

Buffalo County Ordinance



Drafted By:
Del D. Twidt
Presented Month/Year:
March, 2012
Involved Committees:
Zoning

County Department:
Zoning / Administration
Fiscal Impact: No
AC Approved: Yes

ORDINANCE # 12 - 03

AN ORDINANCE TO IMPOSE A MORATORIUM ON THE EXPANSION AND CREATION OF NEW NONMETALLIC MINING OPERATIONS WITHIN THE UNINCORPORATED AREAS OF BUFFALO COUNTY PENDING FURTHER STUDY

The Board of Supervisors of Buffalo County hereby ordains as follows:

WHEREAS, the Buffalo County Zoning Committee determined that the county needed time to research the effects of nonmetallic mining on the county in order to protect the public health, safety and general welfare of it's residents, after receiving substantial testimony and evidence in recent public hearings concerning nonmetallic mining permits in Buffalo County, and;

WHEREAS, On February 23, 2012 the Buffalo County Zoning Committee considered proposed amendments to a code of ordinances entitled "The Buffalo County Zoning Ordinance" and placed the same on file in the Office of the County Clerk for a period of time greater than two weeks prior to March 15, 2012, and;

WHEREAS, the Buffalo County Zoning Committee held a public hearing on March 15, 2012 for the purpose of gathering testimony and developing a final draft of said amendments to recommend to the Buffalo County Board of Supervisors, and;

WHEREAS, notice of this meeting and the Board's final consideration of adoption on March 20, 2012, was published in the "2012 Buffalo County Official County Newspaper" in accordance with s. 66.0103 Wisconsin Statutes, and;

WHEREAS, it is the recommendation to the Board of Supervisors to adopt said amendments as approved by the Zoning Committee during their March 15, 2012 public hearing.

NOW, THEREFORE BE IT ORDAINED that the Buffalo County Board of Supervisors hereby adopts the following amendments to the code of ordinances entitled "The Buffalo County Zoning Ordinance" which shall be kept permanently on file and open to public inspection in the Office of the County Clerk:

Article XXVI Definitions (Renumber existing definitions accordingly)

"Nonmetallic minerals" means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.

"Nonmetallic mining" means any of the following:

- a. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such minerals.

- b. Manufacturing or processing operation that may involve the use of equipment for the crushing, screening, separation, or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site or with minerals transferred from off-site.
- c. Manufacturing processes aimed at producing nonmetallic products for sale or use by the operator.
- d. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
- e. Transport of extracted nonmetallic materials, finished products or waste materials to or from the extraction, manufacturing or processing site located in the unincorporated areas of Buffalo County.
- f. Disposal of waste materials as defined in this ordinance.
- g. Reclamation of extraction sites.
- h. Loading / unloading facilities.

"Nonmetallic Mining Waste Material" means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site of a nonmetallic mine site or processing operation or some other site as part of a reclamation plan.

A "mine site" or "site" means land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the land owner or any agent of the land owner, including all land on which is or will be located any structures, equipment, storage facilities washing or screening facilities, private roads or haulage ways associated with nonmetallic mining operations; and all contiguous lands to the nonmetallic operation under common ownership or control of the owner or his/her agent.

Article XXVIII Moratorium

Section 280

Purpose.

The purpose of this moratorium is to allow the County adequate time to study the possible impacts that nonmetallic mining operations may have on the health, safety and welfare of the residents of Buffalo County including air quality and water quality concerns and potential impact to the infrastructure of the County, to determine the advisability of amending its Comprehensive Plan Strategy and to review and consider amending or adopting other police power or zoning ordinances so as to effectively regulate nonmetallic mining operations in the public interest.

Section 281

Moratorium Imposed.

That pursuant to Wis. State Stats. §§59.03, 59.69, 59.70 and 92.11, the County Board of Supervisors hereby prohibits the expansion of any nonmetallic mining operation beyond its physical dimensions as identified in the reclamation plan on file as of the date of adoption of the ordinance and further prohibits the processing of applications for new nonmetallic mine reclamation permits or new conditional use permits for nonmetallic mining, the issuance of new nonmetallic mine reclamation permits or new conditional use permits for nonmetallic mining and creation of any new nonmetallic mining operation during the pendency of the moratorium within unincorporated areas of the county.

Section 282

Duration of Moratorium.

The moratorium imposed by this ordinance shall be in effect from March 29, 2012 until March 29, 2013. During this period, the Zoning Department, Highway Department and the Buffalo County Health and Human Services Department shall study and analyze the impact of nonmetallic mining and shall make final recommendations to their respective governing committees and the County Board of Supervisors within 180 days of the effective date of this ordinance.

Section 283

Effective Date

This ordinance shall take effect on the day after its date of publication.

Section 284

Legislative Findings.

The County Board of Supervisors hereby makes the following findings:

1. The Board recognizes that there is an increased interest locally that may lead to requests to mine, process and transport crystalline silica sand (aka frac sand) in Buffalo County.
2. The Board recognizes that there is an increased demand for crystalline silica sand that is used in the hydraulic fracturing process as a means to extract natural gas and oil and that there is abundant crystalline silica sand in Buffalo County.
3. The Board recognizes that the mining, processing and transporting of crystalline silica sand may have an impact on air and water quality, which may affect the health and safety of county residents and could impact roads and infrastructure within the County.
4. The Board recognizes that, due to the increased demand for crystalline silica sand and the potential for large-scale nonmetallic mining operations, it is critical that all necessary regulations and safeguards be in place before such nonmetallic mining operations expand or commence.
5. The Board recognizes that the current Buffalo County Zoning Ordinance and other current regulatory ordinances may not adequately address the health, safety and welfare of Buffalo County residents and the enhanced strain on the County infrastructure as a result of frac sand mining/nonmetallic operations.

Section 285

Exception

An applicant who has submitted an application for a mining reclamation permit and/or conditional use permit for Non-Metallic Mining on or before the effective date of the moratorium that is determined to be in complete conformity with all zoning requirements in effect, as of the date of the application, shall not be affected by the terms of the moratorium other than the prohibition against expansion of its Non-Metallic Mining operations as set forth in Section 281.

REPEAL OF CONFLICTING ORDINANCES. All other ordinances or parts of ordinances in conflict with this ordinance heretofore enacted by the Buffalo County Board of Supervisors are hereby repealed.

SEVERABILITY. The provisions of this ordinance shall be deemed severable and it is expressly declared that the Buffalo County Board of Supervisors would have passed the other provisions, sections, subsections, paragraphs, clauses, or phrases of this ordinance irrespective of whether or not one or more of such parts may be declared invalid. If any provision or part of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Adopted/denied by a ___ to ___ vote this ___th day of March, 2012 by the Buffalo County Board of Supervisors

ATTEST:

County Board Chairperson
Del D. Twidt

County Clerk
Roxann M. Halverson

**Respectfully submitted this 15th day of March, 2012:
Buffalo County Zoning Committee**

Tom Taylor, Committee Chair

Claire Waters

Del Twidt

Steve Weiss

Larry Balk