

ZLR Nonconforming Mineral Extraction Workgroup

Draft Zoning Ordinance Language REVISED 3/14/2017

S. 10.101(5) Nonconforming Uses and Structures

**(b) Nonconforming Uses.**

1. Continuation of a Legal, Nonconforming Use.
  - a. The lawful principal use of a building or premises existing at the time of adoption of this ordinance may be continued as a nonconforming use.
  - b. Any existing nonconforming use may be changed to another nonconforming use of a similar or more restricted classification or to a conforming use.
2. Abandonment or Discontinuation of a Nonconforming Use.
  - a. Except as described for nonconforming mineral extraction sites in 4. below, any use that is discontinued or abandoned for a period of one (1) year shall be considered terminated and shall lose its nonconforming status. Any future use or reestablishment of a previously nonconforming use on the premises must conform to the provisions of this ordinance, except as specifically exempted below.
  - b. The relocation or expansion of any nonconforming use beyond areas where such use was originally established shall conform to all standards and requirements of this ordinance.
  - c. The relocation or expansion of any nonconforming use beyond areas where such use was originally established shall conform to all standards and requirements of this ordinance.
3. Nonconforming mineral extraction sites.
  - a. *Abandonment of registered nonconforming mineral extraction sites.*

Within 30 days of the effective date of this ordinance in any town, the zoning administrator will send a notice via certified mail, return receipt requested, to all legally established, nonconforming mineral extraction operations which existed prior to 1969, and were registered with and approved by the Dane County Zoning Administrator at the time. The notice shall inform the landowner that registered nonconforming mineral extraction sites are subject to the provisions of this section. Whether or not mineral extraction activity has occurred on such sites, such nonconforming uses are considered discontinued or abandoned only if the owner or operator fails to complete any of the following:

    - i. File, within a year of receipt of notice as described above, of a reclamation plan under Chapter 74, Dane County Code;
    - ii. File, in any calendar year, the Dane County Annual Mineral Extraction Operator Report and any associated annual filing fees.

The zoning administrator shall send a written notice via certified mail, return receipt requested, to all affected mineral extraction site landowners at least 90 days in advance of the annual report deadline.

- iii. Record a deed notice document that: indicates the presence of a nonconforming mineral extraction site; describes the boundaries of the nonconforming mineral extraction site, and; is signed by the landowner and the zoning administrator.

**b. *Operating conditions on nonconforming mineral extraction sites.***

Mineral extraction operations on registered nonconforming mineral extraction sites must comply with the following standards.

- i. The site must meet all erosion control and stormwater management standards of Chapter 14, Dane County Code of Ordinances.
- ii. Reclamation shall meet requirements of Chapter 74 of the Dane County Code of Ordinances.
- iii. The operator shall maintain the driveway in a dust free manner in accordance with local, state, and federal regulations, and shall clean any dust or mud tracked onto public roads.
- iv. There shall be a minimum setback of 20' from the property line.
- v. If there is blasting and/or drilling involved with the operation, hours of operation for those activities should be limited to daytime hours of 7:00 a.m. to 6:00 pm.
- vi. For safety, there shall be a fence around the entire extraction area at all times, or the edge of the extraction area shall be maintained with a slope no greater than 1:1.
- vii. In cases where the operation includes bulk fuel stored on site, the operator should have a plan for spill containment that meets state regulations.
- viii. In cases where the extraction operation is at or near groundwater level, all excavation equipment, plants, and vehicles shall be fueled, stored, serviced, and repaired on lands above \_\_\_\_ [3 feet above highest water table elevation] feet in elevation to prevent against groundwater contamination from leaks or spills.
- ix. The operator shall require all trucks and excavation equipment to have muffler systems that meet or exceed then current industry standards for noise abatement.
- x. The operator shall meet DNR standards for particulate emissions as described in NR 415.075 and NR 415.076.

- xi. Excavation below the elevation of an abutting public street or highway shall be set back from the street or highway a distance at least equal to the distance that is required for buildings or structures under section 10.17 of the DCCO.
- xii. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these standards or to investigate an alleged violation. Unless the operation is in reasonable compliance with these terms of this approval, NC status is subject to revocation.