of the mine.
- (h) Any mining operation, the reclamation of which is required in a permit obtained under ch. 293, Stats.
- (i) Any activities required to prepare, operate or close a solid waste disposal facility under ch. 289, Stats., or a hazardous waste disposal facility under ch. 291, Stats., that are conducted on the property where the facility is located, but an applicable non-metallic mining reclamation ordinance and the standards established in this chapter apply to activities related to solid waste or hazardous waste disposal that are conducted at a non-metallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain non-metallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(j) Non-metallic mining related to a Wisconsin Department of Transportation project.

1. Non-metallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the non-metallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the non-metallic mining site.
2. This exemption only applies to a non-metallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the non-metallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.
3. If a non-metallic mining site covered under **sections 13.01-7(2)(j)1. and 2.** is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

(k) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

(l) Removal of material from the bed of Lake Michigan or any navigable natural inland lakes, streams, ponds, sloughs, and flowages by a public utility pursuant to a permit under s. 30.21, Stats.

13.01-8 **Administration.** The provisions of this chapter shall be administered by the Kenosha County Department of Planning and Development, Division of County Development, and referred to in this ordinance as "Kenosha County Department of Planning and Development, Division of County Development".

13.01-9 **Effective Date.** The provisions of this chapter shall take effect on, June 1, 2002.

13.01-10 **Definitions.** In this chapter:

(1) **Alternative requirement** - means an alternative to the reclamation standards of this chapter provided through a written authorization granted by Kenosha County Department of Planning and Development, Division of County Development, pursuant to **section 13.03-7.**

(2) **Applicable reclamation ordinance** - means a non-metallic mining reclamation ordinance, including this chapter, that applies to a particular non-metallic mining site and complies with the requirements of this Chapter NR 135, Wisconsin Administrative Code and subchapter I of ch. 295, Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in **section 13.01-10(20)(c).** If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR 135, Wisconsin Administrative Code.

- (2m) **Borrow site** - means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.
- (3) **Contemporaneous reclamation** - means the sequential or progressive reclamation of portions of the non-metallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by non-metallic mining activities.
- (4) **Department** - means the Wisconsin Department of Natural Resources.
- (6) **Environmental pollution** - has the meaning in s. 295.11(2), Stats.
- (7) **Existing mine** - means a non-metallic mine where non-metallic mining took place before, August 1, 2001.
- (8) **Financial assurance** - means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in **section 13.03-3** and is sufficient to pay for reclamation activities required by this chapter.
- (9) **Landowner** - means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns non-metallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.
- (10) **Municipality** - means any county, city, town or village.
- (11) **Non-metallic mineral** - means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, non-metallic, nonrenewable material. Non-metallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.
- (13) **Non-metallic mining or mining** - means all of following:
- (a) Operations or activities at a non-metallic mining site for the extraction from the earth of mineral aggregates or non-metallic minerals for sale or use by the operator. Non-metallic mining includes use of mining equipment or techniques to remove materials from the in-place non-metallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Non-metallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of non-metallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
 - (b) Processes carried out at a non-metallic mining site that are related to the preparation or processing of the mineral aggregates or non-metallic minerals obtained from the non-metallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or non-metallic minerals with other mineral aggregates or non-metallic minerals, blasting, grading, crushing, screening, scalping and dewatering.
- (14) **Non-metallic mining reclamation or reclamation** - means the rehabilitation of a non-metallic mining site to achieve a land use specified in a non-metallic mining reclamation plan approved under this chapter, including removal or reuse of non-metallic mining refuse, grading of the non-metallic mining site, removal, storage and replacement of topsoil,

- stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.
- (15) **Non-metallic mining refuse** - means waste soil, rock and mineral, as well as other natural site material resulting from non-metallic mining. Non-metallic mining refuse does not include marketable by-products resulting directly from or displaced by the non-metallic mining that are scheduled to be removed from the non-metallic mining site within a reasonable period of time after extraction.
- (16) **Non-metallic mining site or site** - means all contiguous areas of present or proposed mining described in **par. (a)**, subject to the qualifications in **par. (b)**.
- (a) Non-metallic mining site means the following:
1. The location where non-metallic mining is proposed or conducted.
 2. Storage and processing areas that are in or contiguous to areas excavated for non-metallic mining.
 3. Areas where non-metallic mining refuse is deposited.
 4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for non-metallic mining.
 5. Areas where grading or regrading is necessary.
 6. Areas where non-metallic mining reclamation activities are carried out or structures needed for non-metallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.
- (b) **Non-metallic mine site** - does not include any of the following areas:
1. Those portions of sites listed in **par. (a)** not used for non-metallic mining or purposes related to non-metallic mining after, August 1, 2001.
 2. Separate, previously mined areas that are not used for non-metallic mineral extraction after, August 1, 2001, and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.
 3. Areas previously mined but used after, August 1, 2001, for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to non-metallic mining.
- (17) **Operator** - means any person who is engaged in, or who has applied for a permit to engage in, non-metallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (18) **Registered geologist** - means a person who is registered as a professional geologist pursuant to ss. 443.037 and 443.09, Stats.
- (19) **Registered professional engineer** - means a person who is registered as a professional engineer pursuant to ss. 443.04 and 443.09, Stats.
- (20) **Regulatory authority** - means the following:
- (a) Kenosha County Department of Planning and Development, Division of County Development, for non-metallic mine sites located within its jurisdiction, or
- (b) A municipality in which the non-metallic mining site is located and which has adopted an applicable reclamation ordinance.

- (c) The Wisconsin Department of Natural Resources, but only if there is no applicable reclamation ordinance enacted by the municipality or the county in which the non-metallic mining site is located.
- (21) **Replacement of topsoil** - means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by non-metallic for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this chapter.
- (22) **Solid waste** - means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, Stats., or source material, special nuclear material or by-product material, as defined in s. 254.31 (1), Stats.
- (23) **Topsoil** - means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (24) **Topsoil substitute material** - means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (25) **Unreclaimed acre or unreclaimed acres** -
- (a) means those unreclaimed areas in which non-metallic mining has occurred after, August 1, 2001, and areas where non-metallic mining reclamation has been completed but is not yet certified as reclaimed under **section 13.04-7(3)**. However the term does not include any areas described in **par. (b)**.
- (b) does not include:
1. Those areas where reclamation has been completed and certified as reclaimed under **section 13.04-7(3)**.
 2. Those areas previously affected by non-metallic mining but which are not used for non-metallic mining after, August 1, 2001.
 3. Those portions of non-metallic mining sites which are included in a non-metallic mining reclamation plan approved pursuant to this chapter but are not yet affected by non-metallic mining.
 4. Areas previously mined but used after, August 1, 2001, for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from non-metallic mining.
 5. For purposes of fees under **section 13.04-5**, those areas within a non-metallic mining site which Kenosha County Department of Planning and Development, Division of County Development has

determined to have been successfully reclaimed on an interim basis in accordance with **section 13.04-7(3)**.

II. STANDARDS

13.02-1

Standards. All non-metallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below.

(1) General Standards.

(a) Refuse and other solid wastes. Non-metallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.

(b) Area disturbed and contemporaneous reclamation. Non-metallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by non-metallic mining and to provide for non-metallic mining reclamation of portions of the non-metallic mining site while non-metallic mining continues on other portions of the non-metallic mining site.

(c) Public health, safety and welfare. All non-metallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) Habitat restoration. When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by non-metallic mining operations.

(e) Compliance with environmental regulations. Reclamation of non-metallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

Note: Other applicable environmental, zoning or land use regulations may include Chapters NR 103, 115, 116, 117, 205, 216, 269, 105, 106, 140, 150, 340, 500-590, and 812, Wisconsin Administrative Code, chs. 30 and 91, Stats., and Section 404 of the Clean Water Act (33 USC s. 1344), which may be applicable to all or part of either an existing or proposed non-metallic mining project, so long as they do not require or directly regulate the reclamation of non-metallic mining sites as addressed under Subchapter I of Chapter 295, Stats .

(2) Surface Water and Wetlands Protection. Non-metallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a non-metallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(3) Groundwater Protection.

(a) Groundwater quantity. A non-metallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in

the quantity of groundwater reasonably available for future users of groundwater.

- (b) **Groundwater quality.** Non-metallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application defined in that chapter.

(4) Topsoil Management.

- (a) **Removal** Topsoil and topsoil substitute material shall be removed, protected and redistributed to support reclamation and site stabilization. Topsoil shall be managed as specified in the reclamation plan approved pursuant to this chapter in order to achieve reclamation to the approved post-mining land use. Topsoil and topsoil substitute material removal shall be performed, as required by the reclamation plan, prior to any mining activity associated with any specific phase of the mining operation.

- (b) **Volume.** The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

Note: Existing resources that may be used to identify the soil present on a site include the County Soil Surveys and information obtained from a soil scientist or the County Extension Agent or other available resources. Topsoil or topsoil substitute material shall be removed from areas to be affected by mining operations to the depth indicated in the reclamation plan or as determined in the field by a soil scientist, project engineer or other qualified professional.

- (c) **Storage.** Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(5) Final Grading and Slopes.

- (a) All areas affected by mining shall be graded in accordance with the reclamation plan approved pursuant to this chapter to achieve a stable and safe condition consistent with the post mining land use. The reclamation plan may designate areas such as stable slopes and rock faces, which do not require final grading.

- (b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless alternative requirements are approved under **section 13.03-7**, and stable slopes can be demonstrated based on site-specific engineering analysis. The engineering analysis shall show that a minimum acceptable slope stability factor is attainable at a steeper slope and that the post-mining land use specified in the reclamation plan is not adversely affected. When the slope occurs at the edge of a body of water, this approved slope shall extend vertically 6 feet below the lowest seasonal water level.

A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(c) All areas in the non-metallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(6) **Topsoil Redistribution for Reclamation.** Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(7) **Revegetation and Site Stabilization.** Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by non-metallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(8) **Assessing Completion of Successful Reclamation.**

(a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

(b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

1. On-site inspections by the Kenosha County Department of Planning and Development, Division of County Development, or its agent;
2. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo-documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
3. A combination of inspections and reports.

(c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(d) Revegetation success may be determined by:

1. Comparison to an appropriate reference area;
2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
3. Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

(9) **Intermittent Mining.** Intermittent mining may be conducted provided that the possibility of intermittent cessation of

operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to **section 13.03-3** is maintained covering all remaining portions of the site that have been affected by non-metallic mining and that have not been reclaimed.

- (10) **Maintenance.** During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

III. PERMITTING

13.03-1

Non-metallic Mining Reclamation Permit Application.

- (1) **Required Submittal.** All operators of non-metallic mining sites that operated on or after, August 1, 2001, shall apply for a reclamation permit from Kenosha County Department of Planning and Development, Division of County Development. All applications for reclamation permits under this section shall be accompanied by the following information:

- (a) A brief description of the general location and nature of the non-metallic mine.
- (b) A legal description of the property on which the non-metallic mine is located or proposed, including the parcel identification number.
- (c) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the non-metallic mining site is located.
- (d) The name, address, and telephone number of the person or organization who is the operator.
- (e) A certification by the operator of his or her intent to comply with the statewide non-metallic mining reclamation standards established by **Section II**.

- (2) **Existing Mines.** The operator of any existing non-metallic mining site who conducted or planned to conduct non-metallic mining on or after, August 1, 2001, may apply for a modified reclamation permit from Kenosha County Department of Planning and Development, Division of County Development, by providing the information set forth below no later than, August 1, 2002, to the Kenosha County Department of Planning and Development, Division of County Development.

- (a) The information required by **section 13.03-1(1)**.
- (b) The first year's annual fee, as required by **section 13.04-5**.
- (c) A certification signed by the operator that he or she will provide Kenosha County Department of Planning and Development, Division of County Development, with a complete reclamation plan required by **section 13.03-2** and financial assurance required by **section 13.03-3** no later than the times established pursuant to this chapter.

- (3) **New Mines.** The operator of any non-metallic mine site that engages in or plans to engage in non-metallic mining that will begin operations after, August 1, 2001, shall submit an application for a reclamation permit that meets the requirements specified below to Kenosha County Department of Planning and Development, Division of County Development, prior to beginning operations. This application shall be accompanied by a plan review fee as specified in **section 13.04-4**.

- (a) The information required by **section 13.03-1(1)**.

- (b) The plan review and annual fees required by **sections 13.04-4 and 13.04-5.**
- (c) A reclamation plan conforming to **section 13.03-2.**
- (d) A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by **section 13.03-3** upon granting of the reclamation permit and before mining begins.
- (e) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

13.03-2

Reclamation Plan.

(1) **Reclamation Plan Requirements.** All operators of non-metallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the following requirements.

(a) **Plan required.** An operator who conducted or plans to conduct non-metallic mining on or after, August 1, 2001, shall submit to Kenosha County Department of Planning and Development, Division of County Development, a reclamation plan that meets the requirements of this section and complies with the standards of **section 13.02.** To avoid duplication, the reclamation plan may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

(b) **Site information.** The reclamation plan shall include information sufficient to describe the natural and physical conditions of the site prior to any non-metallic mining, including, but not limited to:

1. Maps of the non-metallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the non-metallic mineral deposit, the distribution, thickness and type of topsoil, the approximate elevation of ground water, the location of surface waters and the existing drainage patterns.

Note: Topsoil or topsoil substitute material required to support revegetation needed for reclaiming the site to approved post-mining land use can be identified using soil surveys or other available information.

2. Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
3. Existing topography as shown on contour maps of the site at two foot intervals.
4. Location of manmade features on or near the site.
5. For existing mines, a plan view drawing showing the location and extent of land previously affected by non-metallic mining, including the location of stockpiles, wash ponds and sediment basins.

Note: Some of or all of the information required above may be shown on the same submittal, i.e. the site map required by par. (1) may also show topography required by par. (3).

(c) **Post mining land use.**

1. The reclamation plan shall specify a proposed post-mining land use for the non-metallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless

a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

2. A proposed post-mining land use is necessary to determine the type and degree of reclamation needed to correspond with that land use. The post mining land use will be key in determining the reclamation plan. Final slopes, drainage patterns, site hydrology, seed mixes and the degree of removal of mining-related structures, drainage structures, and sediment control structures will be dictated by the approved post-mining land use.
3. Land used for non-metallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to s. 91.75, Stats., shall be restored to agricultural use.

Note: Section 91.75(9), Stats., contains this requirement. Section 91.01(1), Stats., defines the term "agricultural use".

(d) **Reclamation measures.** The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the non-metallic mining site. The following shall be included:

1. A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures.
2. The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.
3. A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.
4. A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
5. The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
6. A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
7. Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.
8. A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to

minimize erosion and pollution of surface and groundwater.

9. A description of any areas which will be reclaimed on an interim basis sufficient which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in **section 13.02** and timing of interim and final reclamation.

Note: *Some of the information required by this subsection may be combined to avoid duplication, e.g. a single map may show anticipated post-mining topography required by par. 3. as well as structures and roads as required by par. 4..*

(e) The reclamation plan shall contain criteria for assuring successful reclamation in accordance **section 13.02-1(8)**.

(f) Certification of reclamation plan.

1. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. The landowner and lessee, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation, except as provided in **par. 2..**

2. For the following situations, the landowner and lessee, if different from the mine operator, are not required to submit a written certification in accordance with **par. 1..** The operator shall provide written evidence that the landowner and lessee, if different from the operator, have been provided with a written copy of the reclamation plan, and that:

- a. The mine operator has submitted a reclamation plan for an existing mine in accordance with **section 13.03-1(2)**, or

- b. The operator has submitted a reclamation plan for a new or reopened mine in accordance **section 13.03-1(3)** which is located on land for which a lease agreement or memorandum of lease between the landowner and applicant was recorded prior to, August 1, 2001.

(g) Approval. The operator shall keep a copy of the reclamation plan required by this section, once approved by Kenosha County Department of Planning and Development, Division of County Development, under this chapter, at the mine site or, if not practicable, at the operator's nearest office or place of business.

(2) **Existing Mines.** The operator of any non-metallic mining site that submits a modified reclamation permit application in conformance with **section 13.03-1(2)** shall submit the reclamation plan required by **section 13.03-2(1)** by, September 1, 2003.

(3) **New Mines.** The operator of any non-metallic mining site not in operation that applies for a permit in conformance with **section 13.03-1(3)** shall submit the reclamation plan required by **section 13.03-2(1)** with its application for a reclamation permit.

(4) **Existing Plans and Approvals.** To avoid duplication of effort, the reclamation plan required by **section 13.03-2(1)** may, by reference, incorporate existing plans or materials that meet

the requirements of this chapter. Previous approvals for non-metallic mining sites in operation before, August 1, 2001, shall satisfy the requirements of **section 13.03-2(1)** if they meet the following requirements:

- (a) The document has been approved by a county or municipality; and
 - (b) Kenosha County Department of Planning and Development, Division of County Development, finds that the document designates a post-mining land use and describes reclamation measures that meet the reclamation standards of this chapter.
- (5) **Approval of Reclamation Plan.** Kenosha County Department of Planning and Development, Division of County Development, shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with **section 13.03-5(3)(c)** for existing mines and **section 13.03-5(4)** for mines that apply for a reclamation permit in conformance with **section 13.03-1(3)**. Conditional approvals of reclamation plans shall be made according to **section 13.03-5(7)** and denials of reclamation plans shall be made pursuant to **section 13.03-6**. The operator shall keep a copy of the reclamation plan approved under this subsection at the mine site or, if not practicable, at the operator's nearest place of business.

13.03-3

Financial Assurance.

- (1) **Financial Assurance Requirements.** All operators of non-metallic mining sites in Kenosha County shall prepare and submit a proof of financial assurance that meets the following requirements:
- (a) **Notification.** The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under **sub. (c)**.
 - (b) **Filing.** Following approval of the non-metallic mining reclamation permit, and as a condition of the permit, the operator shall file financial assurance with Kenosha County Department of Planning and Development, Division of County Development. The financial assurance shall provide that the operator shall faithfully perform all requirements in this chapter, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to Kenosha County Department of Planning and Development, Division of County Development. In cases where one or more other regulatory authorities regulate a non-metallic mining site, all financial assurance shall be made payable to Kenosha County Department of Planning and Development, Division of County Development, only if it currently has primary regulatory responsibility.
 - (c) **Amount and duration of financial assurance.** The amount of financial assurance shall equal as closely as possible the cost to Kenosha County Department of Planning and Development, Division of County Development, of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan at the time of the proposed reclamation. The amount of financial assurance shall be determined by estimating the present day cost of implementing the reclamation plan to be approved and applying to such cost an inflationary factor based upon an historical analysis of the cost of living for a period of time equal to the time proposed until reclamation is to be commenced. The amount of financial assurance shall be reviewed periodically by Kenosha County Department of Planning and Development, Division

of County Development, to assure it equals outstanding reclamation costs. Any financial assurance filed with Kenosha County Department of Planning and Development, Division of County Development, shall furthermore be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Kenosha County Department of Planning and Development, Division of County Development, may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to effect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

(d) Form and management. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to Kenosha County Department of Planning and Development, Division of County Development, and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of Kenosha County Department of Planning and Development, Division of County Development, a blend of different options for financial assurance including a lien on the property on which the non-metallic mining site occurs or a combination of financial assurance methods.

(e) Multiple Projects. Any operator who obtains a permit from Kenosha County Department of Planning and Development, Division of County Development, for two (2) or more non-metallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each non-metallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by Kenosha County Department of Planning and Development, Division of County Development.

(f) Multiple Jurisdictions. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid

requiring the permittee to prove financial assurance with more than one regulatory authority for the same non-metallic mining site. Financial assurance is required for each site and two (2) or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(g) Certification of completion and release.

1. The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. Kenosha County Department of Planning and Development, Division of County Development, shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. Kenosha County Department of Planning and Development, Division of County Development, may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete Kenosha County Department of Planning and Development, Division of County Development, shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.
2. Kenosha County Department of Planning and Development, Division of County Development, shall make a determination of whether or not the certification in **par. (1)** can be made within 60 days that the request is received.
3. Kenosha County Department of Planning and Development, Division of County Development, may make a determination under this subsection that:
 - a. Reclamation is not yet complete;
 - b. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
 - c. Reclamation is complete in a part of the mine; or
 - d. Reclamation is fully complete.

(h) Forfeiture. Financial assurance shall be forfeited if any of the following occur:

1. A permit is revoked under **section 13.04-2** and the appeals process has been completed.
2. An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(i) Cancellation. Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90 day notice to Kenosha County Department of Planning and Development, Division of County Development, in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to Kenosha County Department of

Planning and Development, Division of County Development, a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(j) Changing methods of financial assurance. The operator of a non-metallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to **sub. (1)**. The operator shall give Kenosha County Department of Planning and Development, Division of County Development, at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of Kenosha County Department of Planning and Development, Division of County Development.

(k) Bankruptcy notification. The operator of a non-metallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.

(1) Adjustment of financial assurance. Financial assurance may be adjusted when required by Kenosha County Department of Planning and Development, Division of County Development. Kenosha County Department of Planning and Development, Division of County Development, may notify the operator in writing that adjustment is necessary and the reasons for it. Kenosha County Department of Planning and Development, Division of County Development, may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(m) Net worth test.

1. Only an operator that meets the definition of "company" in s. 289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.
2. The operator shall submit information to Kenosha County Department of Planning and Development, Division of County Development, in satisfaction of the net worth test requirements of s. 289.41 (4), Stats. The criteria in secs. 289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Stats., shall apply.
3. An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with s. 289.41 (6), Stats.
4. Determinations under the net worth test shall be done in accordance with s. 289.41 (5), Stats.
5. In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.

(2) Existing Mines. The operator of any non-metallic mining site that submits a modified reclamation permit application in conformance with **section 13.03-1(2)** shall submit the financial assurance required by **section 13.03-3(1)** by September 1, 2003.

(3) New Mines. The operator of any non-metallic mining site that applies for a reclamation permit in conformance with **section**

13.03-1(3) shall submit the proof of financial assurance required by **section 13.03-3(1)** as specified in the reclamation permit issued to it under this chapter.

(4) **Public Non-metallic Mining.** The financial assurance requirements of this section do not apply to non-metallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

13.03-4

Public Notice and Right of Hearing.

(1) **New Mines.** Kenosha County Department of Planning and Development, Division of County Development, shall, except as provided in **section 13.03-4(2)**, provide public notice and the opportunity for a public informational hearing as set forth below:

(a) **Public Notice.**

1. Except as provided in **section 13.04(2)(c)** for existing mines, when Kenosha County Department of Planning and Development, Division of County Development, receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies **section 13.03-1(3)**.
2. The notice shall briefly describe the mining and reclamation planned at the non-metallic mining site. The notice shall be published as a class 2 notice pursuant to s. 985.07(2), Stats., in the official newspaper of Kenosha County Department of Planning and Development, Division of County Development. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.
3. Copies of the notice shall be forwarded by Kenosha County Department of Planning and Development, Division of County Development, to the applicable local zoning board, the applicable local planning organization, the applicable land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

(b) **Hearing.** Except as provided in **section 13.04(2)(c)** for existing mines, Kenosha County Department of Planning and Development, Division of County Development, shall provide for an opportunity for a public informational hearing, before the Kenosha County Land Use Committee, on an application or request to issue a non-metallic mining reclamation permit as follows:

1. If it conducts a zoning-related hearing on the non-metallic mine site, Kenosha County Department of Planning and Development, Division of County Development, shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a non-metallic mining reclamation permit required by this section. Kenosha County Department of Planning and Development, Division of County Development, shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this chapter.

2. If there is no opportunity for a zoning-related hearing on the non-metallic mine site as described in **par. (1)**, opportunity for public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the non-metallic mining site is located or proposed may request a public informational hearing. Kenosha County Department of Planning and Development, Division of County Development, shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under **section 13.03-4(1)(a)**. This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.
3. The subject matter and testimony at this informational hearing shall be limited to reclamation of the non-metallic mine site.

(2) Existing Mines.

- (a) No public notice or informational hearing is required for a non-metallic mining reclamation permit issued pursuant to **section 13.03-5(2)** for an existing mine, except as provided in **section 13.04(2)(c)**.
- (b) If the regulatory authority accepts a previously approved reclamation plan for that mine as provided in **section 13.03-5(3)(b)1.**, no further public notice or informational hearing is required.
- (c) If Kenosha County Department of Planning and Development, Division of County Development, requires the submittal of a new reclamation plan, public notice and the opportunity for public informational hearing shall be provided following the receipt of the reclamation plan in accordance **section 13.03-4(1)**. In this case, the subject matter and testimony at that hearing, if held, shall be limited to the new reclamation plan.

- (3) Local Transportation-Related Mines.** No public notice or informational hearing is required for a non-metallic mining reclamation permit issued to a local transportation-related mine pursuant to **section 13.03-5(5)**.

13.03-5

Issuance of a Non-metallic Mining Reclamation Permit.

- (1) **Permit Required.** Every operator of a non-metallic mining site in Kenosha County who engages in or plans to engage in non-metallic mining after, September 1, 2001, shall obtain a reclamation permit issued under this section, except for non-metallic mining sites that are exempt from this chapter under **section 13.01-7(2)**. No person may engage in non-metallic mining or non-metallic mining reclamation after, September 1, 2001, without a reclamation permit issued pursuant to this chapter.
- (2) **Modified Permit for Existing Mines.** Kenosha County Department of Planning and Development, Division of County Development, shall issue a modified reclamation permit to the operator of a non-metallic mining site that submits an application meeting the requirements of **section 13.03-1(2)**, according to the following provisions:

- (a) The permit shall be issued within 30 days of such application..
 - (b) Existing mines that are granted a reclamation permit pursuant to this subsection shall, within one (1) year, submit to Kenosha County Department of Planning and Development, Division of County Development, the following:
 - 1. A reclamation plan that meets the requirements of **section 13.03-2**; and
 - 2. Financial assurance required pursuant to **section 13.03-3**.
 - (c) Kenosha County Department of Planning and Development, Division of County Development, may grant a reasonable extension to the deadline in **section 13.03-5(2)(b)** when it finds extenuating circumstances exist.
- (3) **Evaluation of Follow-Up Submittals for Existing Mines.** Mines covered by a modified reclamation permit issued under **section 13.03-5(2)** shall submit a reclamation plan in accordance with **section 13.03-2(2)** and proof of financial assurance in accordance with **section 13.03(2)** by, September 1, 2003. Reasonable extensions to these deadlines may be granted in writing by Kenosha County Department of Planning and Development, Division of County Development, where extenuating circumstances exist. These follow-up submittals shall be evaluated as set forth below:
- (a) The reclamation plan and financial assurance shall meet the requirements of **section 13.03-5(2)(b)**.
 - (b) Kenosha County Department of Planning and Development, Division of County Development, shall accept, as satisfaction of the requirement for submittal of a reclamation plan pursuant to **section 13.03-5(2)(b)1.**, submittal of a previously-completed document that includes plans for reclamation so long as:
 - 1. The document has been approved by a county or municipality; and
 - 2. Kenosha County Department of Planning and Development, Division of County Development, finds that the document designates a post-mining land use and describes reclamation measures that meet the reclamation standards of this chapter.
 - (c) If Kenosha County Department of Planning and Development, Division of County Development, determines that a document with reclamation plans previously approved meets some, but not all of, the requirements of this chapter, it shall request the supplemental information needed to satisfy the reclamation plan requirements of this section. In that case, Kenosha County Department of Planning and Development, Division of County Development, shall determine whether or not to provide public notice and opportunity for public hearing pursuant to **section 13.03-4(2)(c)**, depending on the nature and extent of the supplemental information.
 - (d) Within 30 days of receipt of the reclamation plan and evidence of financial assurance as required under **section 13.03-5(2)(b)**, Kenosha County Department of Planning and Development, Division of County Development, shall affirm in writing its decision whether to approve these submittals and continue the non-metallic mining reclamation permit issued pursuant to **section 13.03-5(2)**. A reclamation permit with this written affirmation shall satisfy the requirements of this chapter without further action, submittal or approval.

(4) **Permit Issuance for New Mines.** Applications for reclamation permits for non-metallic mining sites in operation after, September 1, 2001, that satisfy **section 13.03-1(3)** shall be issued a reclamation permit or otherwise acted on as provided below.

(a) Unless denied pursuant to **section 13.03-6**, Kenosha County Department of Planning and Development, Division of County Development, shall approve in writing a request that satisfies the requirements of **section 13.03-1(3)** to issue a non-metallic mining reclamation permit for a non-metallic mine where mining has not yet taken place before, August 1, 2001, or an existing non-metallic mine where mining is not taking place on or after, August 1, 2001.

(b) Kenosha County Department of Planning and Development, Division of County Development, may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of **section 13.03-2**. The regulatory authority may issue a reclamation permit subject to conditions in **section 13.03-5(7)** if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application and reclamation plan pursuant to this subchapter, unless a public hearing is held pursuant to **section 13.03-4**. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to **section 13.03-5(7)** if appropriate, or shall deny the permit as provided in **section 13.03-6**, no later than 60 days after completing the public hearing.

(c) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of **section 13.03-2s**. and provision by the applicant of financial assurance required under **section 13.03-3** and payable to Kenosha County Department of Planning and Development, Division of County Development, prior to beginning mining.

(5) **Automatic Permit for Local Transportation-Related Mines**

(a) Kenosha County Department of Planning and Development, Division of County Development, shall automatically issue an expedited permit under this subsection to any borrow site that:

1. Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;
2. Is a non-metallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;
3. Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of non-metallic mining sites;
4. Is not a commercial source;
5. Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any and;

6. Is not otherwise exempt from the requirements of this chapter under **section 13.01-7(2)(j)**.
- (b) In this subsection, "municipality" has the meaning defined in s.299.01(8), Stats.
- (c) Automatic permits shall be issued under this subsection in accordance with the following provisions:
1. The applicant shall notify Kenosha County Department of Planning and Development, Division of County Development, of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.
 2. The applicant shall provide evidence to Kenosha County Department of Planning and Development, Division of County Development, to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
 3. Kenosha County Department of Planning and Development, Division of County Development, shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under **section 13.03-2**.
 4. Kenosha County Department of Planning and Development, Division of County Development, shall accept the contractual provisions in lieu of the financial assurance requirements in **section 13.03-3**.
 5. The public notice and hearing provisions of **section 13.03-5** do not apply to non-metallic mining sites that are issued automatic permits under this subsection.
Note: Local public notice and hearing requirements, if any, regarding zoning decisions still apply.
 6. Mines permitted under this subsection shall pay an annual fee to Kenosha County Department of Planning and Development, Division of County Development, as provided in **section 13.04-5**, but shall not be subject to the plan review fee provided in **section 13.04-4**.
 7. Kenosha County Department of Planning and Development, Division of County Development, shall issue the modified permit within 7 days of the receipt of a complete application.
 8. If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.
 9. Notwithstanding **section 13.04-3**, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.
Note: A reclamation permit is not required under this chapter for non-metallic mining sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning

restoration of the non-metallic mining site, as provided by s. 295.16(1)(c), Stats.

(6) Expedited Review. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under **section 13.03-5(6)(a)** or **(b)** as follows:

- (a)** The operator may submit a request for expedited permit review with payment of the expedited review fee specified in **section 13.04(2). 26.20**. This request shall state the need for such expedited review and the date by which such expedited review is requested.
- (b)** The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.
- (c)** Following receipt of a request under this subsection, Kenosha County Department of Planning and Development, Division of County Development, shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under **section 13.03-5(6)(a)** shall be returned.
- (d)** Expedited review by Kenosha County Department of Planning and Development, Division of County Development, under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to **section 13.03-5**. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

(7) Permit Conditions. Any decision under this section may include conditions as provided below:

- (a)** Kenosha County Department of Planning and Development, Division of County Development, may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the non-metallic mining reclamation requirements of this chapter.
- (b)** One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to **section 13.03-3** prior to beginning mining.

13.03-6

Permit Denial. An application for a non-metallic mining reclamation permit shall be denied as set forth below:

(1) An application to issue a non-metallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in **section 13.03-5**, if Kenosha County Department of Planning and Development, Division of County Development, finds any of the following:

- (a)** The applicant has, after being given an opportunity to make corrections, failed to provide to Kenosha County Department of Planning and Development, Division of County Development, an adequate permit application, reclamation plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this chapter.
- (b)** The proposed non-metallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this chapter, Chapter NR 135, Wisconsin Administrative Code or sub. ch. I. of ch. 295, Stats.
- (c)** A pattern of serious violations exists.

1. The applicant, or its agent, principal or predecessor has, during the course of non-metallic mining in Wisconsin within 10 years of the permit application or modification request being considered shown a pattern of serious violations of this chapter or of federal, state or local environmental laws related to non-metallic mining reclamation.
2. The following may be considered in making this determination of a pattern of serious violations:
 - a. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.
 - b. Suspensions or revocations of non-metallic mining reclamation permits pursuant to this chapter, other reclamation ordinances or Chapter NR 135, Wisconsin Administrative Code.
 - c. Forfeitures of financial assurance.

(d) A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(2) A decision to deny an application to issue a reclamation permit may be reviewed under **section 13.03-11**.

13.03-7

Alternative Requirements.

(1) **Alternative Requirements Approval.** An operator of a non-metallic mining site may request an alternative requirement to the reclamation standard established in **section 13.02-1**. Kenosha County Department of Planning and Development, Division of County Development, may approve an alternative requirement to the reclamation standards established in this chapter if the operator demonstrates and Kenosha County Department of Planning and Development, Division of County Development, finds that all of the following criteria are met:

- (a) The non-metallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic, which requires an alternative requirement.
- (b) Unnecessary hardship which is peculiar to the non-metallic mining site or plan will result unless the alternative requirement is approved.
- (c) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

(2) **Procedures.**

- (a) The operator of a non-metallic mining site requesting an alternate requirement in **section 13.03-7(1)** shall demonstrate all the criteria in **section 13.03-7(1)**. This shall be submitted in writing to the Kenosha County Department of Planning and Development, Division of County Development, for review. If the Kenosha County Department of Planning and Development, Division of County Development, determines that the operator has met the three criteria in **section 13.03-7(1)**, then the proposed alternative requirement may be placed on the agenda for the next available public hearing meeting of the Kenosha County Land Use Committee. Public Notice requirements of sub. 15.10(1) shall be followed.
- (b) A request for an alternative requirement may be incorporated as part of an application to issue or modify a non-metallic mining reclamation permit.

(3) Transmittal of Decision on Request for Alternative Requirement.

The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

(4) Notice to Wisconsin Department of Natural Resources. Kenosha County Department of Planning and Development, Division of County Development, shall provide notice to the Wisconsin Department of Natural Resources as set forth in this subsection. Written notice shall be given to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing held under **section 13.03-7(2)** on a request for an alternate requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

13.03-8

Permit Duration.

(1) A non-metallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the non-metallic mining site, unless suspended or revoked pursuant to **section 13.05-1**.

(2) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to **section 13.03-9**.

13.03-9

Permit Transfer. A non-metallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the following conditions:

(1) A non-metallic mining reclamation permit may be transferred to a new operator upon submittal to Kenosha County Department of Planning and Development, Division of County Development, of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.

(2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by Kenosha County Department of Planning and Development, Division of County Development, and Kenosha County Department of Planning and Development, Division of County Development, makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

13.03-10

Previously Permitted Sites. For any non-metallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Kenosha County Department of Planning and Development, Division of County Development, the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Kenosha County Department of Planning and Development, Division of County Development, pursuant to **section 13.04-1(1)**

13.03-11

Review. Any permitting decision or action made by Kenosha County Department of Planning and Development, Division of County Development, under this chapter may be reviewed as set forth in this section. Notwithstanding ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of s. 227.42 (1), Stats., may obtain a contested case hearing under s. 68.11, Stats., on Kenosha County Department of Planning and Development, Division of County Development's, decision to issue, deny or modify a non-metallic mining reclamation permit.

IV. ADMINISTRATION

13.04-1

Permit Modification.

- (1) **By Kenosha County Department of Planning and Development, Division of County Development.** A non-metallic mining reclamation permit issued under this chapter may be modified by Kenosha County Department of Planning and Development, Division of County Development, if it finds that, due to changing conditions, the non-metallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter. Such modification shall be by an order modifying the permit in accordance with **section 13.05-2**. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter.
- (2) **At the Operator's Option.** If operator of any non-metallic 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 Kenosha County Department of Planning and Development, Division of County Development. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.
- (3) **Required by the Operator.** The operator of any non-metallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.
Note: Modification of the permit must be requested by the operator in such circumstances under s. NR 135.27, Wis. Adm. Code.
- (4) **Review.** All actions by Kenosha County Department of Planning and Development, Division of County Development, on permit modifications requested or initiated under this section are subject to review under **section 13.03-11**.

13.04-2

Permit Suspension and Revocation.

- (1) **Grounds.** Kenosha County Department of Planning and Development, Division of County Development, may suspend or revoke a non-metallic mining reclamation permit issued pursuant to this chapter if it finds the operator has done any of the following:
 - (a) Failed to submit a satisfactory reclamation plan within the time frames specified in this chapter.
 - (b) Failed to submit or maintain financial assurance as required by this chapter.
 - (c) Failed on a repetitive and significant basis to follow the approved reclamation plan.
- (2) **Procedures.** If Kenosha County Department of Planning and Development, Division of County Development, finds grounds for suspending or revoking a non-metallic mining reclamation permit set forth in **section 13.04-2(1)**, it may issue a special order suspending or revoking such permit as set forth in **section 13.05-2**.
- (3) **Consequences.**
 - (a) If Kenosha County Department of Planning and Development, Division of County Development, makes any of the findings in **section 13.04-2(1)**, it may suspend a non-metallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may

not conduct non-metallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to **section 13.05-2**.

- (b) If Kenosha County Department of Planning and Development, Division of County Development, makes any of the findings in **section 13.04-2(1)**, it may revoke a non-metallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this chapter to Kenosha County Department of Planning and Development, Division of County Development. Kenosha County Department of Planning and Development, Division of County Development, may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

13.04-3

Annual Operator Reporting.

(1) **Contents and Deadline.** Annual reports that satisfy the requirements of this section shall be submitted by the operators of non-metallic mining sites.

(a) **Contents.** The annual report required by this section shall include all of the following:

1. The name and mailing address of the operator.
2. The location of the non-metallic mining site, including legal description, tax key number or parcel identification number if available.
3. The identification number of the applicable non-metallic mining permit, if assigned by Kenosha County Department of Planning and Development, Division of County Development.
4. The acreage currently affected by non-metallic mining extraction and not yet reclaimed.
5. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
6. A plan, map or diagram accurately showing the acreage described in **pars. 4. and 5.**
7. The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the non-metallic mining site described herein complies with all conditions of the applicable non-metallic mining reclamation permit and Chapter NR 135, Wisconsin Administrative Code."

(a) **Deadline.** The annual report shall cover activities for a calendar year and be submitted by, March 1st of the following year.

(b) **When reporting may end.** Annual reports shall be submitted by an operator for all active and intermittent mining sites to Kenosha County Department of Planning and Development, Division of County Development, for each calendar year until non-metallic mining reclamation at the site is certified as complete pursuant to **section 13.04-7(3)** or at the time of release of financial assurance pursuant to **section 13.03-3(1)(g)**.

(2) **Inspection in Lieu of Report.** Kenosha County Department of Planning and Development, Division of County Development, may, at its discretion, obtain the information required in **section 13.04-3(1)** for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If Kenosha County Department of Planning and

Development, Division of County Development, obtains and documents the required information, the annual report need not be submitted by the operator. If Kenosha County Department of Planning and Development, Division of County Development, determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator by, November 30th, of that year. In that case, Kenosha County Department of Planning and Development, Division of County Development, shall require the operator to submit the certification required in **section 13.04-3(1)(a)7.**

- (3) **Retention of Annual Reports.** Annual reports submitted under **section 13.04-3(1)** or inspection records that replace them under **section 13.04-3(2)** shall be retained by Kenosha County Department of Planning and Development, Division of County Development, at 19600 75th Street, PO Box 520, Bristol, WI 53104, for at least 10 years after the calendar year to which they apply. These records, or complete and 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.

13.04-4

Plan Review Fees.

(1) Amount and Applicability.

(a) A person who intends to operate a non-metallic mining site for which a permit application has been submitted under **section 13.03-1(3)** shall submit a non-refundable plan review fee to Kenosha County Department of Planning and Development, Division of County Development, equal to the amount specified in Table "5" of Attachment "A".

(b) No plan review fee may be assessed under this section for any existing non-metallic mine site for which an application for a modified reclamation permit is submitted that meets the requirements of **section 13.03-1(2)** or for any local transportation-related mining receiving an automatic permit under **section 13.03-5(5)**. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to **section 13.04-1**.

(c) Plan review fees shall be set in accordance with **section 13.04-4(1)**.

Note: The prohibition on plan review fees for existing and local transportation-related mines is required under ss. NR 135.23(1)(g) and NR 135.39(5)(a), Wis. Adm. Code.

(2) **Expedited Plan Review Fee.** A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under **section 13.03-1(3)** may obtain expedited reclamation plan review by paying a fee of \$300. Such fee shall be in addition to that required in **section 13.04-4(1)**.

(3) **Relation to Annual Fee.** Any reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under **section 13.04-5**.

13.04-5

Annual Fees.

(1) Areas Subject to Fees, Procedures and Deadline.

(a) Operators of all non-metallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to Kenosha County Department of Planning and Development, Division of County Development, at 19600 75th Street, PO Box 520, Bristol, WI 53104. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under **section 13.04-5(2)** and a share for Kenosha County Department of

Planning and Development, Division of County Development, under **section 13.04-5(3)**.

(b) Fees paid under this section shall be calculated based on the unreclaimed acres of a non-metallic mining site, as defined below:

1. "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which non-metallic mining has occurred after, August 1, 2001, and areas where non-metallic mining reclamation has been completed but is not yet certified as reclaimed under **section 13.03-3(1)(g)**. However the term does not include any areas described in **section 13.04-5(1)(b)2..**

2. "Unreclaimed acre" or "unreclaimed acres" does not include:

a. Those areas where reclamation has been completed and certified as reclaimed under **section 13.03-3(1)(g)**.

b. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

c. Those portions of nonmetallic mining sites, which are included in an approved nonmetallic mining reclamation plan, but are not yet affected by nonmetallic mining.

d. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

e. Those areas within a nonmetallic mining site which the regulatory authority has determined to be successfully reclaimed on an interim basis in accordance with **section 13.04-7(2)** and **13.04-7(3)**.

f. Those areas defined as not included in a nonmetallic mining site under **section 13.01-10(16)(b)**.

(c) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which non-metallic mining takes place, until final reclamation is certified as complete under **section 13.04-7**. Fees shall be paid no later than, January 31st, of each year.

(d) For new or reopened mines that submit a reclamation permit application under **section 13.03-1(3)**, the first year's annual fee shall be based upon the unreclaimed acres which are anticipated at the end of that calendar year.

(e) If reclamation has already occurred on portions of a non-metallic mining site, the fees for such portions may be submitted with a request that they be held by Kenosha County Department of Planning and Development, Division of County Development, pending certification of completed reclamation pursuant to **section 13.03-3(1)(g)**. Upon such certification Kenosha County Department of Planning and Development, Division of County Development, shall refund that portion of the annual fee that applies to the reclaimed areas. If Kenosha County Department of Planning and Development, Division of

County Development, fails to make a determination under **section 13.03-3(1)(g)** within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(2) **Wisconsin Department of Natural Resources Share of Fee.** Fees paid under this section shall, except where provided in **section 13.04-5(2)(a)**, include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Table "1" of Attachment "A".

(a) For non-metallic mining sites at which no non-metallic mining will take place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

(b) Kenosha County Department of Planning and Development, Division of County Development, shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by, March 31st, of the year for which they were collected.

Note: This is required by s. NR 135.39(2)(c).

(3) **Kenosha County Department of Planning and Development, Division of County Development's, Share of Fee.**

(a) Fees paid under this section shall also include an annual fee due to Kenosha County Department of Planning and Development, Division of County Development, which shall be equal to the amount in Table "2", "3", and "4" of Attachment "A".

(b) Fees are hereby established herein and shown initially as attachment "A". Amendments to the attachment "A" fee schedule may be made with approval by the Kenosha County Land Use Committee and furthermore are hereby incorporated as part of the separate fee schedule of the Department of Planning and Development, Division of County Development, as established in Policy Resolution No. 1 adopted by the Kenosha County Board of Supervisors on, August 9, 1994.

(c) Fees shall be paid no later than, January 31st, of each year.

13.04-6

Regulatory Reporting and Documentation.

(1) **Reporting.** Kenosha County Department of Planning and Development, Division of County Development, shall send an annual report to the Wisconsin Department of Natural Resources by, May 31st, of each calendar year. The reports shall include the following information for the previous year's non-metallic mining reclamation program:

(a) The total number of non-metallic mining reclamation permits in effect.

(b) The number of new permits issued within the jurisdiction of Kenosha County Department of Planning and Development, Division of County Development.

(c) The number of acres approved for non-metallic mining and the number of acres newly approved in the previous year.

(d) The number of acres being mined.

(e) The number of acres that have been reclaimed and have had financial assurance released pursuant to **section 13.03-3(1)(g)**.

(f) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to **section 13.04-7(1)** and (2).

(g) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

(2) **Documentation.** Kenosha County Department of Planning and Development, Division of County Development, shall, to the best of its ability, maintain the information set forth below, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Kenosha County Department of Planning and Development, Division of County Development's, reclamation program pursuant to Chapter NR 135, Wisconsin Administrative Code:

- (a) Documentation of compliance with Chapter NR 135, Wisconsin Administrative Code and this chapter.
- (b) The procedures employed by Kenosha County Department of Planning and Development, Division of County Development, regarding reclamation plan review, and the issuance and modification of permits.
- (c) The methods for review of annual reports received from operators.
- (d) The method and effectiveness of fee collection.
- (e) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.
- (f) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
- (g) Responses to citizen complaints.
- (h) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
- (i) The maintenance and availability of records.
- (j) The number and type of approvals for alternative requirements issued pursuant to **section 13.03-7**.
- (k) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to **section 13.04-3(1)(g)**.
- (l) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Kenosha County Department of Planning and Development, Division of County Development, to implement its non-metallic mining reclamation program under this chapter.
- (m) The amount of fees collected in comparison to the amount of money actually expended for non-metallic mining reclamation program administration.
- (n) Any other performance criterion necessary to ascertain compliance with Chapter NR 135, Wisconsin Administrative Code.

13.04-7

Completed Reclamation - Reporting, Certification and Effect.

- (1) **Reporting.** The operator of a non-metallic mining site may certify completion of reclamation for a portion or all of the non-metallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Certification shall be filed with the Kenosha County Department of Planning and Development, Division of County Development.
- (2) **Reporting of Interim Reclamation.** The operator of a non-metallic 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 **section 13.04-7(1)**.
- (3) **Certification of Completed Reclamation.** Kenosha County Department of Planning and Development, Division of County Development, shall inspect a non-metallic 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 13.03-3(1)(g)3.** If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with **section 13.03-2**, Kenosha County Department of Planning and Development, Division of County Development, shall issue the mine operator a written certificate of completion.

(4) Effect of Completed Reclamation. If reclamation is certified by Kenosha County Department of Planning and Development, Division of County Development, as complete under **section 13.04-7(3)** for part or all of a non-metallic mining site, then:

(a) No fee shall be assessed under **section 13.04-5** for the area so certified.

(b) The financial assurance required by **section 13.03-3** shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

(5) Effect of Inaction Following Report of Completed Reclamation. If no written response as required by **section 13.04-7(3)** 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 Kenosha County Department of Planning and Development, Division of County Development, for it under **section 13.04-5** shall be refunded.

13.04-8

Permit Termination. When all final reclamation required by a reclamation plan conforming to **section 13.03-2** and required by this chapter is certified as complete pursuant to **section 13.03-3(1)(g)** and **13.04-7(3)**, Kenosha County Department of Planning and Development, Division of County Development, shall issue a written statement to the operator of the non-metallic mining site, thereby terminating the reclamation permit.

V. ENFORCEMENT

13.05-1

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 chapter, any authorized officer, agent, employee or representative of Kenosha County Department of Planning and Development, Division of County Development, may inspect any non-metallic mining site subject to this chapter as provided below:

(1) No person may refuse entry or access onto a non-metallic mining site of a duly authorized officer, employee or agent of Kenosha County Department of Planning and Development, Division of County Development, or the Wisconsin Department of Natural Resources who presents appropriate credentials to inspect the site for compliance with the non-metallic mining reclamation permit, this chapter, Chapter NR 135, Wisconsin Administrative Code or subchapter I of ch. 295, Stats.

(2) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the non-metallic mining site.

13.05-2

Orders and Citations.

(1) Enforcement Orders. Kenosha County Department of Planning and Development, Division of County Development, may issue orders as set forth in Section 295.19(1)(a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **section 13.03-2** and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant

to this chapter or a reclamation plan required by **section 13.03-2** and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

- (2) **Special Orders.** Kenosha County Department of Planning and Development, Division of County Development, may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a non-metallic mining reclamation permit pursuant to **section 13.04-2**, 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.
- (3) **Review of Orders.** A person holding a reclamation permit who is subject to an order pursuant this section shall have the right to review the order in a contested case hearing under s. 68.11, Stats., notwithstanding the provisions of ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats.
- (4) **Citations.** Kenosha County Department of Planning and Development, Division of County Development, may issue a citation, under s. 66.119, Stats. and pursuant to the Uniform Citation Ordinance of the Municipal Code of Kenosha County to collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **section 13.03-2** and a permit issued under this chapter. 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.
- (5) **Enforcement.** Kenosha County Department of Planning and Development, Division of County Development, may submit any order issued under **section 13.05-2** to abate violations of this chapter to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

13.05-3

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 chapter or a reclamation plan required by **section 13.03-2** and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

- (1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under **section 13.05-2** may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under **section 13.05-2** is suspended, stayed or enjoined, this penalty does not accrue.

- (2) Except for the violations referred to in **section 13.05-3(1)**, any person who violates subchapter I of ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to **section 13.05-2** shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under **section 13.05-2** is suspended, stayed or enjoined, this penalty TABLE 1:

**ANNUAL FEES COLLECTED BY KENOSHA COUNTY
FOR THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES**

Mine Size in Unreclaimed Acres
(rounded to the nearest whole acre)

1 to 5 acres	
(does not include mines < 1 acre)	\$ 30
6 to 10 acres	\$ 60
11 to 15 acres	\$ 90
16 to 25 acres	\$ 120
26 to 50 acres	\$ 140
51 acres or larger	\$ 150

NOTE: These fees are over and above the fees collected by Kenosha County Department of Planning and Development, Division of County Development, as shown in Tables 2 thru 5.

For nonmetallic mining sites at which no nonmetallic mining will take place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

Kenosha County Department of Planning and Development, Division of County Development, shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by, March 31st, of the year for which they were collected.

**TABLE 2:
ANNUAL FEES FOR AUTOMATICALLY PERMITTED
LOCAL TRANSPORTATION PROJECT RELATED MINES**

Mine Size in Unreclaimed Acres (rounded to the nearest whole acre)	
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

Kenosha County Department of Planning and Development, Division of County Development, shall collect the above fee and the DNR fee (Table 1) by, January 31st, of each year.

**TABLE 3:
ANNUAL FEES FOR EXISTING MINES
(BETWEEN JUNE 1, 2002 AND DECEMBER 31, 2003)**

Annual Fee Mine Size in Unreclaimed Acres (rounded to the nearest whole acre)	
1 to 5 acres	
(does not include mines < 1 acre)	\$ 450
6 to 10 acres	\$ 600
11 to 15 acres	\$ 750
16 to 25 acres	\$ 1000
26 to 50 acres	\$ 1100
51 acres or larger	\$ 1250

Kenosha County Department of Planning and Development, Division of County Development, shall collect the above fee and the DNR fee (Table 1) by, January 31st, of each year.

**TABLE 4:
ANNUAL FEES FOR NEW MINES (EFFECTIVE JANUARY 1, 2003)
AND EXISTING MINES (EFFECTIVE AFTER JANUARY 1, 2004)**

Annual Fee	
Mine Size in Unreclaimed Acres	
(rounded to the nearest whole acre)	
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

Kenosha County Department of Planning and Development, Division of County Development, shall collect the above fee and the DNR fee (Table 1) by, January 31st, of each year.

**TABLE 5:
PLAN REVIEW FEES FOR NEW MINES
(EFFECTIVE JUNE 1, 2002)**

One-Time Plan Review Fee	
Mine Size (total) in Acres	
(rounded to the nearest whole acre)	
1 to 25 acres	\$ 900
26 to 50 acres	\$ 1200
51 acres or larger	\$ 1500

Kenosha County Department of Planning and Development, Division of County Development, shall collect the above fee and the DNR fee (Table 1) by, January 31st, of each year. does not accrue.

Submitted by:
LAND USE COMMITTEE
Donald Smitz
Mark Molinaro, Jr.
Thomas J. Gorlinski
Gordon West
Irving Larsen

It was moved by Supervisor Smitz to adopt Ordinance 56. Seconded by Supervisor Molinaro.
Motion carried.

ORDINANCE 57

57. From Land Use Committee regarding Proposed amendment to the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance providing for the creation of zoning & topographic maps in digital format. The Kenosha County Board of Supervisors does hereby ordain that Chapter 12 of the Municipal Code of Kenosha County entitled "Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance" be and hereby is changed by the following additions, deletions and amendments and is amended to read as per the attachment marked Exhibit A.

**EXHIBIT A
PROPOSED AMENDMENT TO THE KENOSHA COUNTY GENERAL
ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE
PROVIDING FOR THE CREATION OF
ZONING & TOPOGRAPHIC MAPS IN DIGITAL FORMAT**

1. **Repeal Sections 12.02-10 through 12.02-14 which currently reads as follows:**

12.02-10 ZONING MAPS

A certified copy of the Zoning Maps shall be adopted and approved with the text as part of this ordinance and shall bear upon its face the attestation of the County Board Chairman, County Clerk and the Director of Planning and Zoning for Kenosha County, Wisconsin and shall be available to the public for inspection in the Office of Planning and Zoning Administration.

12.02-11 ZONING MAP AMENDMENTS-EFFECTIVE DATE

(a) Amendments to the Zoning Maps shall become effective upon adoption by the Kenosha County Board of Supervisors, notification of the Town Clerk of all Towns affected by the amendment, the filing of proof of publication thereof in the Office of Planning and Zoning Administration, and the expiration of any time limit imposed by section 59.97 of the Wisconsin Statutes within which Townships may veto the action and amendment of the County Board. It shall be the duty of the Office of Planning and Zoning Administration to enter all zoning map amendments and the date of the latest amendment upon the certified copy of the Zoning Map and secure any required certifications or attestations.

(b) Amendments to the FPO, Floodplain Overlay District, FWO Camp Lake/Center Lake Floodway Overlay District, and FFO Camp Lake/Center Lake Floodplain Fringe Overlay District shall not become effective until approved by the Wisconsin Department of Natural Resources, (DNR). (3/1/94)

12.02-12 INTERPRETATION OF DISTRICT BOUNDARIES

(a) Boundaries of the districts set forth in section 12.20 to 12.26 are hereby established as shown on a series of eight (8) maps entitled, "Kenosha County Zoning Map" numbered, "Kenosha County - 1" through "Kenosha County - 8"; bearing the date of final county board approval of this ordinance and as hereafter properly amended and revised. These maps accompany and are herewith made a part of this ordinance and shall constitute the official zoning map of Kenosha County, Wisconsin until such time as the information contained therein is transferred to a series of 72 aerial photographs at a scale of one inch equals 400 feet entitled "Kenosha County Zoning Map" numbered "Kenosha County - 1" through "Kenosha County - 72", and adopted by the Kenosha County Board of Supervisors. Upon completion of the 72 maps and before their adoption by the county board, the maps shall be transmitted to each town for review and comment. No change in a zoning boundary shall be made except after petition, review and approval pursuant to the requirements of section 12.38 of this ordinance. The Office of Planning and Zoning Administration may publish additional zoning maps at scales other than the aforementioned official scale for informational purposes.

(b) Boundaries of the basic zoning districts shall be construed to follow Corporate Limits; U.S. Public Land Survey section lines; lot or property lines; centerlines of streets, highways, alleys, easements, navigable bodies of water, and railroad rights-of-way, or such lines extended. Lines which appear to be parallel to any of the aforementioned boundaries of specified distance shall be construed to be parallel as noted. Where the above rules cannot be readily applied, the location of district boundary lines shall be determined by use of the scale shown on the official zoning map.

(c) Boundaries of the floodplain overlay district shall be determined as follows:

1. Except for the Pike River Watershed, the boundaries of the FPO Floodplain Overlay District shall be determined through the use of flood profiles published in the Flood Insurance Study-Kenosha County, Wisconsin (Unincorporated Areas) by the Federal Emergency Management Agency (FEMA), Flood Insurance Administration and dated August 17, 1981. The information contained in the flood insurance study is further illustrated on the FEMA Flood Insurance Rate Maps and Floodway and Flood Boundary Maps, dated February 17, 1982. Boundaries of the floodplain overlay district within the Pike River watershed--including the Pike River, Kenosha Branch, Sorenson Creek, Nelson Creek, Pike Creek, Somers Branch, Airport Branch, Lamparek Creek, Chickory Creek, Waxdale Creek, Tributary to Waxdale Creek, and Bartlett Branch--shall be determined through the use of the flood profiles published in SEWRPC Planning Report No. 35, A Comprehensive Plan for the Pike River Watershed, dated June, 1983. The profiles are found in Figures G-1 through G-16 and the regulatory profile is

labeled "Flood Stage-Year 2000 Planned Land Use and Existing Channel Conditions, 100-Year Recurrence Interval". (3/1/94)

2.The boundaries of the FWO Camp Lake/Center Lake Floodway Overlay District shall be determined by use of the scale contained on the large-scale topographic maps prepared by Kenosha County. The boundaries of the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District shall be determined through the use of the flood profiles in Appendix F of the November 5, 1992, letter report prepared by the Southeastern Wisconsin Regional Planning Commission titled Hydrologic and Hydraulic Analysis of an Unnamed Tributary to the Fox River Chain of Lakes. The flood stages, under floodway conditions were developed from technical data contained in the aforereferenced letter report. The floodlands are illustrated on large scale topographic maps for the Camp Lake/Center Lake area. (3/1/94)

3.The boundaries of the FPO Floodplain Overlay District, the FWO Camp Lake/Center Lake Floodway Overlay District, and the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District are further depicted on the large-scale topographic mapping of Kenosha County. The boundaries of unnumbered A zones shall be determined by use of the scale contained on the "Kenosha County Zoning Map" dated May 3, 1983, which accompanies and is made a part of the Ordinance. Where a conflict exists between the floodland limits of the FPO, FWO, or FFO districts as shown on the appropriate map and actual field conditions, the elevations from the 100-year recurrence interval flood profiles contained in the Flood Insurance Study, the Comprehensive Plan for the Pike River Watershed, or the November 5, 1992, letter report referenced in Section 12.02-12(c)(2) above, whichever is appropriate, shall be the governing factor in the regulatory floodland limits. (3/1/94)

(d)Boundaries of the C-1 Lowland Resource Conservancy District and ~~the C-3 Natural and Scientific Area Resource Conservancy District~~ are shown on the maps referred to in Section 12.02-12(a) and boundary locations were determined by the criteria set forth in Sections 12.25-1(b) ~~and 12.25-3(b)~~. ~~The boundaries of the C-3 District are further shown on the 1" = 400" scale Supplementary Zoning Map for the Chiwaukee Prairie-Carol Beach Area of the Town of Pleasant Prairie, dated _____, 19____. (11/5/86)~~

12.02-13 ANNEXED LANDS

(a)Pursuant to Wisconsin Statute 59.97(7), whenever any area which has been subject to the Kenosha County Zoning ordinance petitions to become part of a village or city, the regulations imposed by this ordinance shall continue in effect, without change, and shall be enforced by such village or city until such regulations have been changed by official action of the governing body of such village or city, except that in the event an ordinance of annexation is contested in the courts, the County Zoning Ordinance shall prevail and the County shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(b)When any lands previously under the jurisdiction of this ordinance have been finally removed from the jurisdiction of this ordinance by reason of annexation to an incorporated municipality, and after the regulations imposed by this ordinance have ceased to be effective as provided in subsection (a), the County Board may pursuant to Wisconsin Statute section 59.97(5)(e)7, on the recommendation of its Office of Planning and Zoning Administration, adopt such amendatory ordinances as shall remove or delete such annexed lands from the official zoning map or written descriptions without following any of the procedures provided for amendment or change to the ordinance as noted in Wisconsin Statute 59.97(5)(e)1 through 6, and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the County Clerk to the Clerk of each town in which the lands affected were previously located. Nothing in this section shall be construed to nullify or supersede those provisions set forth in Wisconsin Statute section 80.64.

12.02-14 DEFINITIONS

For the purpose of this ordinance, the definitions listed in Appendix "A" shall be used unless otherwise specified. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not

directory. Words not defined in Appendix "A" shall be construed according to any applicable definition set forth in either the State Statutes, Administrative Code or County Ordinance or in lieu thereof, shall be construed according to accepted land use, scientific, or architectural definition or in lieu thereof, according to their customary dictionary definition.

Create a new Section 12.10-11, and Recreate Sections 12.02-10 and Sections 12.02-12 through 12.02-15 to read as follows:

12.02-10 ZONING MAPS

A certified copy of the Zoning Maps shall be adopted and approved with the text as part of this ordinance and shall bear upon its face the attestation of the County Board Chairman, County Clerk and the Director of Planning and Development for Kenosha County, Wisconsin and shall be available to the public for inspection in the Kenosha County Department of Planning and Development. (see Section 12.02-11)

12.02-11

12.02-12 ZONING MAPS IN DIGITAL FORMAT

Kenosha County zoning maps in digital format developed with geographic information systems software first incorporated into the zoning ordinance on _____ and updated from time to time shall replace the hard copy zoning maps, described in Section 12.02-10 and Section 12.02-13(a), and shall be maintained in the Kenosha County Department of Planning and Development. Copies of the zoning maps in digital format shall be made available to the public for inspection, at cost, by the Kenosha County Department of Planning and Development.

12.02-12 ZONING MAP AMENDMENTS-EFFECTIVE DATE

(a) Amendments to the Zoning Maps shall become effective upon adoption by the Kenosha County Board of Supervisors, notification of the Town Clerk of all Towns affected by the amendment, the filing of proof of publication thereof in the Kenosha County Department of Planning and Development office, and the expiration of any time limit imposed by section 59.97 of the Wisconsin Statutes within which Townships may veto the action and amendment of the County Board. It shall be the duty of the Kenosha County Department of Planning and Development to enter all zoning map amendments and the date of the latest amendment upon the certified copy of the Zoning Map and secure any required certifications or attestations.

(b) Amendments to the FPO, Floodplain Overlay District, FWO Camp Lake/Center Lake Floodway Overlay District, and FFO Camp Lake/Center Lake Floodplain Fringe Overlay District shall not become effective until approved by the Wisconsin Department of Natural Resources, (DNR). (3/1/94)

12.02-13 INTERPRETATION OF DISTRICT BOUNDARIES

(a) Boundaries of the districts set forth in section 12.20 to 12.26 are hereby established as shown on a series of eight (8) maps entitled, "Kenosha County Zoning Map" numbered, "Kenosha County - 1" through "Kenosha County - 8"; bearing the date of final county board approval of this ordinance and as hereafter properly amended and revised. These maps accompany and are herewith made a part of this ordinance and shall constitute the official zoning map of Kenosha County, Wisconsin until such time as the information contained therein is transferred to a series of 72 aerial photographs at a scale of one inch equals 400 feet entitled "Kenosha County Zoning Map" numbered "Kenosha County - 1" through "Kenosha County - 72", and adopted by the Kenosha County Board of Supervisors. Upon completion of the 72 maps and before their adoption by the county board, the maps shall be transmitted to each town for review and comment. Beginning in Year 2002, the zoning aerial photographs shall be replaced by digital zoning maps as described in Section 12.02-11. No change in a zoning boundary shall be made except after petition, review and approval pursuant to the requirements of section 12.38 of this ordinance. The Kenosha County Department of Planning and Development may publish additional zoning maps at scales other than the aforementioned official scale for informational purposes.

(b) Boundaries of the basic zoning districts shall be construed to follow Corporate Limits; U.S. Public Land Survey section lines; lot or property lines; centerlines of streets, highways, alleys, easements, navigable bodies of water, and railroad rights-of-way, or such lines extended. Lines which appear to be

parallel to any of the aforementioned boundaries of specified distance shall be construed to be parallel as noted. Where the above rules cannot be readily applied, the location of district boundary lines shall be determined by use of the scale shown on the official zoning map.

(c) Boundaries of the floodplain overlay district shall be determined as follows:

1. Except for the Pike River Watershed, the boundaries of the FPO Floodplain Overlay District shall be determined through the use of flood profiles published in the Flood Insurance Study-Kenosha County, Wisconsin (Unincorporated Areas) by the Federal Emergency Management Agency (FEMA), Flood Insurance Administration and dated August 17, 1981. The information contained in the flood insurance study is further illustrated on the FEMA Flood Insurance Rate Maps and Floodway and Flood Boundary Maps, dated February 17, 1982 and revised, July 5, 1983 and December 5, 1996. Boundaries of the floodplain overlay district within the Pike River watershed-including the Pike River, Kenosha Branch, Sorenson Creek, Nelson Creek, Pike Creek, Somers Branch, Airport Branch, Lamparek Creek, Chickory Creek, Waxdale Creek, Tributary to Waxdale Creek, and Bartlett Branch--shall be determined through the use of the flood profiles published in SEWRPC Planning Report No. 35, A Comprehensive Plan for the Pike River Watershed, dated June, 1983. The profiles are found in Figures G-1 through G-16 and the regulatory profile is labeled "Flood Stage-Year 2000 Planned Land Use and Existing Channel Conditions, 100-Year Recurrence Interval". The flood profiles were amended and published by SEWRPC in An Amendment to the Pike River Watershed Plan, dated March 1996. Flood profiles are found in Exhibit K through Z. (3/1/94)

2. The boundaries of the FWO Camp Lake/Center Lake Floodway Overlay District shall be determined by use of the scale contained on the large-scale topographic maps prepared by Kenosha County. The boundaries of the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District shall be determined through the use of the flood profiles in Appendix F of the November 5, 1992, letter report prepared by the Southeastern Wisconsin Regional Planning Commission titled Hydrologic and Hydraulic Analysis of an Unnamed Tributary to the Fox River Chain of Lakes. The flood stages, under floodway conditions were developed from technical data contained in the aforereferenced letter report. The floodlands are illustrated on large scale topographic maps for the Camp Lake/Center Lake area. (3/1/94)

3. The boundaries of the FPO Floodplain Overlay District, the FWO Camp Lake/Center Lake Floodway Overlay District, and the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District are further depicted on the large-scale topographic mapping of Kenosha County. The boundaries of unnumbered A zones shall be determined by use of the scale contained on the "Kenosha County Zoning Map" dated May 3, 1983, which accompanies and is made a part of the Ordinance. Where a conflict exists between the floodland limits of the FPO, FWO, or FFO districts as shown on the appropriate map and actual field conditions, the elevations from the 100-year recurrence interval flood profiles contained in the Flood Insurance Study, the Comprehensive Plan for the Pike River Watershed, or the November 5, 1992, letter report referenced in Section 12.02-12(c)(2) above, whichever is appropriate, shall be the governing factor in the regulatory floodland limits. (3/1/94)

(d) Boundaries of the C-1 Lowland Resource Conservancy District are shown on the maps referred to in Section 12.02-13(a) and boundary locations were determined by the criteria set forth in Sections 12.25-1(b).

12.02-14 ANNEXED LANDS

(a) Pursuant to Wisconsin Statute 59.97(7), whenever any area which has been subject to the Kenosha County Zoning ordinance petitions to become part of a village or city, the regulations imposed by this ordinance shall continue in effect, without change, and shall be enforced by such village or city until such regulations have been changed by official action of the governing body of such village or city, except that in the event an ordinance of annexation is contested in the courts, the County Zoning Ordinance shall prevail and the County shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(b)When any lands previously under the jurisdiction of this ordinance have been finally removed from the jurisdiction of this ordinance by reason of annexation to an incorporated municipality, and after the regulations imposed by this ordinance have ceased to be effective as provided in subsection (a), the County Board may pursuant to Wisconsin Statute section 59.97(5)(e)7, on the recommendation of its Office of Planning and Zoning Administration, adopt such amendatory ordinances as shall remove or delete such annexed lands from the official zoning map or written descriptions without following any of the procedures provided for amendment or change to the ordinance as noted in Wisconsin Statute 59.97(5)(e)1 through 6, and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the County Clerk to the Clerk of each town in which the lands affected were previously located. Nothing in this section shall be construed to nullify or supersede those provisions set forth in Wisconsin Statute section 80.64.

12.02-15 DEFINITIONS

For the purpose of this ordinance, the definitions listed in Appendix "A" shall be used unless otherwise specified. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory. Words not defined in Appendix "A" shall be construed according to any applicable definition set forth in either the State Statutes, Administrative Code or County Ordinance or in lieu thereof, shall be construed according to accepted land use, scientific, or architectural definition or in lieu thereof, according to their customary dictionary definition.

Submitted by:

LAND USE COMMITTEE
Donald Smitz
Mark Molinaro, Jr.
Thomas J. Gorlinski
Gordon West
Irving Larsen

It was moved by Supervisor Smitz to adopt Ordinance 57. Seconded by Supervisor Gorlinski.

Motion carried.

NEW BUSINESS

Policy Resolution - First reading, two required.

POLICY RESOLUTION 4

4. From Administration and Finance Committees regarding suspending Policy Resolution 1, established May of 2000. (Rules may be suspended allowing vote after one reading)

WHEREAS, the Kenosha County Board of Supervisors adopted Policy Resolution 1 on May 16, 2000 implementing a formula for establishing the salaries of elected officials, and

WHEREAS, current economic conditions have rendered the application of said formula impractical for determining the salaries of elected officials for the two-year and four-year terms commencing November, 2002, and

NOW, THEREFORE BE IT RESOLVED, that Policy Resolution 1 be suspended until re-instated by the Kenosha County Board of Supervisors, and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Administration and Finance Committees of the Kenosha County Board of Supervisors present a resolution to the Kenosha County Board of Supervisors establishing salaries for the 2003-2004 terms of the Clerk of Courts, County Clerk, Register of Deeds and Treasurer and the 2003 - 2006 term of the Sheriff.

Submitted by:

ADMINISTRATION COMMITTEE
David Singer
John Ruffolo
Robert Pitts

FINANCE COMMITTEE
Robert Carbone
Darrel Haen
Richard Kessler

Ava Marrelli
Mark Modory

John O'Day
Terry Rose

It was moved by Supervisor Singer to Suspend the rules regarding policy resolutions requiring two readings. Seconded by Supervisor Carbone.
Roll call vote passed unanimously.

It was moved by Supervisor Singer to adopt Policy Resolution 4. Seconded by Supervisor Carbone.
Motion carried.

Resolutions - One reading.

RESOLUTION 189

189. From Finance Committee regarding Bills over \$5,000.00.

WHEREAS, the Wisconsin State Statutes provides that the County Board may act on all bills over \$10,000.00 and

WHEREAS the County Resolution requires that the County Board must act on all bills over \$5,000.00, and

NOW, THEREFORE LET IT BE RESOLVED, that the following bills be approved for payment:

Date: 04/09/02

KENOSHA COUNTY PAYMENT GROUPS BILLS OVER \$5,000.00 APPROVAL BY FINANCE COMMITTEE AND COUNTY BOARD ARE REQUIRED:

<u>DIVISIONS</u>	<u>PAYMENT GROUPS</u>
FINANCE GROUPING	\$450,615.85
PERSONNEL I	\$163,467.76
PERSONNEL II	\$689,173.74
DISABILITY SERVICES	\$ 45,898.00
TOTAL OF PAYMENT GROUPS:	\$1,349,155.35

Submitted by:

FINANCE COMMITTEE

Robert Carbone

Terry Rose

Darrel Haen

Richard Kessler

John O' Day

It was moved by Supervisor Carbone to adopt Resolution 189. Seconded by Supervisor Rose.

Motion carried.

RESOLUTION 190

190. From Human Services regarding Division of Children & Family Services: Resolution for Leave of Absence for an Ongoing Unit Social Worker.

WHEREAS, Louise Gagliano, Ongoing Unit Social Worker, has requested a leave of absence for approximately 1-1/2 years; and

WHEREAS, Ms.Gagliano is attending school on a part-time basis in a Masters of Social Work Program through Loyla University-Chicago at Carthage College;

WHEREAS, after graduation , Ms. Gagliano plans to return to the Kenosha County area and would like to continue working in the child welfare field and continue employment with the Division of Children & Family Services; and

WHEREAS, the Division of Children & Family Services will fill Ms. Gagliano's vacant position with a full-time employee; and

WHEREAS, the Division of children & Family Services may rehire Louise Gagliano if there are any open social work positions when her leave of absence ends;

NOW, THEREFORE, BE IT RESOLVED, that the leave of absence for Louise Gagliano from 5/13/02 through 9/1/03 is approved.

Submitted by:

HUMAN SERVICES COMMITTEE

Eunice Boyer

Anne Bergo

Gordon West

Don Smitz

John O'Day

It was moved by Supervisor Boyer to adopt Resolution 190. Seconded by Supervisor Bergo.

Motion carried.

RESOLUTION 191

191. From Human Services regarding the Re-appointment of Edo Maccari to the Veterans Commission.

WHEREAS, pursuant to County Executive Appointment 2001/02-40, the County Executive has appointed Edo Maccari to serve on the Kenosha County Veterans Commission, and

WHEREAS, the Human Service Committee has reviewed the request of the County Executive for confirmation of his appointment of the above named to serve on the Kenosha County Veterans Commission and is recommending to the County Board the approval of this appointment.

NOW, THEREFORE, BE IT RESOLVED that the Kenosha County Board of Supervisors confirms the appointment of Edo Maccari to the Kenosha County Veterans Commission. Mr. Maccari's appointment shall be effective immediately and continuing until the 31st day of December, 2004 or until a successor is appointed by the County Executive and confirmed by the County Board of Supervisors. Mr. Maccari will serve without pay but will receive per diem as defined under Resolution 65 (1982-83) and is succeeding himself.

Submitted by:

HUMAN SERVICES COMMITTEE

Eunice boyer

Anne Bergo

John O'Day

Donald Smitz

Gordon West

It was moved by Supervisor Boyer to adopt Resolution 191. Seconded by Supervisor O'Day.

Motion carried.

CLAIMS

- 45. Helen Krueger - Fell in bathroom.
- 46. Norman Cappellina - mailbox damage.
- 47. Tina Spittle - fell off sidewalk.
- 48. Paul Perks - car damage.
- 49. Dr. Brian Glaeser - mailbox damage

Chairman Noble referred claims 45 thru 49 to Corporation Counsel.

It was moved by Supervisor Huff to approve the March 19th, 2002 minutes. Seconded by Supervisor Molinaro.

Motion carried.

It was moved by Supervisor Wisnefski to adjourn. Seconded by Supervisor Reed. Motion carried.

Prepared by: Pam Young
Chief Deputy

Submitted by: Edna R. Highland
County Clerk