

# **Ordinance 2012-1**

Town of Lynne  
Tripoli, Wisconsin 54564

## **An Ordinance Related to**

# **Nonmetallic and Metallic Mining**

### **Section 1: Preamble**

The purpose of this ordinance is to promote the health, safety, prosperity, aesthetics and general welfare of the people of the Town of Lynne and set forth the rules and procedures for this municipality regarding all mining within the Town. This ordinance is adopted pursuant to the Towns village and police powers under Wis. Stat. 60.10(2)(c) & 61.34.

### **Section 2: Intent**

The general intent of this subchapter is to regulate the location, construction, installation, alteration, design, operation and use of all metallic and nonmetallic mines so as to,

- protect the health of its residents, transients and guests
- secure safety from disease and pestilence
- further the appropriate use and conservation of land and water resources
- preserve and promote the administration and enforcement of this subchapter by the Town of Lynne and provide penalties for its violations.

### **Section 3: Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

### **Section 4: Definitions**

The following terms are defined as follows:

*Town* for the purposes of this ordinance shall mean the Town of Lynne located in Oneida County Wisconsin, mailing address Tripoli, WI 54564.

*Town Board* for the purposes of this ordinance shall mean the Board of Supervisors of the Town of Lynne, Tripoli, WI 54564.

*Metallic Mining* means operations or activities for the commercial extraction from the earth of merchantable metallic minerals or the exploration or prospecting for such materials and includes operations, processes or activities related to or to further the cause of that extraction.

*Nonmetallic Mining* means all of the following:  
of mineral aggregates or nonmetallic minerals for sale or use by the operator.  
Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including Operations or activities at a nonmetallic site for the extraction from the earth drilling or blasting, as well as associated activities such as excavation, grading and dredging.  
Definitions continued;

Nonmetallic mining does NOT include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock. Nonmetallic mining also does NOT include processes carried out at a nonmetallic mining site that is related to the preparation or processing of the mineral aggregates or nonmetallic materials obtained from the nonmetallic mining site. These processes include, but are not limited to, stockpiling of materials, blending of mineral aggregates or nonmetallic minerals with other nonmetallic aggregates or minerals, blasting, grading, crushing, screening, washing, scalping and dewatering.

#### **Section 5: Nonmetallic Mining**

Nonmetallic mining in the Town of Lynne shall be allowed only as provided for in this ordinance and under the following conditions.

1. The applicant must apply for a Town permit for a nonmetallic mine prior to starting work of any kind on any mining structure or facility and prior to operating any nonmetallic mine in the Town. The application must be submitted on a form provided by the Town, a copy of which is attached to this document herein after referred to as Appendix A.

2. The Town Board shall be the sole determining body to whether to issue the permit after review and recommendation by the Town Plan Commission and after a public hearing has been held by the Town Board, giving notice of a class 2 publication. The Town will grant the permit, with or without conditions, if, and only if, it is determined that the development and operation of the nonmetallic mine is in the best interests of the Town and will be consistent with the protection of the public health, safety and general welfare.

3. The Town permit will be void if the permittee violates any of the conditions of the permit or any conditions of required Federal permits or laws or State permits or laws.

4. No permit can be approved unless there is an accepted application approved by the Town Board, a Town land use zone change and/or conditional use permit has been approved (if applicable) and a local agreement has been reached.

## **Section 6: Metallic Mining**

Metallic mining in the Town of Lynne shall be allowed only as provided for in this ordinance and under the following conditions.

1. The applicant must apply for a Town permit for a metallic mine prior to starting work of any kind on any mining structure or facility and prior to operating any metallic mine in the Town. The application must be submitted on a form provided by the Town, a copy of which is attached to this document herein after referred to as Appendix A.

2. The Town Board shall be the sole determining body to whether to issue the permit after review and recommendation by the Town Plan Commission and after a public hearing has been held by the Town Board, giving notice of a class 2 publication. The Town will grant the permit, with or without conditions, if, and only if, it is determined that the development and operation of the metallic mine is in the best interests of the Town and will be consistent with the protection of the public health, safety and general welfare.

3. The Town permit will be void if the permittee violates any of the conditions of the permit or any conditions of any required Federal or State permits or laws.

4. No permit can be approved unless there is an accepted application approved by the Town Board, any Town land use zone change or and/or conditional use permit has been approved and a local agreement has been reached.

## **Section 7: Procedures to be followed for any mining**

1. The applicant shall obtain and complete a Town of Lynne Mining Permit Application (Appendix A) and remit the required application fee.
2. Upon receiving the application and fee, the Town of Lynne Clerk will notify the Plan Commission Chair for the purpose of setting a meeting date to consider the application.
3. The Town Clerk will also send a copy of the application to the landowners adjoining the site of the proposed mine, and place the application on the agenda for the Plan Commission and Town Board, providing the Board members with copies prior to.
4. The Plan Commission shall consider the application and make a recommendation to the Town Board.
5. After the application recommendation has been made, the application shall, again if necessary, be put on the Town Board agenda to set a date for a public hearing.
6. The public hearing will be published as a class 2 publication.
7. The Board will not make a final decision on the application until after the public hearing has taken place. Prior to making a decision on the application, the Board will determine whether the application is complete and if the applicant has applied for and/or received any other permits from any other government entity such as the County, State or Federal government. The Town will grant the permit, with or without conditions, if, and only if, it is determined that the development and operation of the metallic mine is in the best interests of the Town and will be consistent with the protection of the public health, safety and general welfare.

8. The Town Board may conditionally approve the permit and may attach conditions to protect public health and safety and promote the general welfare of the Town. Such conditions may include, but are not limited to, restrictive provisions and proof of financial security for reclamation, proof of financial security for Town road maintenance and repair, restrictions on hours of operation, restrictions on truck routes on town roads, restrictions on truck and traffic volume into and out of the mine site, restrictions to protect ground water quantity and quality, restrictions to safeguard and financial surety to replace public and private drinking water and agricultural wells if necessary, restrictions to control air emissions and dust from the mine and its operations, and another restrictions deemed necessary or appropriate by the Town Board to protect public health and safety and promote the general welfare of the Town and its residents, land owners, transients and guests.

**Section 8: Effective Date**

This ordinance shall take effect upon passage and one day after publication.

**Section 9: Exceptions from the Ordinance**

A nonmetallic mining permit is not required from the Town of Lynne for non metallic mines in existence prior to the effective date of this ordinance or for the activities listed in Wis. Admin. Code NR 135.02(3). However, if an existing mine is expanded after the effective date of this ordinance in a manner that requires a nonmetallic mining reclamation permit from Oneida County, the expansion shall be subject to the permitting requirements of this ordinance.

**Section 10: Enforcement and Penalties**

Any violation of this ordinance shall be punishable by a forfeiture of not less than \$500 nor more than \$5000 per day for every day in violation of this ordinance, plus the total costs of prosecution for each and every separate violation. The Towns attorney shall expeditiously prosecute all such violators and violations. Each day of any violation shall constitute a separate offense. The Town Board or its designee may inspect the mine site at any time for purposes of monitoring or enforcement of this ordinance. Each time any Board member or its designee is refused access for inspection, it shall be deemed a violation of this ordinance.

Adopted this 11th day of April 2012.

\_\_\_\_\_ David Schatzley, Town Chair

\_\_\_\_\_ Jeff Viegut, Supervisor

\_\_\_\_\_ Lloyd Strasburg, Supervisor

Attest: \_\_\_\_\_ Mary Krueger, Town Clerk