

_____ COUNTY ZONING ORDINANCE REGARDING METALLIC MINERAL
MINING AND RECLAMATION

Ordinance _____

Recitals

WHEREAS, zoning is an essential function performed by local government since it allows a municipality to protect its citizens' quality of life, welfare and safety; and

WHEREAS, metallic mineral mining is a permitted activity under State law and may provide beneficial impacts for County residents, including employment opportunities and improvement of local economies; and

WHEREAS, metallic mineral mines and metallic mineral mining operations pose special challenges since:

- Metallic mineral mining, unlike many other activities, may only be developed at a specific location at which a mineral deposit exists; and
- Metallic mineral mining may create substantial impacts which adversely affect public health, safety, convenience and welfare; and
- Metallic mineral mining may harm and cause serious damage to not only the immediate surrounding areas of the mining operation, but also to areas and resources beyond the immediate surroundings such as waterways, wells and other water supplies, air, and other environmental resources; and
- The adverse effects of metallic mineral mining may not be limited to the years a mine is in operation but may substantially impact future generations; and

WHEREAS, Chapter 293 of the Wisconsin Statutes recognizes the County's authority to participate in the local regulation of metallic mineral mining and grants an express authority for the County to negotiate and enter into a local agreement and require an operator to obtain an approval or permit under a zoning or land use ordinance; and

WHEREAS, conditional uses enjoy acceptance as valid and successful tools of municipal planning to cope with situations where a use may create unique problems or hazards if allowed to develop as a matter of right; and

WHEREAS, the purpose of this Ordinance is to provide alternate methods by which an operator may obtain a mining permit, both of which recognize the need for reasonable regulation of mining.

NOW, THEREFORE, the County Board of Supervisors for the County of _____ does ordain as follows:

Section 1.01 Definitions

Capitalized terms used in this Ordinance, unless otherwise specifically defined, are defined as follows:

- (1) Any term not expressly defined in this Ordinance shall have the meaning set forth in Wis. Stat. Chapter 293, and if not defined therein then as defined in Wis. Admin. Code Ch. NR 132, and if not defined therein then as defined in Wis. Admin. Code Ch. NR 182.
- (2) “Affiliate” means any Person that, directly or indirectly, controls, or is controlled by, or is under common control with a Person. “Control” (and the correlative meanings of the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person.
- (3) “Applicable Laws and Regulations” means any federal, State, municipal, regulatory or other governmental entity law, regulation, requirement, condition, restriction, or binding agreement applicable to Exploration, an Exploration Site, Prospecting, a Prospecting Site, Bulk Sampling, a Bulk Sampling Site, Mining, a Mining Site, a Mining Operation, or other provision contained within a Exploration Permit, Prospecting Permit, Bulk Sampling License, or Mining Permit issued pursuant to this Ordinance.
- (4) “Applicant” means any Person that has or intends to submit an Application for a Mining Permit to the County pursuant to this Ordinance.
- (5) “Application” means an application filed or to be filed with the County by which the Applicant applies for a Mining Permit pursuant to this Ordinance and shall contain all the information required by the Ordinance, including, but not limited to, the information required pursuant to Section 1.12 of this Ordinance or as may otherwise be reasonably required by the County.
- (6) “Buffer Area” means an undisturbed vegetated area measured from the property line of the Mining Site into the Mining Site, in which no Mining Operations, structures or roads can occur or be constructed except for the construction and maintenance of a vegetated berm or a berm constructed of materials acceptable to the County.
- (7) “Bulk Sampling” means the same definition as set forth in Wis. Stat. § 293.01(2m), as may be amended.
- (8) “Bulk Sampling License” means a permit issued pursuant to Section 1.06 of this Ordinance.
- (9) “Bulk Sampling Site” means the entire area of land upon which Bulk Sampling will occur.
- (10) “Conditional Use Permit” means a permit issued pursuant to Section 1.14 of this Ordinance.

- (11) “Conditional Use Permit/Mining Permit” means a Mining Permit issued by virtue of an approved and issued Conditional Use Permit.
- (12) “County” means the County of _____.
- (13) “County Board” means the County Board of Supervisors of the County.
- (14) “County Zoning Code” means the zoning and land use ordinance adopted by the County pursuant to Wis. Stat. § 59.69.
- (15) “County Zoning Committee” means the designated county zoning agency of the County pursuant to Wis. Stat. § 59.69(2).
- (16) “Exploration” means exploration as defined in Wis. Admin. Code Ch. NR 130, as may be amended.
- (17) “Exploration Permit” means the license required pursuant to Section 1.04 as a condition of engaging in Exploration.
- (18) “Exploration Site” means the entire area of land upon which Exploration will occur.
- (19) “Government Body or Agency” means any State, federal, municipal entity, department, agency, regulatory authority, or other government unit having jurisdiction or maintaining any other authority to regulate Exploration, an Exploration Site, Prospecting, a Prospecting Site, Bulk Sampling, a Bulk Sampling Site, Mining, a Mining Site, or Mining Operations.
- (20) “Local Agreement” means an agreement entered into pursuant to Wis. Stat. § 293.41 and approved pursuant to Section 1.15 of this Ordinance.
- (21) “Local Agreement/Mining Permit” means a Mining Permit issued by virtue of an approved Local Agreement.
- (22) “Local Committee” is a committee created pursuant to Wis. Stat. § 293.33 and Section 1.08 of this Ordinance.
- (23) “Mining” or “Mining Operation” means all or part of the process involved in the mining of nonferrous metallic minerals, on or as part of the Mining Site, other than for Exploration, Bulk Sampling, or Prospecting, including, but not limited to:
 - (a) Extraction from the earth of mineral aggregates or minerals for off-site use or sale, including drilling and blasting, as well as associated activities such as excavation, grading and dredging of such materials.
 - (b) Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation or blending of the mineral aggregates or metallic minerals obtained by extraction from the mining site or with materials transferred from off-site.

- (c) Manufacturing processes aimed at producing metallic or nonmetallic products for sale or use by the operator.
 - (d) Stockpiling or storage of metallic or nonmetallic products for sale or use off-site and stockpiling of waste materials.
 - (e) Transport of the extracted metallic or nonmetallic materials, finished products or waste materials to or from the extraction site.
 - (f) Disposal of waste materials.
 - (g) Reclamation of the extraction site.
 - (h) Prospecting or Exploration for metallic minerals is not mining under the terms of this Ordinance.
 - (i) Commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden and the production of refuse.
- (24) “Mining Permit” means either a Conditional Use Permit issued pursuant to Section 1.14 of this Ordinance, or a Local Agreement negotiated, approved and issued pursuant to Wis. Stat. § 293.41 and Section 1.15 of this Ordinance.
- (25) “Mining Site” means the entire area of land upon which Mining Operations will occur, and shall include, but not be limited to, the surface area disturbed by a Mining Operation, the surface area from which the nonferrous metallic minerals or refuse or both have been removed, the surface area covered by the refuse, all lands disturbed by the Mining Operation or associated activities, the surface area covered by construction or improvement of haulageways, and any surface areas in which processing facilities, structures, equipment, materials and any other activities associated with the Mining Operation are situated, operated, conducted or otherwise utilized.
- (26) “Operator” means any Person who is engaged in, or who has applied for and been granted a Mining Permit to conduct Mining, Mining Operations, or other activities associated with Mining on a Mining Site or as part of a Mining Operation, whether individually, jointly or through subsidiaries, agents, employees or contractors.
- (27) “Ordinance” means this metallic mining ordinance adopted by the County.
- (28) “Permittee” means any Person granted a Mining Permit pursuant to this Ordinance.
- (29) “Person” means any person, individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, State agency or federal agency.
- (30) “Prospecting” means the same definition as set forth in Wis. Stat. § 293.01(18) and Wis. Admin. Code Ch. NR 131, as each may be amended.

- (31) “Prospecting Permit” means a permit issued pursuant to Section 1.05 of this Ordinance.
- (32) “Prospecting Site” means the entire area of land upon which Prospecting will occur.
- (33) “Retained Expert” means professional consultants, including, but not limited to, engineers, attorneys, planners, environmental specialists, and other consultants with skills relevant to reviewing, processing and acting upon applications for an Mining Permit or to issues associated with the inspection, monitoring and enforcing of approvals and requirements of a Mining Permit.
- (34) “Section” means a specific section of this Ordinance.
- (35) “State” means the State of Wisconsin.
- (36) “WisDNR” means the Wisconsin Department of Natural Resources.
- (37) “WisDNR Exploration License” means an exploration license issued by WisDNR pursuant to Wis. Stat. § 293.21(2).
- (38) “Zoning Administrator” means the _____ of the _____ County _____ Department.
- (39) “Zoning Committee” means the _____ Committee of the _____ County Board of Supervisors.

Section 1.02 Findings, Purpose and Authority

- (1) Findings.
 - (a) Metallic mining is a permitted activity under State law and has the potential to both beneficially and adversely impact County residents, environments and economies. Metallic mining may provide employment opportunities, needed industrial materials and significant economic benefits to local communities. Metallic mining operations, however, have the potential to create nuisance conditions, negatively impact property values and present health and safety impacts to County residents if not properly designed and operated.
 - (b) Exploration, Prospecting and Bulk Sampling are regulated by the State, yet it is appropriate for the County to reasonably regulate these uses and operations to the extent that such regulation generally falls within the County’s jurisdiction, such as regulation of hours of operation, traffic and noise levels.
 - (c) Many aspects of Mining Operations are subject to State and/or federal regulation. WisDNR is the unit of State government responsible for regulating any adverse impact of metallic mining and reclamation on the air, lands, water, plants, fish and wildlife in the State. The County is also authorized to regulate metallic mining so long as its regulation is not preempted by other Applicable Laws and Regulations. Accordingly, the County enacts this Ordinance to further the purposes stated

above, which include, but are not limited to, the protection of people on neighboring properties to a Mining Site in the County, their domestic animals, structures, businesses and human endeavors and activities situated thereon, as well as the protection of County resident health, safety, convenience and general welfare from the potential adverse effects from metallic mineral mining, including, but not limited to:

1. Sounds, noise, earth movement, shock, vibrations, cracks in structures and interference with the peace, quiet and enjoyment of life on neighboring properties resulting from mining activities.
 2. Smells, odors, dust and particulates entering upon neighboring properties and impacting County residents. The County is not, by this Ordinance, regulating air or air quality, but seeks to protect neighboring properties, people and the County and activities therein from the adverse effects of smells, odors, dust and particles due to Mining Operations, whether transported or moved by gravity, vehicles, people, wind, weather, climatic condition or other forces.
 3. Light and light pollution entering upon neighboring properties from a Mining Site or as a result of Mining Operations.
 4. Damage to the County's property tax base.
 5. Damage to or destruction of public roads, public highways and bridges from vehicles and equipment used in or at the Mining Site or as part of Mining Operations.
 6. Adverse effects on educational, recreational and business facilities in the County.
 7. Adverse effects on agricultural, forestry, industry and business future growth in the County.
 8. Adverse effects on uses of land in the County in accordance with their character and adaptability.
 9. Adverse effects on the beauty and amenities of the neighboring landscape and the County's physical features.
 10. Adverse effects on healthy surroundings for citizens', residents' and visitors' quality of life.
- (d) Given the potential effects of Mining Operations noted above, and given the complexity and uniqueness of each proposed Mining Operation, the County requires a mechanism by which to control the local impacts of Mining Operations, without duplicating or conflicting with Applicable Laws and Regulations.

- (e) A Conditional Use Permit is a flexible planning and land use regulatory device designed to cope with situations, problems and hazards which may result from the specific metallic mineral mining project under consideration.
 - (f) A Local Committee, created pursuant to Wis. Stat. § 293.33, presents an opportunity for the County, the Applicant, other units of government and other stakeholders to discuss and plan for the County's concerns associated with a proposed Mining Operation, and to develop solutions to address those concerns. The findings of a Local Committee may be a useful tool in negotiating a Local Agreement.
 - (g) A Local Agreement, as statutorily permitted pursuant to Wis. Stat. § 293.41, provides the County flexibility in the approval process by allowing an Applicant and the County to negotiate terms prior to commencement of the actual approval process. Also, a Local Agreement acts as a specific exception to general zoning requirements, and therefore allows the County to set forth its approvals in one binding agreement with an Applicant.
 - (h) There exist two separate and independent procedures by which an Applicant may obtain a Mining Permit under this Ordinance: (1) the Applicant may apply for and the County may approve the issuance of a Conditional Use Permit pursuant to Section 1.14; or (2) the Applicant and the County may enter into a Local Agreement pursuant to the terms of Wis. Stat. § 293.41 and Section 1.15. A Local Agreement may include terms, conditions and provisions that the County may deem necessary to protect the health, welfare, safety and convenience of the County and its residents. The benefits of a Local Agreement include, but are not limited to, addressing the County's, Applicant's and Operator's concerns regarding the Mining Operation, the ability to modify or waive certain provisions of this Ordinance and any other County regulation, the inclusion of other parties or units of government in the Local Agreement, memorialize the findings of a Local Committee created pursuant to Wis. Stat. § 293.33, and memorialize the overall understanding of the parties in a binding agreement. A Conditional Use Permit shall be approved pursuant to Section 1.14 and suspended, modified, amended or revoked pursuant to Section 1.19 of this Ordinance. A Local Agreement shall be entered into and approved pursuant to Wis. Stat. § 293.41 and Section 1.15, and may be suspended, modified, amended or revoked pursuant to its terms and Section 1.19.
 - (i) This Ordinance is not intended to conflict with, defeat the purpose of, or violate the spirit of State or federal law. This Ordinance shall be interpreted and applied in a manner that complements, and does not conflict with, State law as set forth in Wis. Stat. § 293.41 or other Applicable Laws or Regulations.
- (2) Purpose. The purpose of this Ordinance is to accomplish the following:
- (a) To complement State law regulating Exploration, Prospecting and Bulk Sampling.

- (b) To establish local minimum standards for Mining Operations conducted within the County, and a process by which to systematically consider Mining Permit Applications and Mining Operations in a manner that promotes the health, safety, welfare and convenience of the County and its residents.
- (c) To minimize or prevent any adverse on- or off-site impacts resulting from Mining Operations, including, but not limited to, the potential impacts set forth in Section 1.02(1)(c).
- (d) To set forth rules and procedures to govern Mining and Mining Operations within the County, establish procedures for the administration and enforcement of this Ordinance, and provide penalties for its violation.
- (e) To specifically set forth the requirements for any Person desiring to engage in Mining or any Mining Operation in the County to first obtain a Mining Permit from the County and subsequently act and operate in accordance with the conditions on such Mining Permit so the County can, to the extent of the County's authority, promote the public health, safety, convenience and general welfare.
- (f) To encourage and ensure, to the greatest extent possible:
 - 1. Planned and orderly land use development;
 - 2. The protection of property values and the property tax base;
 - 3. Careful planning and efficient maintenance of highway systems and other transportation infrastructure;
 - 4. Adequate highway, utility, health, educational and recreational facilities;
 - 5. The needs of agriculture, forestry, industry and business in future growth;
 - 6. The use of land and other natural resources which are in accordance with their character and adaptability;
 - 7. The protection of surface and groundwater resources;
 - 8. The conservation of soil, water and forest resources;
 - 9. The protection of the beauty and amenities of the landscape and physical features within the County;
 - 10. Healthy surroundings for citizens' and visitors' enjoyment and lifestyles; and
 - 11. The efficient and economical use of public funds.

- (g) To ensure that Mining Operations are permitted in the County only pursuant to a Mining Permit, issued by virtue of a Conditional Use Permit or a Local Agreement, and only after a Mining Permit is issued by the County in accordance with this Ordinance.
 - (h) To ensure that the County may utilize a Local Agreement, as permitted in Wis. Stat. § 293.41, as a Mining Permit separate and apart from any procedure set forth for a conditional use.
 - (i) To ensure that conditions placed on a Mining Permit granted as a Conditional Use Permit/Mining Permit are crafted and tailored to address existing and anticipated conditions and circumstances pertinent to the Mining Operation and impacts on the Mining Site and other areas that may be impacted by the Mining Operations throughout the County.
 - (j) To ensure that all conditions placed on a Mining Permit that is issued as a Conditional Use Permit/Mining Permit are:
 1. Consistent with the purposes of this Ordinance;
 2. Within the jurisdiction of the County;
 3. Not arbitrary or unreasonable;
 4. Have a substantial relation to public health, safety, convenience and/or general welfare;
 5. Supported by substantial evidence; and
 6. To the extent practicable, are measurable.
 - (k) To ensure coordination with WisDNR and all other State and federal regulatory bodies of a Mining Operation in the County.
- (3) Authority. This Ordinance is adopted under the authority of the powers set forth in Wis. Stat. Chapter 59, Wis. Stat. Chapter 66, Wis. Stat. Chapter 293, and any other authority granted to the County under State or federal law.

Section 1.03 Applicability, Exemptions, Interpretation, and Effective Date

- (1) Applicability. This Ordinance shall apply to the use and proposed use of land within the unincorporated areas of the County that are subject to the County Zoning Code, for the purpose of any proposed Mining Operation regardless of when such use is commenced and regardless of where such use is proposed within the County.

- (2) Exemptions. This Ordinance does not apply to:
- (a) The exempt Mining Operations specifically delineated in Wis. Admin. Code Ch. NR 132 or 182.
 - (b) Except as set forth in Sections 1.09(2) and 1.15(5) below, any Mining Operations made specifically exempt from any requirement in this Ordinance pursuant to a Local Agreement with the Operator under Wis. Stat. § 293.41.
- (3) Interpretation. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing laws, regulations, ordinances, rules, standards or permits that are not specific to metallic mining previously adopted pursuant to other Wisconsin law.¹
- (4) Severability. Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional, invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, including, but not limited to, all applicable appeals, the remainder of this Ordinance shall remain in full force and effect.
- (5) Effective Date of Ordinance. This Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. § 59.14.
- (6) Modification, Amendment, Suspension or Elimination of this Ordinance. Any modification, amendment, suspension or elimination of this Ordinance, whether in part or in full, shall require a majority affirmative vote by the County Board.

****NOTE** There is no requirement that a county regulate exploration activities. WisDNR regulates the operations associated with exploration. This Section 1.04 should be used only to the extent a county determines that it is necessary to regulate.**

Section 1.04 Exploration Permit

- (1) Permit Required. No person may commence any Exploration except in conformance with a valid Exploration Permit issued by the County pursuant to this Section 1.04. The Exploration Permit issued by the County is a separate license from the WisDNR Exploration Permit. Application for an Exploration Permit shall be submitted to the County Zoning Administrator.
- (2) Conditions on Exploration Permit. The County Zoning Administrator, on behalf of the County, shall grant an Exploration Permit if the applicant for the Exploration Permit demonstrates to the satisfaction of the County Zoning Administrator compliance with the following:
- (a) Compliance with all terms and conditions of the WisDNR Exploration License for the duration of the WisDNR Exploration License.

¹ In the event the County does intend to repeal or supersede other existing County ordinances by the adoption of this Ordinance, the language in this paragraph would need to be altered.

- (b) Compliance with all applicable County ordinances.
 - (c) Demonstrate to the satisfaction of the County that all other applicable and required federal, State and local permits and approvals required for the Exploration have been or will be obtained prior to commencement of any Exploration.
 - (d) Submit a copy of all permits, approvals or waivers of permits to the County, both at the time of application for the Exploration Permit and during the term of the Exploration Permit.
 - (e) Comply with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Exploration.
 - (f) Provide proof that any financial assurances required by a Government Body or Agency, if any, have been obtained as required by any Applicable Laws and Regulations.
 - (g) Establish a setback of at least ____ feet between Exploration Site and any existing occupied structure.
 - (h) Conduct Exploration only on Monday through Friday, not earlier than 6:00 a.m. and not later than 9:00 p.m., and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.
 - (i) Limit night lighting if Exploration occurs during hours of darkness to that which is minimally necessary for security and worker safety.
 - (j) All hazardous chemicals or substances kept on the Exploration Site and related to the Exploration shall be stored in State-approved storage containers and storage areas.
 - (k) Maintain compliance with all State and federal permits related to the Exploration, the suspension or revocation of which shall cause the automatic termination of the County Exploration Permit.
- (3) Compliance. The requirements set forth in Section 1.04(2) above and incorporated into the Exploration Permit must be met at all times or the Exploration Permit may be revoked or subject to enforcement, fines and penalties as provided in Section ____ (a County's general revocation provision).
- (4) Duration of Exploration Permit. The Exploration Permit shall be of the same duration as the WisDNR Exploration Permit, so long as the Exploration Permit holder complies with all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements set forth by any Government Body or Agency, and suspension or revocation of the Exploration Permit does not occur pursuant to this Ordinance.

- (5) Appeal. Any person aggrieved by a decision or determination of the County Zoning Administrator may appeal the County Zoning Administrator's decision or determination to the Board of Adjustment pursuant to Section [_____] of the County Zoning Code and Wis. Stat. § 59.694(7).²

Section 1.05 Prospecting Permit

****NOTE** There is no requirement that a county regulate prospecting activities. WisDNR regulates the operations associated with prospecting. However, it is recognized that prospecting is an activity that has the potential to disturb large amounts of land and, therefore, this section treats the land use activity as a conditional use.**

- (1) Permit Required. No person may commence any Prospecting except in conformance with a valid Prospecting Permit issued by the County pursuant to this Ordinance. Application for a Prospecting Permit shall be submitted to the County Zoning Administrator.
- (2) Requirements for Prospecting Permit. The County Zoning Administrator, on behalf of the County, shall grant a Prospecting Permit if the applicant demonstrates to the satisfaction of the County Zoning Administrator compliance with the following conditions: :
- (a) Compliance with all applicable County Ordinances.
 - (b) Demonstrate, to the sole satisfaction of the County, that all Applicable Laws and Regulations promulgated by any Government Body or Agency, including, but not limited to, a WisDNR permit for the same Prospecting activity, have been or will be obtained prior to commencement of any Prospecting.
 - (c) Submit a copy of all permits, approvals or waivers of permits to the County, both at the time of application for the Prospecting Permit and during the term of the Prospecting Permit.
 - (d) Compliance with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Prospecting.
 - (e) Provide proof that any financial assurances required by a Government Body or Agency, if any, have been obtained as required by any Applicable Laws and Regulations.
 - (f) Provide a Buffer Area or screening from the Prospecting sites at a minimum of _____ feet from the perimeter of the Prospecting Site.

² **NOTE TO DRAFTER:** The appeal to the Board of Adjustment should be the same process as any other appeal to the Board of Adjustment in the County's zoning code.

- (g) Conduct Prospecting only on Monday through Friday, not earlier than 6:00 a.m. and not later than 9:00 p.m., and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.
 - (h) Limit night lighting if Prospecting occurs during hours of darkness to that which is minimally necessary for security and worker safety.
 - (i) Control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners.
 - (j) Take necessary measures to control fugitive dust.
 - (k) Store all hazardous chemicals or substances related to the Prospecting in State-approved storage containers and storage areas.
 - (l) All Prospecting activities shall be conducted at least ____ feet from any right-of-way or other public way.
 - (m) Provide a reasonable surety related to the cost to construct, maintain, repair and reconstruct any public roadways, rights-of-way or other public ways that may be necessary as a result of the Prospecting activities.
 - (n) Maintain compliance with all State and federal permits related to the Prospecting, the suspension or revocation of which shall cause the automatic termination of the Prospecting Permit.
- (3) Compliance. The requirements set forth in Section 1.05(2) above and incorporated into the Prospecting Permit must be met at all times or the Prospecting Permit may be revoked or subject to enforcement, fines and penalties as provided in Section ____ (a County's general revocation provision).
- (4) Duration of Prospecting Permit. The Prospecting Permit shall be of the same duration as any Prospecting permit or license issued by WisDNR for the same Prospecting activities, so long as all the Prospecting Permit holder complies with all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements set forth by any Government Body or Agency, and suspension or revocation of the Prospecting Permit does not occur pursuant to this Ordinance.
- (5) Appeal. Any person aggrieved by a decision or determination of the County Zoning Committee may appeal the County Zoning Committee's decision or determination to the Board of Adjustment pursuant to Section [____] of the County Zoning Code and Wis. Stat. § 59.694(7).³

³ **NOTE TO DRAFTER:** The appeal to the Board of Adjustment should be the same process as any other appeal to the Board of Adjustment in the County's zoning code.

Section 1.06 Bulk Sampling Permit

****NOTE** There is no requirement that a county regulate bulk sampling activities. However, even though WisDNR regulates the operations associated with bulk sampling, WisDNR has yet to promulgate bulk sampling rules. Given the relative confinement of bulk sampling and DNR's regulation of bulk sampling, the land use activity is treated as a permitted use here, much the same as exploration. However, a county may determine that it is necessary to regulate bulk sampling as a conditional use. In such case, the bulk sampling should be treated as a conditional use in Section 1.06 and be similar to Prospecting, which is treated as a conditional use, in Section 1.05.**

- (1) Permit Required. No person may commence any Bulk Sampling except in conformance with a valid Bulk Sampling License issued by the County pursuant to this Ordinance.
- (2) Requirements for Bulk Sampling License. The County Zoning Administrator, on behalf of the County, shall grant a Bulk Sampling License if the applicant demonstrates to the satisfaction of the County Zoning Administrator compliance with the following conditions:
 - (a) Comply with all applicable County Ordinances.
 - (b) Demonstrate, to the sole satisfaction of the County, that all Applicable Laws and Regulations promulgated by any Government Body or Agency, including, but not limited to, a WisDNR permit for the same Bulk Sampling activity, have been or will be obtained prior to commencement of any Bulk Sampling.
 - (c) Submit a copy of all permits, approvals or waivers of permits to the County, both at the time of application for the Bulk Sampling License and during the term of the Bulk Sampling License.
 - (d) Comply with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Bulk Sampling.
 - (e) Provide proof that any financial assurances required by a Government Body or Agency, if any, have been obtained as required by any Applicable Laws and Regulations.
 - (f) Provide a Buffer Area or screening from the Bulk Sampling Site if the Bulk Sampling License activities would cause undue noise, dust, lighting, odors or other adverse impacts on neighboring properties.
 - (g) Conduct Bulk Sampling only on Monday through Friday, not earlier than 6:00 a.m. and not later than 9:00 p.m., and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.

- (h) Limit night lighting if Bulk Sampling occurs during hours of darkness to that which is minimally necessary for security and worker safety.
 - (i) All hazardous chemicals or substances kept on the Bulk Sampling Site and related to the Bulk Sampling shall be stored in State-approved storage containers and storage areas.
 - (j) All Bulk Sampling activities shall be conducted at least ____ feet from any right-of-way or other public way.
 - (k) Maintain compliance with all State and federal permits related to the Bulk Sampling, the suspension or revocation of which shall cause the automatic termination of the Bulk Sampling License.
- (3) Compliance. The requirements set forth in Section 1.06(2) above and incorporated into the Bulk Sampling License must be met at all times or the Bulk Sampling License may be revoked or subject to enforcement, fines and penalties as provided in Section ____ (a County's general revocation provision).
- (4) Appeal. Any person aggrieved by a decision or determination of the County Zoning Administrator may appeal the County Zoning Administrator's decision or determination to the Board of Adjustment pursuant to Section [____] of the County Zoning Code and Wis. Stat. § 59.694(7).⁴
- (5) Duration of Bulk Sampling License. The Bulk Sampling License shall be of the same duration as any Bulk Sampling Permit or license issued by WisDNR so long as all the Bulk Sampling License holder complies with all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements set forth by any Government Body or Agency, and suspension or revocation of the Bulk Sampling License does not occur pursuant to this Ordinance.

Section 1.07 Mining Permit Required

- (1) Mining Permit Requirement. No person may commence construction of a Mining Site or engage in any Mining Operations in the County except in conformance with a valid Mining Permit issued by the County pursuant to this Ordinance. A Mining Permit shall be issued as a result of a Conditional Use Permit approved pursuant to Section 1.14 or as a result of the approval and adoption of a Local Agreement pursuant to Section 1.15.
- (2) Duration of Mining Permit. The Mining Permit shall last through all Mining Operations and reclamation of the Mining Site so long as the Operator complies with all provisions of this Ordinance, any condition imposed by a Conditional Use Permit/Mining Permit, the terms of a Local Agreement in a Local Agreement/Mining Permit, all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements

⁴ **NOTE TO DRAFTER:** The appeal to the Board of Adjustment should be the same process as any other appeal to the Board of Adjustment in the County's zoning code.

set forth by any Government Body or Agency, and suspension or revocation of the Mining Permit does not occur pursuant to this Ordinance.

Section 1.08 Local Committee

- (1) Formation. A Local Committee may be formed or convened pursuant to Wis. Stat. § 293.33.
- (2) Powers of a Local Committee. A Local Committee may:
 - (a) Facilitate communications between an Applicant, Operators and the County.
 - (b) Analyze implications of the Mining Operations.
 - (c) Review and comment on reclamation plans.
 - (d) Develop solutions to growth-induced issues caused by Mining Operations.
 - (e) Take other steps permitted by the County Zoning Committee.
 - (f) Take any other steps permitted to Wis. Stat. § 293.33.
- (3) Parties Included in a Local Committee. The County Zoning Committee shall determine the size of the Local Committee and the parties that make up the Local Committee, which may include:
 - (a) Representatives of any town, village, city or tribal government representative that may be affected by the Mining Operations.
 - (b) Representatives of other industries or affected units of government that may be affected by Mining Operations, such as school districts, police/fire emergency responders, business and industry, economic development, and environmental and other interest groups or other interested parties.
 - (c) Other interested persons, including, without limitation, a representative of the Applicant and the Operator, which may be the same person if the Applicant shall be the Operator pursuant to the Mining Permit.
- (4) Parties Required in a Local Committee. The following parties shall be included in a Local Committee:
 - (a) At least one representative of the County Zoning Committee.
 - (b) At least one member of the County Board.
 - (c) The County Zoning Administrator or his or her designee.

- (5) Local Committee Findings and Recommendations. A Local Committee's findings, recommendations or reports shall not be binding upon the County Zoning Committee in negotiating a Local Agreement, nor upon the County Board when reviewing and deciding upon an Application for Local Agreement/Mining Permit.

Section 1.09 Local Agreement

- (1) Local Agreement as Mining Permit. A Local Agreement may be used as the basis to obtain a Mining Permit and shall be approved pursuant the terms of Wis. Stat. § 293.41 and as set forth in Section 1.15.
- (2) Required Information. A Local Agreement shall include the following information pursuant to Wis. Stat. § 293.41(2):
- (a) A legal description of the land subject to the Local Agreement and the names of its legal and equitable owners.
 - (b) The duration of the Local Agreement.
 - (c) The uses permitted on the Mining Site.
 - (d) A description of any conditions, terms, restrictions or other requirements determined to be necessary by the County or by any town, village, city or tribal government for the public health, safety and welfare of its residents.
 - (e) A description of any obligation undertaken by the County, or by any town, village, city or tribal government to enable the development to proceed.
 - (f) The applicability or nonapplicability of any County, town, village, city or tribal government ordinances, approvals or resolutions.
 - (g) A provision for the amendment of the Local Agreement.
 - (h) Other provisions deemed reasonable and necessary by the parties to the Local Agreement.
 - (i) Any other terms set forth in this Ordinance that require inclusion in the Local Agreement, including the terms set forth in Section 1.15(5).
- (3) Modification of Zoning Requirements. Except for the requirements set forth in Sections 1.09(2), 1.15(5) and 1.19(6)(b), a Local Agreement may modify, waive or alter the provisions of this Ordinance and any other County regulations. Any Local Agreement/Mining Permit shall address the subjects of Sections 1.16, 1.17 and 1.19; provided, however, the terms set forth in these Sections may be amended in a Local Agreement/Mining Permit if agreed to by the parties to the Local Agreement. In the event the terms of this Ordinance require specific votes or actions for such waiver, or amendment, waiver or amendment cannot occur absent such votes or specific action.

- (4) Application. An Applicant desiring to obtain a Local Agreement/Mining Permit shall follow the application requirements in Section 1.11 and Section 1.12.
- (5) Negotiation. The County Zoning Committee shall be the designated body to negotiate a Local Agreement on behalf of the County. The County Zoning Committee may consider input from any Local Committee convened pursuant to Wis. Stat. § 293.33 and Section 1.08; however, the County Zoning Committee shall not be bound by any recommendations of the Local Committee or other local units of government when negotiating a Local Agreement.
- (6) Effective Date. A Local Agreement/Mining Permit may not take effect until approved by the County Board as required in Wis. Stat. § 293.41(4) and Section 1.15.
- (7) Review and Decision Process. An Application for a Local Agreement/Mining Permit shall follow the process set forth in Section 1.15.
- (8) Suspension or Revocation. A Local Agreement/Mining Permit may be suspended or revoked as provided in the Local Agreement/Mining Permit.

Section 1.10 Conditional Use Permit

- (1) Conditional Use Permit as Mining Permit. A Conditional Use Permit may be used as the basis to obtain a Mining Permit and shall be approved pursuant the terms set forth in Section 1.14.
- (2) Application. An Applicant desiring to obtain a Conditional Use Permit/Mining Permit shall follow the Application requirements in Section 1.11 and Section 1.12.
- (3) Review and Decision Process. A Conditional Use Permit/Mining Permit Application shall follow the review and decision process set forth in Section 1.14.
- (4) Suspension or Revocation. A Conditional Use Permit/Mining Permit may be suspended or revoked as provided in the Conditional Use Permit/Mining Permit and pursuant to Section 1.19.
- (5) Requirements in a Conditional Use Permit: A Conditional Use Permit shall include the information required in Section 1.14.
- (6) Conditions. A Conditional Use Permit may contain any terms and conditions that the County Zoning Committee deems reasonably necessary, and as described in Section 1.14(5), in light of the Mining Operations and that are:
 - (a) Within the jurisdiction of the County;
 - (b) Not arbitrary or unreasonable;
 - (c) Have a substantial relation to public health, safety, convenience and/or general welfare;

- (d) Supported by substantial evidence; and
- (e) To the extent practicable, are measurable.

Section 1.11 Procedures For Applying For a Mining Permit

- (1) Application. An Application for a County of _____ Mining Permit shall be filed with the County Zoning Administrator and shall include an electronic copy and ____ paper copies of the Application, including the required components set forth in this Section 1.11 and Section 1.12. The Application shall not be deemed complete until the Applicant has submitted, and the Zoning Administrator has accepted, all required portions of the Application as set forth in this Section 1.11 and Section 1.12, and as otherwise reasonably required by the County.
- (2) Statement of Application for Conditional Use Permit/Mining Permit or Local Agreement/Mining Permit. The Application shall specifically state whether the Applicant seeks a Mining Permit by virtue of approval as a Conditional Use Permit pursuant to Section 1.14 of this Ordinance, or by virtue of approval of a Local Agreement pursuant to Section 1.15.
- (3) Review and Determination. If the Applicant seeks a Conditional Use Permit, review and decision on the Application shall occur pursuant to Section 1.14. If the Applicant seeks a Local Agreement, review and decision shall occur pursuant to Section 1.15.

Section 1.12 Mining Permit Application Requirements

- (1) General Requirements.
 - (a) Any Applicant for a Mining Permit shall submit the information and Application fee required by this Section 1.12 and the fees required in Section 1.13 in order for the County to properly review the Application.
 - (b) The Applicant may provide the required Application information by reference to other documents submitted to another Government Body or Agency, including any information or documents submitted to a Local Committee as permitted pursuant to Wis. Stat. § 293.33. In cases of documentation by reference, the Applicant shall provide a copy of the referenced document and a specific cross-reference identifying where the information required by this Section 1.12 is located in any referenced material.
 - (c) A non-refundable Application fee in the amount of \$1,000.00 for costs and expenses to commence the Application review process.
 - (d) A Reimbursement Agreement and deposit, as described in Section 1.13.
 - (e) If known at the time of Application, any applicable fees and any additional information that is provided to assist the Retained Experts with reviewing the Application on the County's behalf.

- (f) The Application shall contain a statement, signed and notarized by the Applicant that includes all of the following:
1. That the Applicant is duly authorized to bind itself, any Operator, and any Permittee to the conditions and provisions set forth in this Ordinance and in any Mining Permit issued for the Mining Operations contemplated in the Application.
 2. That all statements, representations, documents and information which are set forth in or accompany the Application are true, correct, accurate and complete.
 3. That the Applicant, Operator and Permittee, while engaged in metallic mining activities and in reclamation activities, agree to abide by all of the provisions and requirements of its Mining Permit, this Ordinance, and all other Applicable Laws and Regulations.
 4. That the Applicant's representations and statements made in the Application shall continue to exist and survive after a Mining Permit is issued to the Applicant by the County, and that the Applicant is duly authorized to bind itself, any Operator, and any Permittee for future compliance with the terms of the Mining Permit.
 5. That the Applicant grants permission and consent to the County, its officers, employees, agents, consultants, contractors and representatives to enter the real property subject to the Application and the anticipated Mining Site for purposes of inspecting, measuring, observing and any other verification that the information contained in the Application is true and correct.

(2) Ownership Information and Operator Information.

- (a) The name, address, phone number, and email address of the Applicant.
- (b) The name, address, phone number and email address of the Operator.
- (c) The name, address, phone number, and email address of all owners or lessors of the land on which the Mining Operation will occur.
- (d) If the Applicant is not an individual but is a corporation, partnership, limited partnership, limited liability company or other entity:
 1. The name and address of each director, partner or member of the Applicant.
 2. The name, address and position held by each officer or member of the Applicant.

3. A list of the Applicant's, or any Affiliate of the Applicant, experience in mine projects, a list of current mine projects and the status of compliance at each project site.
- (e) Proof that all local taxes, special charges, special assessments, fees, and forfeitures (and any interest or penalties thereon) owed by the landowner and/or Operator of the proposed Mining Site are current.
 - (f) If the Operator is not an individual but is a corporation, partnership, limited partnership, limited liability company or other entity:
 1. The name and address of each director, partner, or member of the Operator.
 2. The name and address and position held by each officer or member of the Operator.
 3. A list of the Operator's, or any Affiliate of the Operator, experience in mine projects, a list of current mine projects and the status of compliance at each project site.
- (3) Site Information and Maps.
- (a) As to each parcel of real estate which is to be a part of the proposed Mining Site and included in the use of any Mining Operation:
 1. The legal description of the parcel.
 2. The name, address and telephone number of each owner of an interest in the parcel along with a statement of the interest in that parcel held by that owner.
 3. The tax parcel identification number of the parcel.
 4. A statement as to what structures, improvements and roadways will be situated on such parcel.
 5. How such parcel will be used as part of the Mining Operation.
 6. If the parcel is subject to a lease, the parties to such lease should be identified and a summary of its terms should be stated.
 - (b) Approximate dates that Mine construction or other preliminary work on the Mining Site is expected to begin, when Mining Operations will commence, and when Mining Operations are anticipated to end.
 - (c) The Applicant's best estimate and explanation of the life expectancy of the Mine.

- (d) A list of all minerals and materials to be extracted from the Mining Site. This should include, but not be limited to, amounts of non-metallic and metallic materials to be extracted.
 - (e) Survey maps and parcel identification numbers of all contiguous parcels owned by the same landowner/lessor on which the Mining Operation will be located and any additional contiguous parcels on which the landowner/lessor has secured a right of first refusal.
 - (f) An aerial photo of the proposed site at a scale of not less than 1 inch equals 660 feet.
 - (g) A topographic map of the Mining Site extending one mile beyond the Mining Site boundaries at contour intervals no wider than 10 feet showing the boundaries of the Mining Site, the location and total acreage of the Mining Site, and the name of all roads within one mile of the Mining Site.
 - (h) A site plan for the Mining Site showing the location of all existing and proposed buildings and other structures, equipment, stockpiles, storage and parking areas, road access points, driveways, and Buffer Areas along bordering properties and public roads.
 - (i) A plan for staking or marking the borders of the entire Mining Site and for securing the Mining Site by appropriate measures, which may include fencing or alternative measures consistent with Mine safety and security and in accordance with all Applicable Laws and Regulations.
 - (j) A map on which all residential, agricultural and municipal wells within one mile of the boundaries of the Mining Site in all directions are marked and given a numerical identification of the location.
 - (k) The location and name of all surface waters, including, but not limited to, lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns, and other water features on the site and within one mile of the Mining Site.
 - (l) A description of the distribution, depth and type of topsoil for the Mining Site. The description shall include the geological composition, depth and width of the metallic deposit, and the location of slopes greater than 20% and highly erodible soils.
 - (m) A map identifying the location of all other non-contiguous sites within the County or adjacent towns, cities, or villages, if any, that will contribute material to the Mining Operation.
- (4) Operation Plan. The Application shall include a written narrative description of the Mining Operation in sufficient detail to allow the County and the public to understand

and assess the size and scope of the proposed Mining Operation and potential impacts of the Mining Operation on public health, safety, convenience and general well-being within the County. The operation plan is intended to provide the information necessary to determine what information and conditions shall be set forth in the Mining Permit. Each part of the operation plan shall be prepared and verified by an appropriate professional expert in the field described in the operation plan. The operation plan shall include a description of all significant aspects of the proposed Mining Operation, including, but not limited to, the following:

- (a) A summary of planned facilities for excavating, extracting, mining, milling, ore-processing, transportation, tailings disposal, other waste disposal, sedimentation, settling, retention and detention ponds, office buildings and other structures, roads, railroad lines and utilities and the proposed location of each.
- (b) Maps showing the maximum lateral extent and minimum and maximum depth of underground or open pit workings and the location of primary shafts, tunnels and other primary underground workings. Any map submitted to satisfy this requirement shall be updated on an annual basis.
- (c) An estimate of the maximum number of people directly employed at the mine site during each phase and an estimated breakdown by job classification of all such employees, where such employees will park their vehicles, eat, and what facilities are available for their use.
- (d) Types of Mining equipment to be used.
- (e) Plans for visual screening of mining activities around the perimeter of the Mining Site and on the sides of any public highway.
- (f) Plans for lighting on site and measures to limit light pollution, including a description and analysis of the ambient noise audible in half-mile increments within a five-mile radius of the proposed Mining Site.
- (g) Radiation levels anticipated in waste rock.
- (h) A plan describing the methods for preventing access to all underground Mine workings after Mine closure.
- (i) Dates of the planned commencement and cessation of the Mining Operation.
- (j) Description of hours of any Mining Operation on any portion of the Mining Site, including all times when any vehicles will enter or leave any portion of the Mine Site.
- (k) Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.

- (l) Estimated volume of material to be extracted over the life of the Mine and for the next calendar year.
- (m) Identification of all proposed off-site trucking routes, if any, together with the frequency of traffic and the common schedule of travel to be used for transporting extracted materials or products to or from the Mining Site; a description of the types of vehicles to be used on County roads and their respective weights, lengths, widths, axle numbers and spacing, and ESAL ratings both when empty and legally loaded; an assessment, which shall include core sampling, of the adequacy of roads within proposed off-site trucking routes and a description of any proposed alterations or improvements to such roads; and a description of any traffic control or other measures needed to protect public safety.
- (n) A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the Mining Site, including, but not limited to, methods used for infiltration and control of run-off.
- (o) A listing of any hazardous materials, including, but not limited to, stored or operational fuel supplies that will be used or located on the Mining Site and a description of measures to be used for securing and storing these materials. The operation plan shall also include a written plan for the use of any hazardous materials at the Mining Site and procedures for responding to spills of these materials and fuels on the Mining Site and the frequency of regular drills for responding to spills on the Mining Site.
- (p) An erosion control plan, which shall describe what the Operator will do to prevent material from the Mining Site from eroding, migrating or moving onto neighboring properties or into other areas off the Mining Site.
- (q) A plan to control particles, which shall describe what the Operator will do to prevent/limit/minimize the volume of particles entering onto neighboring properties from the Mining Site and from vehicles and equipment engaged in the Mining Operation.
- (r) A noise plan, which shall describe what the Operator will do to keep the noise from Mining Operations below the decibel limits set forth in Section 1.16(6).
- (s) A blasting plan, which shall describe under what circumstances blasting will be used, what type and volume of explosives which will be used, with what frequency blasting will occur, between what hours blasting will occur, and what steps the Operator will undertake to minimize the effects of the noise and vibration from blasting on neighboring properties and the public.
- (t) A tailings and waste products plan, which shall set forth what projected volume of tailings or other waste products or materials will be generated each year, an indication of on what parcels of land such tailings and waste materials will be situated, how the tailings and waste products will be moved, and what steps the

Operator will undertake to minimize the amount of particulate matter entering on neighboring properties or other areas outside of the Mining Site. This plan shall address specifically what the Operator will do if the Mining Operations encounter radioactive materials, radon, or other hazardous substances or materials.

- (u) A utilities plan, which shall describe the public utility and public service requirements for the Mining Operation and describe the manner in which all utility services will be provided at the Mining Site and the potential system upgrades which the Mining Operation may require.
- (v) A roadway and traffic analysis of all reasonably foreseeable roadway needs arising in the County due to the Mining Operations and reasonably foreseeable secondary impacts of the Mining Operation which may result in the demand for additional roadway improvements. With respect to roads in the County, the analysis shall identify and describe the anticipated needs for roadway modifications resulting from the likely mine-related traffic impacts, including both primary and secondary impacts, and shall fully describe the existing reasonably foreseeable mine-related changes to traffic patterns, traffic volume, the class of roadways associated with those patterns, and any load-related needs and restrictions. Such analysis shall set forth in detail exactly what the Operator will do in the event of any damage or destruction to public roads, highways and bridges, or other infrastructure, as well as private roads, bridges and infrastructure, resulting from Mining Operations or activities affiliated with the Mining Operations, whether conducted on the Mining Site or off the Mining Site.
- (w) A fencing plan with a diagram depicting and describing where perimeter fencing will be installed and maintained to prevent injury to persons and animals from entry onto the Mining Site.
- (x) A County impact summary report, which shall include a thorough narrative description of the Mining Operations in sufficient detail to allow the County to assess probable physical, environmental and developmental impacts of the proposed Mining Operations, and assess and summarize the potential and estimated impacts on the human health, safety and welfare of residents of the County, based on the potential environmental, socioeconomic and other impacts of the proposed Mining Operation. The report shall include, but shall not be limited to, the likely and potential impacts of the proposed Mining Operations with respect to each of the following baselines:
 1. A life-of-mine analysis of impacts upon social and environmental baseline parameters through completion of reclamation, including any impact market conditions may have on Mining Operations.
 2. A traffic impact analysis that discusses all reasonably foreseeable roadway construction and maintenance needs arising in the County from the proposed Mining Operation and reasonably foreseeable secondary impacts of the Mining Operation that may result in the demand for additional

roadway or other infrastructure improvements, repairs or additional maintenance needed as a result of the Mining Operations, including a description of the anticipated needs for roadway modifications resulting from the Mining Operations, both primary and secondary, and shall fully describe the existing reasonably foreseeable changes to traffic patterns, traffic volume, the class of roadways associated with those patterns, and any load-related needs and restrictions.

3. The impacts of Mining Operations on employment, economic activity and tax base within the County.
 4. The impacts of Mining Operations on the County's population and housing stock, including the availability of such housing stock.
 5. The impacts of the Mining Operations on the need for additional government services, including, but not limited to, infrastructure, utilities, schools, fire protection, emergency medical services, and police.
 6. The expected changes in land use within the County, including the percentage of lands devoted to each use currently and in the future environmental impacts resulting from Mining Operations.
 7. A description of the current environmental characteristics of the Mining Site, including wildlife, vegetation and physical parameters of groundwater quality and quantity, and surface water quality and quantity, including wetlands as compared to the same environmental characteristics after the Mining Operations commence.
 8. A description of the topographical and aesthetic features of the proposed Mining Site, including other geographical vegetative conditions.
 9. A description of the cultural features of the proposed Mining Site, including, but not limited to, an inventory and analysis of all historical and cultural sites and landmarks.
- (y) Copies of other submittal or application documents for the Mining Operation to any other Government Body or Agency.
- (z) Copies of Approvals from any Government Body or Agency for the Mining Operation.
- (aa) Any other information deemed necessary by the County in order for the County to make an informed and educated decision on the Application and to determine any appropriate conditions or terms to be set forth in the Mining Permit.

Section 1.13 Reimbursement Agreement, Administration Deposit, Fees and Costs

- (a) This Section 1.13 is not intended to generate excess revenues for the County's use for purposes not related to an Application or any Mining Operation, but the County, and hence its taxpayers, shall not be required to bear the financial burden and obligations associated with the costs and expenses the County incurs in connection with an Application or any Mining Operations. To that end, this Section 1.13 provides that the Applicant shall be responsible for reimbursement of the costs and expenses incurred by the County in connection with the Application.
- (b) At the time an Application is filed with the County Zoning Administrator, the Applicant shall execute for the benefit of the County a Reimbursement Agreement, which shall set forth the Applicant's agreement to pay and provide adequate security guaranteeing payment of the cost of the investigation, review and processing of the Application, including, but not limited to, Retained Expert fees, administrative costs, expenses of disseminating information to the public, expenses incurred to conduct required public hearings, and other matters compelled by the need to review and respond to the Application as provided by this Ordinance. The Reimbursement Agreement shall also detail the Operator and Permittee's ongoing obligation and responsibility for payment of any costs and expenses incurred by the County in connection with the Mining Permit, including, but not limited to, costs of Retained Experts to ensure ongoing compliance with the Mining Permit.
- (c) The Applicant shall initially deposit \$ _____ with the County to be deposited in an administrative fee account for Application and proposed Mining Operations so such funds are available to be withdrawn by the County and used to reimburse the County for the costs and expenses the County incurs in connection with Application review and Mining Operations. If the initial deposit of \$ _____ falls below \$ _____, the County will notify the Applicant or Operator and the Applicant or Operator will make an additional deposit into such administrative fee account within 15 days of receipt of such notice so that the remaining balance in the administrative fee account never remains below \$ _____ for more than 15 days.
- (d) The Applicant shall be responsible for all costs and expenses incurred by the County as a result of the Application and request for a Mining Permit, whether such costs and expenses are incurred before or after the actual Application filing. Actual costs may include, but are not limited to, Retained Expert Fees, County staff time, travel expenses, professional fees, review fees, and equipment and material costs. Such costs shall not exceed those which are reasonably charged for the same or similar services by licensed professionals of the type retained.
- (e) The County shall use standard cost and time accounting practices to document its time and expenses in performing any work and purchasing any equipment and services that will be billed to the Applicant. The Applicant may review the

accounting records upon written request at least 24 hours in advance to the County Zoning Administrator or its designee.

- (f) Costs and expenses under this Section 1.13 may be billed to the Applicant for reimbursement to the County on a quarterly basis and shall be deducted from the initial deposit amount or paid within 30 days of such billing. Should the initial deposit fail to cover any costs and expenses, and the Applicant fails or refuses to pay costs within 30 days upon request or demand from the County, the County may stop processing the Application and deny any Mining Permit that has not been issued. A Mining Permit shall not be issued until any fees or actual costs incurred by the County prior to issuance have been paid in full.
- (g) If an Applicant withdraws its Application at any time after the Application is submitted to the County, all fees and charges assessed for work to that point in time by the County shall be paid by the Applicant. Any balance remaining of the deposit, after the payment of all fees and charges incurred by the County, shall be refunded to the Applicant.

Section 1.14 Review Process for Conditional Use Permit/Mining Permit Applications

- (1) Application for Conditional Use Permit/Mining Permit. The process set forth in this Section 1.14 shall apply to an Application that requests the grant of a Conditional Use Permit/Mining Permit.
- (2) Initial Review. Upon receipt of a Conditional Use Permit/Mining Permit Application, the County Zoning Administrator shall complete an initial review to determine if additional information or expertise is necessary to properly evaluate the Application. The County Zoning Administrator's acceptance of an Application does not render the Application complete. The County Zoning Administrator may retain the services of Retained Experts to assist in determining whether the Application is complete and complies with the requirements of this Ordinance and other applicable County regulations and all other Applicable Laws and Regulations, as applicable and as determined by appropriate State and federal authorities on matters relating to State and federal law and regulation.
- (3) Notice of Receipt. Within 30 days of receipt of the complete Application, the County Clerk shall also publish or post a class 2 notice under Wis. Stat. Chapter 985 indicating that the Application has been filed and transmitted to the County Zoning Committee. A copy of the Application shall be made available for public review.
- (4) Additional Information. The County Zoning Committee may request the Applicant to submit additional information if the County Zoning Committee determines that the Application is incomplete, or if the County Zoning Committee determines that additional information is needed to determine whether the proposed Mining Operation will meet the applicable standards. The County Zoning Committee may also retain the services of Retained Experts to review the Application and report to the County Zoning Committee whether additional information is required for review of the Application and to determine whether the proposed Mining Operations meet the applicable standards. The County

Zoning Committee shall make a determination regarding the need for additional information or expertise within 90 days after receiving the Application, which time period may be extended for a period of time up to an additional 90 days in the County Zoning Committee's sole and absolute discretion. If the County Zoning Committee determines that no additional information or expertise is necessary, the Application shall be deemed complete.

- (5) Conditions. The County Zoning Committee may place conditions of approval upon the Conditional Use Permit/Mining Permit based on the following considerations or addressing the following concerns:
- (a) Any minimum operational standards for the Mining Operations, as set forth in Section 1.16.
 - (b) Any reporting requirements, as set forth in Section 1.17.
 - (c) Any change in operation requirements, as set forth in Section 1.18.
 - (d) Any notification requirements regarding other Government Body or Agency reports, conditions, approvals or actions.
 - (e) Any notification requirements regarding notices or violations issued by any other Government Body or Agency.
 - (f) Reimbursement of County expenses.
 - (g) Duration or phasing of the Conditional Use Permit/Mining Permit.
 - (h) Any conditions to address concerns of adverse effects of the Mining Operations as set forth in Section 1.02(1)(c).
 - (i) Any conditions, requirements or restrictions related to employment and economic improvement as a result of the Mining Operations.
 - (j) Any other conditions that the County Zoning Committee may deem reasonable and necessary and that are:
 - 1. Within the jurisdiction of the County;
 - 2. Not arbitrary or unreasonable;
 - 3. Have a substantial relation to public health, safety, convenience and/or general welfare;
 - 4. Supported by substantial evidence; and
 - 5. To the extent practicable, are measurable.

- (6) Retained Expert Findings. To the extent practical and within the area of expertise of a Retained Expert, a Retained Expert shall provide a written verification that any conditions imposed by the County Zoning Committee are related to the purpose of this Ordinance and are based upon facts and information that would support the imposition of the condition.
- (7) Public Hearing and Determination by County Zoning Committee. Within 120 days of receipt of the complete Application, the County Zoning Committee shall hold a public hearing on the Application following a class 2 notice under Wis. Stat. Chapter 985. Within 180 days of receipt of the complete Application, and any additional information requested by the County Zoning Committee, and following the public hearing (which may be adjourned from time to time in the County Zoning Committee's sole and absolute discretion) the County Zoning Committee shall make findings of fact and determination of whether to grant the Application's request for a Conditional Use Permit/Mining Permit, or deny the Application's request for a Conditional Use Permit/Mining Permit.
- (8) Approval and Issuance of Mining Permit. Upon the County Zoning Committee's approval of the Application's request for a Conditional Use Permit/Mining Permit, the approved Conditional Use Permit shall be deemed the Mining Permit.
- (9) Remedies on Denial. If the County Zoning Committee denies the Conditional Use Permit/Mining Permit request, an Applicant may exercise any remedies available under the County's ordinances or at law, including, but not limited to, an appeal to the County's board of adjustment pursuant to Wis. Stat. § 59.694(4). The County's board of adjustment shall apply the common law certiorari standard of review in rendering its decision and may elect to accept additional evidence, within the board of adjustment's discretion. In addition, the Applicant may re-submit its Application in accordance with this Ordinance, and re-submittal shall constitute an Application in conformance with all provisions of this Ordinance, provided that any differences between the original Application and the new Application shall be summarized by the Applicant in a document entitled "Explanation of Reasons for Re-Submittal." An Application received by re-submittal may be denied for any reason that any original Application may be denied.

Section 1.15 Review and Approval Process for Local Agreement/Mining Permit

- (1) Application for Mining Permit by Local Agreement. The process set forth in this Section 1.15 shall apply to an Application that requests the grant of a Mining Permit by virtue of the County Board's approving and adopting a Local Agreement pursuant to Wis. Stat. § 293.41.
- (2) Initial Review. Upon receipt of an Application for Local Agreement/Mining Permit, the County Zoning Administrator shall complete an initial review to determine if additional information or expertise is necessary to properly evaluate the Application. The County Zoning Administrator's acceptance of an Application does not render the Application complete. The County Zoning Administrator may retain the services of Retained Experts

to assist in determining whether the Application is complete and complies with the requirements of this Ordinance and other applicable County regulations.

- (3) Notice of Receipt. Within 30 days of receipt of the complete Application, the County Clerk shall also publish or post a class 2 notice under Wis. Stat. Chapter 985 indicating that the Application has been filed and transmitted to the County Zoning Committee. A copy of the Application shall be made available for public review.
- (4) Additional Information. The County Zoning Committee may request the Applicant submit additional information if the County Zoning Committee determines that the Application is incomplete, or if the County Zoning Committee determines that additional information is needed to determine whether the proposed Mining Operation will meet the applicable standards. The County Zoning Committee may also retain the services of Retained Experts to review the Application and report to the County Zoning Committee whether additional information is required for review of the Application and to determine whether the proposed Mining Operations meet the applicable standards. The County Zoning Committee shall make a determination regarding the need for additional information or expertise within 90 days after receiving the Application. If no additional information or expertise is deemed necessary, the Application shall be deemed complete. The County Zoning Committee is designated as the sole and exclusive agent of the County Board in relation to the negotiation of a Local Agreement. When an Application is deemed complete, the County Zoning Committee shall establish dates and locations for meetings to negotiate a Local Agreement.
- (5) Requirements in a Local Agreement. A Local Agreement shall include the following information and terms:
 - (a) The requirements set forth in Wis. Stat. § 293.41(2) and in Sections 1.09(2), 1.09(3) and 1.19(6)(b).
 - (b) Minimum operation standards such as those set forth in Section 1.16.
 - (c) Reporting requirements such as those set forth in Section 1.17.
 - (d) Change in operation requirements such as those set forth in Section 1.18.
 - (e) Inspection, enforcement, procedures and penalties such as those set forth in Section 1.19, including a forfeiture schedule. The County Board may delegate its enforcement powers under the Local Agreement to the County Zoning Committee. Section 1.19(6)(b) may not be modified in a Local Agreement/Mining Permit.
 - (f) The process of reimbursement of County expenses.
 - (g) Other consideration for impacts of a Mining Operation paid to the County or other units of government.

- (6) Optional Contents of Local Agreement. The County Zoning Committee may consider the specific provisions in the Local Agreement related to the following, without limitation:
- (a) Any conditions, requirements or restrictions needed to adequately address concerns of adverse effects of the Mining Operations as set forth in Section 1.02(1)(c).
 - (b) Any conditions, requirements or restrictions related to employment and economic improvement as a result of the Mining Operations.
 - (c) Any notification requirements regarding other Government Body or Agency reports, conditions, approvals or actions.
 - (d) Any notification requirements regarding notices or violations issued by any other Government Body or Agency.
 - (e) Requirements to minimize the impact of Mining Operations on roads, bridges or other transportation infrastructure.
 - (f) Reimbursement of County expenses.
 - (g) Duration or phasing of the Local Agreement/Mining Permit.
 - (h) Any recommendations or information provided by the Local Committee, other Government Body or Agency, or relating to other Applicable Laws and Regulations.
 - (i) Any other conditions that the County Zoning Committee may deem reasonable and necessary.
- (7) Modification of Zoning Ordinance Requirements. Except for the requirements set forth in Sections 1.09(2), 1.09(3), and 1.19(6)(b), a Local Agreement may modify, waive or alter the provisions of this Ordinance and any other County regulations; provided, however, that if the terms of this Ordinance require specific votes or specific action for such waiver, waiver cannot occur absent such votes or specific action.
- (8) Recommendation to the County Board. Upon completion of negotiations, the County Zoning Committee shall either recommend that the County Board grant the Application's request for approval of the Local Agreement/Mining Permit, or recommend that the County Board deny the Application's request for approval of the Local Agreement/Mining Permit. The County Zoning Committee's recommendation shall not be binding upon the County Board.
- (9) Decision by the County Board.
- (a) Notice and Hearing. Upon recommendation by the County Zoning Committee, the County Clerk shall place the County Zoning Committee's recommendation on

the agenda for the next regular meeting of the County Board. At that meeting, the County Board shall set a date for a public hearing. At least 15 days prior to the public hearing, the County Clerk shall publish or post a class 2 notice under Wis. Stat. Chapter 985. At the public hearing, the County Board shall take public comment on the Application and proposed Local Agreement/Mining Permit.

- (b) County Board Decision. Within 30 days following the public hearing, the County Chairperson shall set a date for a County Board meeting to consider a final decision on the Application and Local Agreement/Mining Permit. At that meeting, the County Board shall review the complete Application, any Local Committee reports or information, any reports or information from other units of government or parties that participated in the Local Committee or may be party to the Local Agreement, any Retained Experts' reports, public comments made and information provided at the public hearing, and any other information deemed necessary by the County Board. Consideration of the Local Agreement/Mining Permit may be adjourned from time to time as the County Board may determine in its sole and absolute discretion.
- (c) Approval and Issuance of Mining Permit. Upon the County Board's approval of the Application for Local Agreement/Mining Permit and adoption of the Local Agreement, the Local Agreement shall be deemed the Mining Permit.
- (d) Effective Date. A Local Agreement/Mining Permit shall be effective after all of the County Board, and the governing body of any other county, town, village, city or tribal government which is identified as a party to the Local Agreement approve the Agreement in a public meeting.
- (e) Remedies on Denial. If the County Board fails to approve the Local Agreement/Mining Permit, an Applicant may re-submit its Application in accordance with this Ordinance, and re-submittal shall constitute an Application in conformance with all provisions of this Ordinance, provided that any differences between the original Application and the new Application shall be summarized by the Applicant in a document entitled "Explanation of Reasons for Re-Submittal." An Application received by re-submittal may be denied for any reason that any original Application may be denied.
- (f) Recording. Upon approval of a Local Agreement/Mining Permit, the County Clerk shall record a copy of the Local Agreement/Mining Permit against any parcel of real property upon which the Mining Site sits or is used as part of the Mining Operation. The Applicant shall secure all required approvals and permissions to record the Local Agreement/Mining Permit from the necessary property owners in order to comply with this Section 1.15(9)(f).

Section 1.16 Minimum Operational Standards Applicable to All Mining Permits

- (1) The standards set forth in this Section 1.16 shall be considered as conditions in a Conditional Use Permit/Mining Permit or as the foundation of negotiations in developing the terms of a Local Agreement/Mining Permit.
- (2) General Standards.
 - (a) The borders of the entire Mining Site will be appropriately staked or marked, and the Mining Site will be secured by appropriate measures which may include fencing or other alternative measures consistent with mine safety and security as set forth by any Government Body or Agency.
 - (b) The Operator shall demonstrate to the satisfaction of the County that all other Applicable Laws and Regulations of any Government Body or Agency required for the Mining Operation have been or will be obtained prior to commencement of any Mining Operation. The Applicant shall also deliver copies of any applications, notices, reports, approvals or waivers from any Government Body or Agency regarding the Mining Operations' compliance with Applicable Laws and Regulations prior to commencing any Mining Operations.
 - (c) The Operator shall provide proof that it has provided the financial assurances as required under Wis. Stat. Chapter 293 or any other Applicable Laws and Regulations.
 - (d) The Operator shall agree to comply with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Mining Operations.
- (3) Buffer Areas. The Operator shall provide a Buffer Area from the boundaries of the Mining Site to protect bordering properties from noise, dust, lighting, odors, blasting and other adverse impacts of the Mining Operation along bordering property lines and public roadways.
 - (a) The Buffer Area shall provide a setback of one-quarter mile from the Mining Site to the property line of an adjacent property owner unless the landowner consents to a lesser distance, but not less than 50 feet. If consent is provided for a lesser distance, a copy of such consent agreement shall be recorded against the property at the register of deeds office for the county in which the land is located and a copy of the agreement shall be provided to the County Clerk.
 - (b) The Buffer Area shall provide a setback of one-half mile from the Mining Site to any school, medical facility, nursing home, or community based residential facility.
 - (c) The Operator shall screen the Mining Operations from public view to the maximum extent practicable. Screening may be achieved through the use of

berms, additional setbacks or other measures deemed adequate by the County Zoning Committee and the County Board.

- (4) Hours of Operation. The Operator shall limit normal hours of operations at the Mining Site to 12 hours a day Monday through Friday not earlier than 6:00 a.m. and not later than 9:00 p.m. and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.⁵ Operations on-site shall not occur on Sundays or legal holidays.
- (5) Control of Light. The Operator shall limit night lighting on a Mining Site to that which is minimally necessary for security and worker safety. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties. At a minimum such measures shall include the following:
 - (a) The use of full cutoff shrouds on all lights.
 - (b) Portable lighting shall be used only as necessary to illuminate temporary work areas.
 - (c) The use of berms of sufficient height coupled with other methods of visual screening to block light from the Mining Site to neighboring properties.
 - (d) The design and location of access roads, driveways and other access points to the Mining Site to minimize lights from traffic and operations to neighboring properties.
- (6) Control of Noise.
 - (a) The Operator shall control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 65 dB. The noise levels at the boundaries of any school, medical facility, nursing home, or community based residential facility shall not exceed 60 dB. Decibels shall be based on dB(A), which is the unit of sound level expressed in decibels (dB) and A-weighted as described in ANSI § 1.4-1983 and shall be measured in accordance with accepted protocols.⁶

⁵ If a County decides to allow operation during overnight hours pursuant to a local agreement, it should consider requiring the use of white noise or lighted backup alarms on equipment used at the mining site to avoid disrupting residents' sleep.

⁶ If the County does not have a separate blasting ordinance in effect, it might consider adding blasting requirements to this Ordinance. For example, Counties might require the following: 1) provision of specific types of notifications to the public or adjacent landowners before blasting takes place; 2) limits on the hours or days of the week that blasting may occur; 3) a requirement that structures in the affected area be surveyed as to condition prior to initial blasting by an independent third party; and 4) a requirement that all blasting adhere to State blasting standards as outlined under Wis. Admin. Code Ch. SPS 307.

- (b) Noise levels shall be monitored at the Mining Site's property boundary by an independent testing company. The tests shall occur for a 10-day period at least once per quarter. The results shall be reported to the County within 30 days of the last test result.
- (7) Well Monitoring and Impact on Groundwater Quality. In order to ensure compliance with the Applicable Laws and Regulations regarding groundwater quality, the Operator shall monitor all private and public wells (to the extent access can be secured), at the Operator's sole cost and expense, located within two miles of the perimeter of the Mining Site in order to provide baseline data concerning quantity and quality of water. The Operator shall comply with the requirements of this Section 1.16(7) for a period of one year prior to commencement of construction of any portion of the Mining Site or commencement of any Mining Operation, and during the period of the Mining Operation, and continuing for no less than three years after the completion of the Mining Site reclamation. The wells shall be monitored quarterly for lead, arsenic, turbidity, total dissolved solids, chlorides, nitrates, specific conductivity and any toxic substance that may reasonably be believed to be present in the ore deposit proposed to be mined. Well monitoring required under this Ordinance shall be performed by an independent consultant agreeable to both the County and the Operator. All test and monitoring results shall be reported to the County within 30 days of completion. Mining Operations shall not cause an exceedance of groundwater quality standards in Wis. Admin. Code Ch. NR 140 or as otherwise may be set forth in applicable law.
- (8) Fugitive Dust Control. In addition to any ambient air monitoring required by WisDNR, the Operator shall comply with best management practices for control of off-site fugitive dust, including, but not limited to, use of truck covers, watering roads and equipment, and stabilizing stock piles.

Section 1.17 Reporting

- (1) Considerations. The standards set forth in this Section 1.17 shall be considered as conditions in a Conditional Use Permit/Mining Permit or as the foundation of negotiations in developing the terms of a Local Agreement/Mining Permit.
- (2) Ongoing Reporting Requirements.
 - (a) The Operator shall provide notice to the County of any notices of violations, citations, or other enforcement actions taken by any other Government Body or Agency as a result of the Mining Operation or any activity on the Mining Site. The Operator shall provide notice to the County of such actions within 15 days after receiving such notice from the Government Body or Agency.
 - (b) All monitoring data, sampling results and any other test results required by this Ordinance shall be undertaken at the Operator's expense and provided to the County Clerk. Unless otherwise specified in this Ordinance, all monitoring data sampling results and any other test results shall be provided to the County Clerk within 30 days of receipt of the results by the Operator.

(3) Annual Report.

- (a) No later than October 1 of each calendar year, the Operator shall submit an annual report to the County Zoning Committee for all active and intermittent Mining Sites and Mining Operations for which the Operator has a Mining Permit in the County of _____. At its own discretion, the County Zoning Committee may also require that the Operator appear at a County Board meeting to present the annual report and answer questions from the County Board. The reporting period shall be from the date of the issuance of the first Operator's Mining Permit to August 31, and thereafter from September 1 to August 31.
- (b) The annual report shall include the following information:
1. An identification of the Operator and location of the Mining Site.
 2. A map or drawing accurately showing the area of excavation, the unclaimed area and the reclaimed area, including a calculation of the number of acres for each type.
 3. A description of activities, including ore extraction and waste material production and operations on the Mining Site for the previous calendar year, including the cubic yards each of material extracted, processed, and waste material produced.
 4. A description of activities and operations on the Mining Site, including ore extraction and waste material production or processing anticipated for the following calendar year.
 5. A written report demonstrating how the Operator has been in compliance with all terms and conditions of its Mining Permit and this Ordinance. The report shall include all groundwater, surface water and other monitoring results, as well as a copy of all annual reports submitted to all other governmental or other regulatory authorities.
 6. A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.
 7. A signed certification by the Operator to the effect that: "I certify that this information is true and accurate, and except as expressly set forth herein, the metallic mineral mining site and operations described herein and for which the County issued the Mining Permit dated _____ complies with all conditions of the County ordinances and codes, and all other governmental or other regulatory authority requirements, laws, regulations and requirements and is in compliance with any applicable permits, requirements, conditions and approvals required for operation of the metallic mineral mining site and operations described herein and for which the County issued the Mining Permit dated _____."

8. Any other materials required in this Ordinance that may not have been already submitted at the time of the annual report.
- (c) Quarterly Inspection Summary. The Operator shall submit to the County Clerk, within 30 days following the close of each calendar quarter, a report summarizing the results of the following inspections:
1. Daily Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons on a daily basis for evidence and indications of any phenomenon, activity or process which might affect the integrity of any tailings pond or dike.
 2. Monthly Inspections. The Operator shall designate one or more qualified senior personnel to inspect any tailings ponds and any other waste lagoons on a monthly basis and prepare, sign and date a report. If the person or persons making the monthly inspections is not a Wisconsin registered professional engineer, then the Operator shall also provide for quarterly inspections as required herein by a Wisconsin registered professional engineer.
 3. Natural Event Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons after any unusual natural occurrence, including, but not limited to, the following: earthquake, tornado, flood, storm event exceeding the 100-year storm threshold, or any other natural event which the Operator should reasonably expect could affect the integrity of the tailings pond, dike or other areas of the Mining Site.
- (d) Inspection Logs. All daily, monthly and quarterly inspection observations shall be recorded in a log and maintained on the premises of the Mining Site and be made available for inspection by County officials during regular business hours. The Operator shall submit copies of inspection logs to the County upon request.

Section 1.18 Changes in Operation

- (1) Considerations. The standards set forth in this Section 1.18 shall be considered as conditions in a Conditional Use Permit/Mining Permit or as the foundation of negotiations in developing the terms of a Local Agreement/Mining Permit.
- (2) Expansion. Expansion of the Mining Site or any Mining Operation that is not specifically allowed by or is inconsistent with any limitation or parameters of the Mining Permit is prohibited and is a violation of this Ordinance. Performance of activities not described in, or activities not expressly allowed by the Mining Permit shall be considered an unlawful expansion and a violation of this Ordinance. The movement of any waste, ore or concentrate to a Mining Site from a location outside the boundary of that Mining Site shall be deemed an unlawful expansion of Mining Operation unless such movement is specifically and expressly authorized in a Mining Permit issued pursuant to this Ordinance.

(3) Suspension or Termination of Mining.

- (a) An Operator must provide notice to the County as soon as possible of any temporary halt of Mining Operations lasting more than 180 days, including, but not limited to, a statement showing projected loss of employment. Notice shall include the reason for the temporary suspension as well as plans to ensure continued compliance of all Applicable Laws and Regulations throughout the suspension period.
- (b) The Operator must provide notice of its intent to permanently terminate any or all Mining Operations at the Mining Site no later than one year before the proposed Mining Operation, or any portion of the Mining Operation, is terminated. The Operator must provide notice by the end of each calendar year of any significant change in the anticipated timing of each major phase of the Mining Operation as originally detailed in the plan of operation submitted as part of the Application pursuant to this Ordinance, and explain any reasonably foreseeable changes to the overall Mining Operation lifetime based on such changes.
- (c) Upon receipt of a notice of temporary halt in mining or upon a cessation lasting more than 180 days, whichever is sooner, the County Zoning Committee may require that the Operator take additional measures to ensure that public health, safety and welfare are protected during the temporary cessation of Mining Operations, including, but not limited to, a temporary cap on tailing facilities, additional security measures, additional erosion control measures, and other site stabilization measures.
- (d) A suspension longer than two years shall be considered a permanent abandonment and require the Operator to commence closure and reclamation. The Operator may request the County Zoning Committee re-evaluate this requirement based on exceptional circumstances. The County Zoning Committee shall not be obligated to grant the request for re-evaluation. The County Zoning Committee's determination of the Operator's request for re-evaluation is not subject to appeal or other additional review.

(4) Major Conditional Use Permit/Mining Permit Modifications or Amendment. If a Conditional Use Permit/Mining Permit has been issued, both the County and the Operator may pursue an amendment to that Conditional Use Permit/Mining Permit during the Conditional Use Permit/Mining Permit term pursuant to this Section 1.18(4) and Section 1.19(7)(b).

- (a) The County reserves the right to reopen and modify any Conditional Use Permit/Mining Permit if it is determined by the County Zoning Committee, upon the basis of newly discovered evidence, including, but not limited to, evidence presented that any Mining Operation or any part of the Mining Operation by any Government Body or Agency, such Mining would, without further conditions placed on the Mining Permit, substantially endanger the environment, public health, safety or welfare of the community. Any action to reopen a Mining Permit

shall be done by hearing with at least 30 days' notice to the Operator. In order to reopen the Mining Permit and modify any terms and conditions, the County Zoning Committee must determine that there is reasonable cause to believe that the newly discovered evidence demonstrates a threat to the environment, public health, safety or welfare.

- (b) Should the Operator desire to modify the Conditional Use Permit/Mining Permit in any way, it may request modification by submitting a written application and evidence supporting such modification to the County Clerk. Such application shall be in substantially the same form as the original Application for the Conditional Use Permit/Mining Permit, with the same level and substance of information required, although it shall be permissible to incorporate by reference any portions of the original Application that still pertain to the re-opening request. Upon receipt of the application to modify the Conditional Use Permit/Mining Permit, the County shall follow the procedures outlined in this Ordinance for review of an application for a Conditional Use Permit/Mining Permit as set forth in Section 1.14.
- (5) Minor Conditional Use Permit/Mining Permit Modifications and Amendments. Upon request by either the County or the Operator for a minor modification to the Conditional Use Permit/Mining Permit, the County Zoning Committee has the discretion to determine that a proposed Mining Permit modification is so inconsequential in scope or limited in proposed duration that the Mining Permit modification procedures outlined under Section 1.18(4) are unnecessary and therefore inapplicable. If such a determination is made, the County Zoning Committee may act on the proposed minor Conditional Use Permit/Mining Permit modification at a properly noticed County Zoning Committee meeting. The County Zoning Committee's decision shall require a three-fourths (3/4) affirmative vote by the County Zoning Committee.
- (6) Local Agreement/Mining Permit Modification and Amendment. The County or the Operator may request to modify or amend a Local Agreement/Mining Permit according to the procedures set forth in the Local Agreement/Mining Permit. The Local Agreement/Mining Permit may address both major modifications and amendments and minor modifications or amendments. Any modification or amendment to a Local Agreement/Mining Permit shall be executed by all parties thereto and shall be approved according to the requirements set forth in Wis. Stat. § 293.41(4), Section 1.09(3) and Section 1.15(6). The County Board may delegate its authority to modify, amend, suspend or revoke a Local Agreement/Mining Permit pursuant to Section 1.19(6)(c) to the County Zoning Committee.
- (7) Transfer of Mining Permit. When one Operator succeeds to the interest of another in a Mining Site, the County shall release the current Operator of the responsibilities imposed by the Mining Permit only if all the following conditions are met, pursuant to the County's reasonable discretion:

- (a) Both the Operator and the successor Operator are in compliance with the requirements and standards of this Ordinance and all other Applicable Laws and Regulations.
 - (b) The successor Operator assumes the responsibility of the current Operator in writing and agrees to operate, complete and reclaim the Mining Operations in accordance with the Mining Permit and all other Applicable Laws and Regulations.
 - (c) The successor Operator shows proof of financial responsibility in the same manner and amount as the current Operator and the successor Operator agrees to maintain any instrument of financial assurance at the same level as the current Operator.
 - (d) The County Zoning Committee makes a written finding that all conditions of the existing Mining Permit will be complied with by the successor Operator.
 - (e) The Local Agreement, if any, is amended to reflect the change in Operator and Persons responsible under the Local Agreement.
- (8) Commencement of Reclamation. Reclamation of any Mine shall begin within one year after cessation of Mining Operations, whether temporary or permanent, in accordance with the reclamation plan as set forth in Wis. Stat. Chapter 293 and as may be required by any Government Body or Agency.

Section 1.19 Inspection, Enforcement, Procedures and Penalties Associated with a Mining Permit

- (1) Application of Section 1.19. The provisions of this Section 1.19 apply to a Conditional Use Permit/Mining Permit. The provisions of this Section 1.19 shall be considered for inclusion in a Local Agreement/Mining Permit provided, however, that the terms set forth in Section 1.19(6) are required elements of a Local Agreement unless otherwise agreed by three-fourths ($\frac{3}{4}$) vote of the County Board.
- (2) Inspection.
 - (a) Upon issuance of a Conditional Use Permit/Mining Permit, the Operator is deemed, as a condition of the Conditional Use Permit/Mining Permit issuance, to have consented to allow inspections of the Mining Site and all Mining Operations by the County Zoning Committee or its designee(s) for the purpose of determining compliance with the provisions of this Ordinance and the terms and conditions of the Conditional Use Permit/Mining Permit. Inspections may occur pursuant to this Section 1.19.
 - (b) All required records to demonstrate lawful operation of the Mining Operation shall be maintained by the Operator at the Mining Site and made available within a reasonable time to the County Zoning Committee or its designee(s) to assist the

County Zoning Committee to determine compliance with the provisions of this Ordinance.

- (c) The Operator shall provide access to the Mining Site and Mining Operations to allow the County Zoning Committee or its designee(s) to inspect for the purpose of investigating any complaint against the Operator alleging a condition that negatively impacts the public health, safety or welfare.
 - (d) If, as a result of any inspections or investigations, the County Zoning Committee determines that any Retained Expert should undertake any further inspections or investigations, the County may hire a Retained Expert, the expense of which shall be paid by the Operator pursuant to Section 1.13. If the Operator fails to provide access for the inspections or investigations, or provide payment of the County's expenses, the County may take enforcement action under this Section 1.19 or as otherwise set forth in this Ordinance.
- (3) Violations. In addition to failure to comply with any provision of this Ordinance, the following are specific violations under this Ordinance:
- (a) Failure to comply with any term or condition set forth in the Conditional use Permit/Mining Permit.
 - (b) Failure to comply with any Applicable Law or Regulation, or failure to comply with any permit, approval, order, condition, directive or requirement issued by a Government Body or Agency.
 - (c) Engaging in any Mining Operation or any activities associated with metallic mining without a Mining Permit granted by the County pursuant to this Ordinance.
 - (d) Failure to comply with the applicable minimum standards and other terms of this Ordinance, all other County ordinances and codes, and any Applicable Law or Regulation, or failure to comply with any applicable permits, approvals or conditions required for the Mining Operation as set forth by a Government Body or Agency.
 - (e) Making an incorrect or false statement in the information and documentation submitted as part of the Application, Mining Permit approval process, or during inspection of the Mining Operation by the County or its designees or other duly appointed representative.
 - (f) Failure to timely file the annual operational report under Section 1.17.
 - (g) Failure to comply with any conditions of approving the Application or any agreements entered into as a condition of approving the Application and issuing the Mining Permit.

- (h) Failure to provide or maintain any financial assurance required as a condition to issuing the Mining Permit.
 - (i) Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance, or other order issued by the County.
- (4) Notice of Violation. The County Zoning Committee or its designee may issue a notice of violation and order for curing the violation upon a violation of any term of this Ordinance or upon any violation of the terms and conditions of a Conditional Use Permit/Mining Permit pursuant to the following provisions.
- (a) The County Zoning Committee shall issue a notice of violation within 30 days of the County's obtaining knowledge of the violation by service upon the Operator. The notice of violation may include an order, proposed work plan or other remediating steps to cure the violation. The Operator shall have 30 days from the Operator's receipt of the notice of violation and order to complete all necessary work to cure the violations to the County's satisfaction.
 - (b) Any Person affected by a notice and order issued in connection with the enforcement of this Ordinance may request and shall be granted a hearing on the notice of violation and order before the County Zoning Committee, provided such person shall file with the County Clerk a written petition requesting the hearing and setting forth the person's name, address, telephone number and a brief statement of the grounds for the hearing, the requested relief, or for the mitigation of the order. Such petition shall be filed within 30 days of the date the notice and order are served upon the Operator. Upon receipt of the petition for hearing, the County Clerk shall set a time and place for a hearing before the County Zoning Committee and shall give the petitioner written notice thereof. In the event the petitioner is not the Operator, the County shall provide notice of the hearing to the Operator.
 - (c) After the hearing, the County Zoning Committee by a majority vote, shall sustain, modify or withdraw the notice, or modify the order, depending on the County Zoning Committee's findings, as to whether the provisions of this Ordinance have been complied with. The petitioner shall be notified within 10 days of the County Zoning Committee's issuance of its findings and any modification of the order. In the event the petitioner is not the Operator, the County shall provide a copy of the County Zoning Committee's findings of fact and any modification of the County's order to the Operator.
 - (d) The proceedings of the public hearing, including the findings and decision of the County Zoning Committee and the reasons therefor, shall be summarized in writing and entered as a matter of public record in the office of the County Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

- (e) If the Operator fails to correct or cure the violation to the County Zoning Committee's satisfaction in accordance with any compliance schedule, order or other findings approved by the County Zoning Committee, the County Zoning Committee may revoke the Mining Permit and commence legal action against the Operator for injunctive relief and additional appropriate forfeitures.
 - (f) Prior to the County's issuance of a notice and order, and prior to the public hearing set forth in Section 1.19(4)(b) above, the County may take such action as necessary in order to protect the public's health, welfare and safety, including, but not limited to, the remedies set forth in Section 1.19(5) in the event of any violation of this Ordinance or the Mining Permit.
- (5) Remedies. The County Zoning Committee may take any appropriate action or proceeding against any Person in violation of this Ordinance or in violation of the terms of the Conditional Use Permit/Mining Permit, including, but not limited to, the following:
- (a) Issue a stop work order for all Mining Operations.
 - (b) Issue a notice of violation and order that specifies the action to be taken to remedy a violation.
 - (c) Issue a citation in accordance with the County's citation ordinance or pursuant to the County's general authority.
 - (d) Refer the matter to legal counsel for consideration and commencement of legal action, including, but not limited to, the assessment of forfeitures under Section 1.19(9) and injunctive relief.
 - (e) Suspend or revoke the Conditional Use Permit/Mining Permit pursuant to Section 1.19(6) or Section 1.19(7).
- (6) Suspension or Revocation of Mining Permit Issued Pursuant to Section 1.15 as a Local Agreement/Mining Permit.
- (a) Upon receipt of a notice of violation as set forth in Section 1.19(4), and after giving notice and conducting a hearing if requested pursuant to Section 1.19(4)(b), the County Board may suspend or revoke a Local Agreement/Mining Permit for a violation of this Ordinance or the terms of the Local Agreement/Mining Permit. A Local Agreement/Mining Permit may also be revoked if it is determined after notice and a hearing that there has been an abandonment of mining as defined under Wis. Stat. § 293.61.
 - (b) Any suspension or revocation of a Local Agreement/Mining Permit, whether in part or in full, shall require a three-fourths ($\frac{3}{4}$) affirmative vote by the County Board.
 - (c) The County Board may delegate its authority to suspend or revoke a Local Agreement/Mining Permit pursuant to this Section 1.19(6)(c) to the County

Zoning Committee. If the County Board delegates its authority to the County Zoning Committee pursuant to this Section 1.19(6)(c), any reference to the County Board in Section 1.19 shall also include the County Zoning Committee.

(7) Suspension or Revocation of Conditional Use Permit/Mining Permit.

- (a) Upon receipt of a notice of violation as set forth in Section 1.19(4) and after giving notice and conducting a hearing if requested pursuant to Section 1.19(4)(b), the County Zoning Committee may suspend or revoke a Conditional Use Permit/Mining Permit for a violation of this Ordinance or the terms of the Conditional Use Permit/Mining Permit. A Conditional Use Permit/Mining Permit may also be revoked if it is determined after notice and a hearing that there has been an abandonment of mining as defined under Wis. Stat. § 293.61. Notwithstanding the terms of this Section 1.19(7), the County Zoning Committee may suspend or revoke a Conditional Use Permit/Mining Permit pursuant to the terms of Section 1.19 if such suspension or revocation is necessary to protect public health, welfare and safety.
- (b) Any suspension or revocation of a Conditional Use Permit/Mining Permit, whether in part or in full, shall require an affirmative majority vote by the County Board.
- (c) The County Board may delegate its authority to modify, amend, suspend or revoke a Conditional Use Permit/Mining Permit pursuant to this Section 1.19(7)(c) to the County Zoning Committee. If the County Board delegates its authority to the County Zoning Committee pursuant to this Section 1.19(7)(c), any reference to the County Board in Section 1.19 shall also include the County Zoning Committee.

(8) General Revocation Provisions Applicable to All Mining Permits. The following shall apply to revocation of any Mining Permit:

- (a) Revocation of any Mining Permit shall terminate the Operator's right and authority to continue Mining Operations pursuant to this Ordinance, but shall not affect the Operator's obligation to comply with any continuing obligations of the Operator under the terms of the Mining Permit or any agreement to which the County is a party.
- (b) Revocation of any Mining Permit shall not terminate any obligation set forth in this Ordinance or in the Mining Permit, whether existing or a future obligation, of the Operator or any Person associated with the Mining Operation.

(9) Penalties. Any Person or Operator who violates this Ordinance or any of the provisions contained herein shall forfeit not less than \$10 or more than \$10,000 for each violation, as reasonably determined by the County Zoning Committee. Each day of violation is a separate offense.

- (a) The County Zoning Committee shall, promptly after verifying any violation of any provision of a Mining Permit, notify the Operator in writing of such violation and require the Operator to report to the County Clerk within 10 days.
 - (b) The County shall be entitled to recover from the violator the reasonable and necessary expenses associated with prosecution of the violation.
 - (c) All funds recovered pursuant to this Section 1.19 will be placed in an assigned account established by the County and used at the County Zoning Committee's sole discretion consistent with achieving the intent of this Ordinance.
 - (d) The remedies provided herein shall not be exclusive of other remedies.
 - (e) If the Operator fails to correct or cure the violation to the County Zoning Committee's satisfaction in accordance with any compliance schedule approved by the County Zoning Committee, the County Zoning Committee may revoke the Mining Permit and commence legal action against the Operator for injunctive relief and additional appropriate forfeitures.
- (10) Non-Waiver. A failure by the County to take action on any past violation(s) shall not constitute a waiver of the County's right to take action on any present or future violations.

ADOPTED _____, 20__.
COUNTY OF _____

_____, County Board Chairperson

_____, Supervisor

_____, Supervisor