

**REGULAR SESSION
DECEMBER 16, 2013**

The Trempealeau County Board of Supervisors met in Regular Session at the Government Center in the City of Whitehall, County of Trempealeau and State of Wisconsin on Monday, December 16, 2013 at 7:03 p.m. with Chair Ernest Vold presiding. The Pledge of Allegiance to the Flag of the United States of America was recited.

CALL

Dear Supervisor,

Please be advised that the Trempealeau County Board of Supervisors will meet at 7:00 p.m. on December 16, 2013 in the County Board Room. All County Board Members' Claims are due in the County Clerk's Office by noon on December 5, 2013 so they can be prepared for Audit Committee approval.

Sincerely,
/s/ Paul L. Syverson
County Clerk

Clerk Syverson read the call.

It was moved by John Aasen and seconded by David Larson to accept the Call as read; It carried unanimously by a vote of acclamation.

Roll was called. A quorum was met with 16 supervisors in attendance. Supervisor Hensel Vold was absent.

Chair Vold announced the open meeting law requirements have been complied with through postings and notifications to the members and media.

ADOPTION OF THE AGENDA: It was moved by Arild Engeliem and seconded by Dick Miller to adopt the 11 item agenda. Motion carried unanimously by vote of acclamation to approve.

APPROVAL OF MINUTES: It was moved by Michael Nelson and seconded by Olin Fimreite to approve the November minutes. Motion carried unanimously by a vote of acclamation to approve.

APPEARANCES: SHERIFF DEPARTMENT MONTHLY REPORT: Sheriff Anderson gave the statistics for November. There were 78 bookings consisting of 61 males and 17 females. Bookings by race were 71 White, 1 Black, 3 Hispanic, 2 Asian and 1 Native American. The average daily in county population was 29.30 and the out of county average was 3.04 and there were 4.30 people on electronic monitoring. There were also 3.70 people on Huber. Sheriff Anderson said the out of county number was higher in November because of a sewer issue needing to be fixed. The accident data reported was 99 car/deer crashes, 19 with property damage, 11 personal injuries and one fatality.

**2013-12-01
RESOLUTION**

ORDINANCE FOR THE REZONE OF LAND IN TOWN OF HALE

WHEREAS Terry K. and Patricia R. Holliday, Property owner in the Town of Hale have requested the rezone of a parcel of land, and

WHEREAS the rezone is on approximately one acre, more or less

WHEREAS a public hearing was held pursuant to Section 59.69 (5) of Wisconsin Statutes, and

WHEREAS the Town of Hale supports the rezone request, and

WHEREAS the Environment and Land Use Committee moved to rezone this parcel from Residential – 8 (R-8) to Commercial (C) and it appears that the zoning change request is appropriate under the circumstances,

THEREFORE BE IT RESOLVED that the County adopt the attached Ordinance amending the zoning district boundaries as indicated.

Dated this 16th day of December, 2013, at Whitehall, Wisconsin.

Respectfully submitted,
/s/ Tom Bice
/s/ Michael Nelson
/s/ Jay Low
/s/ George Brandt
/s/ Kathy Zeglin
/s/ Ed Patzner
/s/ Jeff Bawek
ENVIRONMENT AND LAND USE COMMITTEE

(Ordinance is on file in the County Clerk's Office)

It was moved by John Aasen and seconded by Michael Nelson to adopt the resolution. Kevin Lien, Zoning Director, said there were no objections and there was a letter of support from the township. He said the land use plan is for a commercial storage unit. Roll call taken; motion carried with 16 yes votes; resolution adopted.

**ORDINANCE
REZONE OF A PARCEL IN THE TOWN OF HALE**

*The County Board of Supervisors of the County of Trempealeau does ordain as follows:
The zoning districts for Trempealeau County and zoning map shall be amended to show that the following described real estate is rezoned from Residential - 8 (R-8) to Commercial (C).
See attached description – Addendum A
Containing approximately one acre, more or less*

**2013-12-02
RESOLUTION**

WILDLIFE DAMAGE REIMBURSEMENT PROGRAM

WHEREAS Trempealeau County has for many years participated in a state funded program which allows landowners to be reimbursed for crop losses caused by wildlife, and

WHEREAS the Cooperative Agreement with the Department of Natural Resources and the United States Department of Agriculture which permits the County to be a part of this program is now up for renewal, and

WHEREAS the new proposed five year agreement is nearly identical to the one which has successfully been used and administered in the past by what is now the County Department of Land Management

NOW THEREFORE BE IT RESOLVED that Trempealeau County enter into the proposed Cooperative Service Agreement with the Wisconsin Department of Natural Resources and the United States Department of Agriculture for services in connection with the Wildlife Damage Reimbursement Program.

BE IT FURTHER RESOLVED that the County Department of Land Management be assigned to fulfill the County's administrative responsibilities called for in the agreement.

Dated at Whitehall, Wisconsin, this 16th day of December, 2013

Respectfully submitted,
/s/ Tom Bice
/s/ Jeff Bawek
/s/ Michael Nelson
/s/ Ed Patzner
/s/ Kathy Zeglin
/s/ George Brandt
ENVIRONMENT AND LAND USE
COMMITTEE

It was moved by George Brandt and seconded by Olin Fimreite to adopt the resolution. Some discussion was held. Roll call taken; motion carried with 16 yes votes; resolution adopted.

**2013-12-03
RESOLUTION**

**OPPOSITION TO SENATE BILL 349 AND ASSEMBLY BILL 476, WHICH LIMITS
LOCAL CONTROL OF NONMETALLIC MINING, AIR AND WATER QUALITY, AND
HIGHWAY DAMAGE AND USE CONTRACTS**

WHEREAS the expansion of industrial sand mining and processing in western Wisconsin raises significant local public health, economic, environmental, and quality of life issues; and, WHEREAS Senate Bill 349 and Assembly Bill 476 have been introduced in the Wisconsin Legislature to restrict local governmental authority to regulate nonmetallic mining and to limit certain governmental powers; and

WHEREAS the Bills prohibit local units from imposing restrictions related to water or air quality and water quantity; requiring monitoring of water or air quality and water quantity; establishing or enforcing a standard of air or water quality; or issuing permits related to water or air quality and water quantity; and

WHEREAS the Bills remove the power of a county to administer an air pollution control program with requirements that are consistent with or stricter than those in relevant state law; and

WHEREAS the Bills prohibit a county from enacting or enforcing a nonmetallic mining reclamation ordinance that requires an operator to obtain a permit other than a reclamation permit, includes a standard of air or water quality, or is more restrictive than Wisconsin DNR standards; and

WHEREAS the Bills prohibit counties from imposing any fee or other charge on a highway user for damage to highways caused by the highway user unless the county has entered into a contract with a highway user to reimburse the municipality or county for the cost of repairs to a highway that meets certain specific requirements, including a requirement that the proportion of damages caused specifically by the highway user must be determined by an engineer selected by the user and the county and paid equally by the user and county; and

WHEREAS the health, safety, economic, environmental, and quality of life impacts of these operations are primarily issues of local concern.

NOW THEREFORE BE IT RESOLVED that the Trempealeau County Board of Supervisors hereby supports local control of nonmetallic mining and opposes Senate Bill 349 and Assembly Bill 476 and any state legislation that would preempt the ability of towns and counties to craft their own regulations tailored to their individual circumstances.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Governor Walker, State Senators Kathleen Vinehout and Terry Moulton, State Representatives Chris Danou and Kathy Bernier, Wisconsin DNR Secretary Stepp, and the Wisconsin Counties Association.

Dated at Whitehall, Wisconsin, this 16th day of December, 2013

Respectfully submitted,
/s/ George Brandt
/s/ Michael Nelson
/s/ Kathy Zeglin
/s/ Jeff Bawek
/s/ Ed Patzner
ENVIRONMENT & LAND USE
COMMITTEE

It was moved by John Aasen and seconded by George Brandt to adopt the resolution. Tom Bice said Trempealeau County had an excellent system but we have overstepped our authority so he won't support this. Dick Miller made a motion to amend to also send this resolution to the authors of these bills and George Brandt seconded it. Motion carried to approve the amendment. Voice vote taken to approve the resolution as amended; motion carried.

At 7:20 p.m. John Aasen made a motion to go into closed session and Rob Reichwein seconded it. George Brandt asked that Kevin Lien and a staff member be able to stay during the closed session. Roll call vote was taken to go into closed session with Lien and staff present; motion carried with 14 yes votes and 1 no vote. The no vote was George Brandt. David Suchla left the room before voting. At 8:20 p.m. John Aasen made a motion to reconvene into open session and Sally Miller seconded it. Roll call vote was taken; motion carried with 15 yes votes. Chair Vold called for a five minute recess.

Roll was called at 8:25 p.m. A quorum was met with 16 supervisors in attendance. Supervisor Hensel Vold was absent.

**2013-12-04
RESOLUTION**

REVISE COMPREHENSIVE ZONING ORDINANCE CHAPTERS 10, 13, 19 & 20

WHEREAS the Environment and Land Use Committee has requested that the existing Chapter 13 of the County's Comprehensive Zoning Ordinance (Non-Metallic Mining) be reviewed and revised by the Non-Metallic Mining Advisory Committee, and

WHEREAS the Non-Metallic Mining Advisory Committee recommends that Chapter 13 of the comprehensive zoning ordinance be revised to allow more hours of operation to meet the industry needs for processing, but protects the public by limiting the amount of noise allowed, and

WHEREAS the Environment and Land Use Committee also recommends revisions to Chapters 10, 13, and 20 of the Comprehensive Zoning Ordinance to address industrial sand operations versus construction aggregate sand operations, to address and clarify when mine sites become inactive and when permits lapse, to clarify the process regarding a Town's position to a permit application, and to provide a process for preliminary approval conditions for permits, among other clarifications in the referenced ordinances, and

WHEREAS currently chapter 19 of the comprehensive zoning ordinance (Erosion Control and Storm Water Management) exempts non-metallic mining operations from its erosion control requirements, and the Environment and Land Use Committee now recommends chapter 19 be revised to apply its erosion control requirements to non-metallic mining industrial sand operations, and

WHEREAS a public hearing was held pursuant to Section 59.69 (5) of Wisconsin Statutes and there was testimony in favor and in opposition, and

WHEREAS the proposed ordinance revisions will further protect the health, safety and welfare of County residents and the County's natural resources, without creating unreasonable burdens on non-metallic mining operations.

THEREFORE BE IT RESOLVED that the Trempealeau County Board of Supervisors amend Chapters 10, 13, 19 and 20 of the Trempealeau County Comprehensive Zoning Ordinance as attached hereto.

Dated this 16th day of December 2013, at Whitehall, Wisconsin

Respectfully submitted,
/s/ Tom Bice
/s/ Michael Nelson
/s/ Jay Low
/s/ George Brandt
/s/ Ed Patzner
/s/ Kathy Zeglin
/s/ Jeff Bawek
ENVIRONMENT & LAND USE
COMMITTEE

(Ordinance is on file in the County Clerk's Office)

It was moved by Michael Nelson and seconded by George Brandt to adopt the resolution. David Larson had a question on chapter 13 regarding the noise study being done by an independent contractor. Much discussion was held. Kevin Lien said that after much discussion on the noise level issue, it was agreed upon that 45 was the threshold decibel level at the outside of a residence from 8 p.m. – 6 a.m. He said there are no noise ordinances during daylight hours. This ordinance breaks it down for extraction hours: Monday through Friday 6 a.m. until 8 p.m. during Daylight Savings time, otherwise it is 6 a.m. until 6 p.m. with hours of 7 a.m. until 3 p.m. on Saturdays and no Sunday or holidays hours allowed. Kevin said there are two different operations: extraction and processing. Extraction is obtaining raw material, blasting, stripping, construction and hauling whereas processing is converting raw material into marketable form like washing, crushing, conveying, screening, drying and rail load out. Kevin also said that hours for processing stops at 3 p.m. on Saturdays through 6 a.m. Mondays and no holiday hours. George Brandt said they are trying to balance development in the rural area. He referred to the feedlot ordinance created some years ago. Kevin said that people are allowed to build within a certain distance of a feedlot but they do it knowing that there could be noise, odor and light issues. This would be similar for the sand mines. More discussion was held. Kevin said the advisory committee did the trade-off of allowing more hours of operation to stop annexation. Rob Reichwein made a motion to suspend the rules to speak more than three times and George Brandt seconded it. Voice vote taken; but was unable to determine results. Roll call vote taken; motion failed with 6 yes votes and 9 no votes. The no votes were Michelle Haines, John Aasen, David Larson, Olin Fimreite, Michael Nelson, Curtis Skoyen, Douglas Winters, Jay Low and Tom Bice. Rob Reichwein asked how much it costs to publish this each time changes are made to the ordinance and wondered why we aren't waiting for the Moratorium Committee's recommendations, if any, before having to publish it again. Clerk Syverson said the costs to send out the revised ordinances by registered mail each time is about \$200. Kevin Lien said the Advisory Committee listened to both sides and feels some good amendments were made but nobody was 100% happy since trade-offs had to be made on both sides. Sally Miller questioned the hours of operation. Kevin said a normal conversation registers as 45 decibels. Much discussion was held on having a waiver with the property owner and if that should be required. Corporation Council, Rian Radtke said to be careful what you record with a property as it may be difficult to remove later and referred to "putting cloud on title." Olin Fimreite asked why distances from where vulnerable people live and

play are not mentioned, places like hospitals, schools, nursing homes, health care centers, city limits, churches or daycare centers. He asked if the scenic beauty is being protected. Kevin responded that the topography of this county makes it difficult to regulate. He also said that noise, dust and light all travels differently with our landscape. Kevin also said the hours of operation are very similar to what they were before. The committee is aware that there are people who work a swing shift, 2nd or 3rd shift but they are not changing that. Discussion again on the noise level was held. Kevin said possibly the proper placement of a processing facility could mitigate those issues for some people. Kevin said a waiver will be recorded with the property but Rian Radtke said that language was not included in the ordinance. Rian asked how that information would be removed in the future from a title if the mine closes. Dick Miller made a motion to add in the 2nd sentence on pages 92- 93 “and shall be recorded in the Trempealeau County Register of Deeds office” and Rob Reichwein seconded it. Tom Bice asked if this means someone will be forced to record an agreement between them and a mining company. Rian said the answer is yes, if the amendment is approved. Discussion held on putting a time limit like 2 to 5 years to a title with this information. Arild Engeliien said we need to have a permanent record of what takes place on your land. Rob Reichwein said it should be similar to an easement. Voice vote taken on amendment but outcome was undetermined. Roll call taken; motion carried with 8 yes votes and 7 no votes; amendment approved. The no votes were Michael Nelson, Ernest Vold, Douglas Winters, Jay Low, Tom Bice, John Aasen and David Larson. Kevin Lien went over the changes in other chapters, which were somewhat minor but go along with chapter 13. He started with chapter 19, page 159: construction aggregate language was added. In chapter 10, page 74 conditional use language was added under section 10.04 (2B) regarding letters from the townships. Kevin said they encourage comments from the townships, good or bad, however some townships either sent no letter or kept delaying commenting on a proposal, so now the language will reflect that if a township opts not to respond, the committee can still go ahead and it won't delay the process. Also changed was page 76, all industrial sand conditional use permits shall expire 12 months from the date of issuance where no action commenced to establish authorized use. In chapter 20, the NR135 Reclamation Ordinance, page 218, changes the expedited plan review fee so you can pay double and have the process complete in 30 days instead of 60 days. Some have already used this process this past summer. Page 219 is the NR135 program inactivity fee. If industrial sand mine is inactive for 12 consecutive months, the county can revoke the permit. There is language to pay an annual non activity fee and this refers to some quarries in the county which are only active when there is road or bridge construction in that area. Kevin said the committee took a lot of time to define and separate industrial sand from construction aggregate. He also said the towns association had two things they wanted the committee to address: the non-activity sites and change decibel readings from property lines to a receptor like a residence, church, school or place of business. Olin Fimreite asked from the number of permits issued, how many sites are active versus inactive. Kevin said 28 sites were preliminarily issued and as of last summer only 6 were operating. Today the number is 1 or 2. Sally Miller asked if the word “declared” should be used with emergency. She said FEMA money would be available to help if it is a declared emergency plus it would give things more clarity of when it is a true emergency. Rian Radtke and Kevin both said a lot of time was spent on this issue and committee decided waiting for someone to declare an emergency might take too long. Sally reminded them that the lowest local official can declare an emergency. Roll call vote taken on voting for all four ordinances with one amendment; motion carried with 13 yes votes and 2 no votes; resolution adopted. The no votes were Rob Reichwein and Sally Miller.

ORDINANCES, Chapters 10, 13, 19 & 20
CHAPTER 10
PROCEDURES

10.01 Land use permits.

- (1) *Applicability. Land use permits, certifying that any such use, structure, or site complies with the provisions of this Ordinance, shall be required in the following instances, unless specifically exempted therefrom by this Ordinance:*
 - (a) *Construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof, except signs requiring a sign permit and structures which are less than 6 inches in height above grade elevation that do not contain habitable or usable area.*
 - (b) *Establishment of any accessory or principal use, except uses permitted as conditional uses.*
- (2) *Applications.*
 - (a) *An application for a land use permit shall be submitted to the Zoning Administrator on forms furnished by the Trempealeau County Zoning Department and shall include the following information:*
 1. *Name and address of the property owner.*
 2. *Signature of the property owner or agent.*
 3. *Proof of ownership of the parcel.*
 4. *Tax parcel number, deed, legal description or other identifier of the subject property.*
 5. *An accurate plot plan, drawn at a scale which produces a clearly legible drawing, showing the following:*
 - a. *Boundaries, dimensions, and area of the subject site.*
 - b. *The spatial relationship of the subject site to abutting public highways and right-of-ways, easements, and navigable waters.*
 - c. *The location and dimensions of any existing or proposed structures or additions and their relationship to abutting public highways and right-of ways, property lines, zoning district boundaries, existing and proposed wells and sanitary waste disposal systems, and the ordinary high water mark of navigable waters.*
 - c. *Location of proposed or existing highway access points, parking and loading areas, and driveways.*
 6. *Additional information as may be required by the Zoning Administrator in order to determine the full compliance with the requirements of this Ordinance.*
 7. *Water supply and sewage disposal. Satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the Trempealeau County Sanitary Ordinance, shall be submitted.*
 - (b) *Town Board approval shall be required for all land use permits requested for principal structures.*
 - (c) *Fee. All permit applications shall be accompanied by a fee established by the Trempealeau County Board of Supervisors.*
 - (d) *No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.*
- (3) *Permit issuance or denial. Upon the Zoning Administrator's determination that the proposed use or structure complies with the provisions of this Ordinance, a land use permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the Ordinance and any conditions attached to the permit. An application for a use or structure not in conformity with the provisions of this Ordinance shall be denied a land use permit and the reasons for denial shall be stated. No permit shall be issued for uses or structures involving human occupancy without documentation that provision has been made for safe and adequate water supply and disposal of sewage.*
- (4) *Expiration.*

- a) *Land use permits to establish a use shall expire 12 months from date of issuance if the authorized use is not substantially completed or in operation. Any change of land use after the expiration of a land use permit shall be considered a violation of this Ordinance*
- b) *Except as sub. (5) applies, land use permits for construction of a structure shall expire 12 months from the date of issuance. Any exterior construction after the expiration of a land use permit shall be considered a violation of this Ordinance.*
- (5) *Renewal. If construction has commenced prior to the expiration of a land use permit, but is not completed prior to such expiration, a 12 month renewal land use permit shall be issued by the Zoning Administrator upon submittal of a renewal application and fee. Additional renewals shall be granted by the Zoning Administrator upon a finding that progress had been made during the previous year toward completion of the structure. If a 12 month period passes without evidence of progress towards completion, the Zoning Administrator shall advise the Zoning Committee of same and the Zoning Committee may call a public hearing on the matter and may impose a completion schedule. For purposes of this Ordinance, a structure shall be deemed completed when the roof, exterior walls, doors, windows, and subfloors are in place and finished and sanitary waste disposal system has been installed.*
- (6) *Termination. If a use or structure does not comply with the issued land use permit or this Ordinance, the permit shall be terminated by the Zoning Administrator. If a use permitted by a land use permit ceases for a period of more than 12 months, the land use permit shall terminate, and all future activity shall require a new land use permit.*

10.02 Sign permits.

- (1) *Applicability. This section only applies to those signs requiring a sign permit as specified in Section 7.06, that are erected, moved, structurally altered, or reconstructed.*
- (2) *Applications.*
 - (a) *All applications for sign permits shall be made to the Zoning Administrator on forms furnished by the Trempealeau County Zoning Department and shall include the following:*
 - 1. *Name, address, and signature of the applicant.*
 - 2. *Name, address, and signature of the property owner, along with proof of ownership, of the site for the proposed sign, if different from the applicant.*
 - 3. *Type, description, and dimensions of the proposed sign.*
 - 4. *Location of the building, structure, or lot to which or upon which the sign is to be attached or erected.*
 - 5. *A plan, drawn at a scale which produces a clearly legible drawing, showing the following:*
 - a. *The distance from the proposed sign to abutting public highways and right-of-ways, and navigable water.*
 - b. *The distance from the proposed sign to existing structures and adjacent freestanding or projecting signs.*
 - (b) *Fee. All sign permit applications shall be accompanied by a fee established by the County Board of Supervisors.*
 - (c) *No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.*
- (3) *Permit issuance or denial. Applications for sign permits shall be reviewed by the Zoning Administrator for compliance with the requirements of this Ordinance. If compliance is found, the sign permit shall be issued. If compliance is not found, the sign permit shall be denied and the reasons for denial stated.*
- (4) *Expiration. All sign permits shall expire 12 months from the date of issuance if the sign has not been erected. No sign shall be erected, moved, reconstructed, or altered after expiration of a sign permit, unless a new sign permit is obtained.*
- (5) *Termination. If a sign does not comply with the issued sign permit or this Ordinance, the sign permit shall be terminated by the Zoning Administrator.*

10.03 Site plan review.

(1) Review and Approval

- (a) *Permits for new construction or additions to existing structures and buildings for commercial, industrial, institutional, or multi-family uses shall require site plan approval as set forth in this section. The purpose of such approval is to assure site designs which promote compatibility between land uses, create safe and attractive site layouts and structures, provide proper access to streets and transportation, protect property values, and contribute to efficient land use in Trempealeau County.*
- (b) *The Zoning Committee or its designee shall review the site, existing and proposed structures, architectural plans, neighboring uses, use of landscaping and open space, parking areas, driveway location, loading and unloading areas, highway access, traffic generation and circulation, lighting, drainage, water and sewer systems, and proposed operations.*

(2) Site Plan Requirements. All site plans shall contain the following information:

(a) Identification.

- 1. *Name of project.*
- 2. *Owner's and/or developer's name, address, and telephone number.*
- 3. *Architect and/or engineer's name, address, and telephone number.*
- 4. *Address of project.*
- 5. *Date site plan was prepared.*

(b) Graphic Representation.

- 1. *Three copies of the site plan shall be submitted.*
- 2. *Site plan scale shall be no less than 50 feet to the inch, and show date, north arrow, and graphic scale.*

(c) Site Plan Information.

- 1. *Lot boundaries, including legal description, and required setback distances.*
- 2. *Location of all public highways, official map streets, and easements.*
- 3. *Location of all water courses, drainage ditches, Shoreland-Wetlands, floodplains, and required setbacks.*
- 4. *Location of all existing and proposed public and private utilities, wells, drainage structures, and lighting.*
- 5. *Existing and proposed structures and buildings, structures to be removed, the proposed use of all structures and their dimensions.*
- 6. *Floor plans and elevations, including dimensions, and exterior plans showing the design and character of each structure and building.*
- 7. *Traffic aspects of existing and proposed driveways and parking lots, including parking stall sizes and layout, handicap stalls and ramps, loading zones, driveway widths and traffic direction, sidewalks and pedestrian walkways, and similar improvements.*
- 8. *Existing and proposed vegetation, areas of permanent open space, landscaping, fences, ground cover, areas of filling and grading in excess of 6", and a minimum of 2 foot contours.*
- 9. *Location of signs.*
- 10. *Operation plans, construction schedule, and construction phases.*
- 11. *Other pertinent information as may be requested by the Zoning Committee or its designee. Items from the list of required information may be waived by the reviewer.*

(3) Review and Findings. The Zoning Committee or its designee shall review the site plan following submittal of complete and acceptable site plan materials. The Zoning Committee or its designee shall not approve a site plan unless it is determined that the proposed site plan is in conformance with the intent and purpose of the ordinance and is consistent with the following scope of review. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the site plan reviewer by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion

susceptibility, or any other feature or condition likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the county.

Any comments or objections to the site plan or general suitability of the site shall be communicated to the applicant who shall have an opportunity to respond and amend the site plan. The review by the Zoning Committee shall include:

- (a) The relationship of the site plan to adopted land use plans and policies.*
 - (b) Parking, loading, traffic generation and circulation layout so as to:
 - 1. Minimize hazardous traffic movements.*
 - 2. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers' Transportation and Traffic Engineering Handbook.*
 - 3. Provide for the optimum number of parking spaces.*
 - 4. Provide for optimum loading and unloading in the case of commercial and industrial uses.*
 - 5. Provide for optimum access to public streets and highways.*
 - 6. Provide for pedestrian safety.**
 - (c) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so as to not overload existing public utilities nor increase the danger of erosion, flooding, landslide, or other endangerment of adjacent or surrounding properties.*
 - (d) The use of landscaping so as to:
 - 1. Maintain existing mature trees and shrubs to the maximum extent as is practical.*
 - 2. Buffer adjacent uses which may be incompatible.*
 - 3. Screen unsightly activities from public view.*
 - 4. Break up large expanses of asphalt and buildings with plant material.*
 - 5. Provide an aesthetically pleasing landscaping design.*
 - 6. Make optimum use of open spaces.*
 - 7. Provide plant materials and landscaping designs that can withstand the county's climate.**
 - (e) Location of principal structures, accessory structures, lighting, free-standing signs, refuse containers, mechanical equipment, etc. so that their locations do not impede safe and efficient traffic flow, adversely impact the development of adjacent property or the character of the surrounding neighborhood, and creates an attractive grouping, spacing, and placement of buildings and structures in relation to the site and its environs.*
 - (f) The operations of the proposed use to avoid any negative activity effect on adjacent properties.*
- (4) Sureties. The Zoning Committee may impose time schedules for completion of buildings, parking areas, open space uses, drainage and erosion control systems, and landscaping. The Zoning Committee may require appropriate sureties, including but not limited to cash bonds, performance bonds, maintenance bonds, and letters of credit to guarantee that requirements will be completed on schedule. Failure to complete required improvements within specified time limits shall constitute a zoning violation and may result in cancellation of any permits subject to penalty and enforcement provisions of Chapter 11.*
- (5) Appeals. Any person or persons aggrieved by any decision of the Zoning Committee or its designee related to site plan review may appeal the decision to the Board of Adjustment. Such appeal shall be filed with the zoning administrator within 30 days of the decision.*

10.04 Conditional use permits.

- (1) Applicability. A conditional use permit shall be required for the establishment of each use permitted as a conditional use and for an addition to, or expansion or intensification of, a nonconforming use. Expansion of a use permitted as a conditional uses shall also require a conditional use permit, except that the minor expansion of a building housing a use permitted as a conditional use which would not increase the scale or intensity of that use shall only require a land use permit.*
- (2) Application.*

- (a) *An application for a conditional use permit shall be submitted to the Zoning Administrator upon forms furnished by the Trempealeau County Zoning Department. The application shall contain the following information:*
 - 1. *All the information required for a land use permit listed in s. 10.01.*
 - 2. *Upon written request by the Zoning Administrator, such additional information as may be required by the Zoning Administrator so that the Zoning Committee can determine whether or not the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to public health, public safety, or the character of the surrounding area. The written request shall contain an explanation of why the additional information is needed.*
 - 3. *Water supply and sewage disposal. Where the proposed use involves human occupancy, satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the Trempealeau County Sanitary Ordinance, shall be submitted.*
- (b) *A letter from the Town Board regarding its position in response to the conditional use permit application. If a Town Board elects to not submit its position after an applicant makes such a request, then the County will deem the Town Board to have no position in regard to the conditional use permit application.*
- (c) *Fee. All conditional use permit applications shall be accompanied by a fee established by the County Board of Supervisors.*
- (d) *No application shall be accepted by the Zoning Administrator until complete as judged by the Zoning Administrator and until all fees established by Trempealeau County have been paid in full.*
- (3) *Public hearing. A public hearing shall be held by the Zoning Committee after a public notice has been given as provided in s. 10.08. At the public hearing, any party may appear in person or be represented by an agent.*
- (4) *Determination. Following review, investigation, and public hearing, the Zoning Committee shall render a decision in writing.*
 - (a) *If the application is approved, such decision shall include an accurate and complete description of the use as permitted, including all the conditions attached thereto.*
 - (b) *If the application is denied, the reasons for denial shall be stated.*
- (5) *Basis of approval.*
 - (a) *The Zoning Committee shall review each conditional use permit application for compliance with all requirements applicable to that specific use and to all other relevant provisions of this Ordinance. In approving conditional uses, the Zoning Committee also shall determine that the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to the public health, public safety, or character of the surrounding area.*
 - (b) *To aid in the review of the proposed project under the above criteria, the Zoning Committee may take into consideration such of the following factors or additional factors as are deemed by it to be relevant to its decision making process with respect to the project in question.*
 - 1. *Whether the proposed project will adversely affect property in the area.*
 - 2. *Whether the proposed use is similar to other uses in the area.*
 - 3. *Whether the proposed project is consistent with adopted Trempealeau County plans or any officially adopted town plan.*
 - 4. *Provision of an approved sanitary waste disposal system.*
 - 5. *Provision for a potable water supply.*
 - 6. *Provisions for solid waste disposal.*
 - 7. *Whether the proposed use creates noise, odor, or dust.*
 - 8. *Provision of safe vehicular and pedestrian access.*
 - 9. *Whether the proposed project adversely impacts neighborhood traffic flow and congestion.*
 - 10. *Adequacy of emergency services and their ability to service the site.*

11. *Provision for proper surface water drainage.*
 12. *Whether proposed buildings contribute to visual harmony with existing buildings in the neighborhood, particularly as related to scale and design.*
 13. *Whether the proposed project creates excessive exterior lighting glare or spillover onto neighboring properties.*
 14. *Whether the proposed project leads to a change in the natural character of the area through the removal of natural vegetation or altering of the topography.*
 15. *Whether the proposed project would adversely affect the natural beauty of the area.*
 16. *Whether the proposed project would adversely affect any historic or archeological sites.*
- (c) *The applicant's failure to satisfy the criteria listed in par. (b) or any other applicable requirement in this Ordinance may be deemed grounds to deny the conditional use permit. At all times the burden of proof to demonstrate satisfaction of these criteria remains with the applicant.*
- (d) *Applications for Conditional Use Permits in the Exclusive Agricultural District shall comply with any restrictions or limitations contained in Wis. Stats. Chapter 91.*
- (6) *Conditions and restrictions. The Zoning Committee may, in approving an application for a conditional use permit, impose such restrictions and conditions that it determines are required to prevent or minimize adverse effects from the proposed use or development of other properties in the neighborhood and on the general health, safety, and welfare of the county. Such conditions may include financial sureties. The Zoning Committee may limit the use of land to one specific use permitted in the zoning district for which the conditional use permit is sought.*
- (7) *Expiration. Except as otherwise stated in the Zoning Code, all conditional use permits shall expire 12 months from the date of issuance where no action has commenced to establish the authorized use or 24 months from issuance if the authorized use is not substantially completed or in operation. If a time limit has been imposed as a condition for the permit, the permit shall expire at the end of the time limit.*
- (8) *Notification.*
- (a) *Pursuant to s. 91.75 (5), Wis. Stats., the Trempealeau County Department of Zoning shall notify the Wisconsin Department of Agriculture, Trade and Consumer Protection of all conditional uses approved in the Exclusive Agricultural district.*
 - (b) *Pursuant to NR 115.05 (6) (h), Wis. Admin. Code, a copy of any conditional use decision which affects shorelands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.*
- (9) *Termination. If the use of land or a structure under a conditional use permit is not maintained in a manner consistent with and in compliance with the terms and conditions of the permit and of this Ordinance, the conditional use permit may be terminated by action of the Zoning Committee. In the event that a conditional use of property shall cease for a period of twelve (12) months in succession, the conditional use permit shall automatically terminate and all future use of the land or structure in question which is in the form of a conditional use shall require the issuance of a new conditional use permit.*
- (10) *Resubmission. A conditional use permit application that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Zoning Committee, provided that the applicant submits a written report identifying how the new application differs materially from the previous application or identifying substantial new evidence that will be offered, and provided that the Zoning Committee votes, by simple majority, that the changes or new evidence would be of such significance that the Committee might consider changing the previous decision.*
- (11) *Appeal. Persons aggrieved by conditional use permit decisions issued by the Zoning Committee may, within thirty (30) days of the filing of each such decision in the office of the zoning administrator, file a certiorari review action with the Trempealeau County Circuit Court.*

10.05 Variance from the requirements of this Ordinance.

- (1) *Petition. A petition for variance shall be filed by the property owner, or the owner's agent, using forms furnished by the Trempealeau County Zoning Department. Such petition shall include the following:*
 - (a) *Name and address of the property owner and petitioner (if different).*
 - (b) *Signature of petitioner.*
 - (c) *Location of property involved in the petition.*
 - (d) *Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.*
 - (e) *Section(s) of this Ordinance from which a variance is requested.*
 - (f) *Details as to the narrowness, shallowness, shape, topography, or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use which make it not merely inconvenient but extremely difficult, if not impossible, to comply with the provisions of the Ordinance.*
 - (g) *A statement which specifically identifies the conditions of the property which are believed by the owner or occupant to be unique to that property, justifying the granting of a variance and which are not shared by other properties in the same zoning district.*
 - (h) *A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.*
 - (i) *Fee. A petition for a variance shall be accompanied by a fee established by the County Board of Supervisors.*
- (2) *Processing.*
 - (a) *Public hearing. The Board of Adjustment shall hold a public hearing in accordance with s. 59.694, Wis. Stats., and after a public notice has been given as provided in s. 10.08 (1). At the hearing, any party may appear in person or by agent or by attorney.*
 - (b) *Decision. Within a reasonable time, the Board of Adjustment shall render a decision to either grant or deny the request for variance.*
 1. *A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Board of Adjustment.*
 2. *A variance denied shall be accompanied by the reasons for denial.*
- (3) *Standards for variance. The Board of Adjustment shall consider the following standards for granting a variance. The burden of proof at all times remains with the applicant to establish that the proposed variance meets the following standards:*
 - (a) *Unnecessary hardship. That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that parcel which are creating the unnecessary hardship in the application of this Ordinance, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.*
 - (b) *Unique condition. That the conditions described in par. (a) are unique, exceptional, extraordinary, or unusual circumstances applying only or primarily to the property under consideration and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for Ordinance changes or amendments, or of having that effect if relied upon as the basis for granting a variance.*
 - (c) *Conditions not self created. That the condition creating the hardship or difficulty was not caused by the petitioner nor by any person still having an interest in the property.*
 - (d) *Public interest. That in granting the variance there will not be a substantial detriment to neighboring property and the grant of variance will not be contrary to the purpose of this Ordinance and the public interest.*
 - (e) *Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.*
- (4) *Department of Natural Resources notification. Pursuant to Wis. Adm. Code NR 115.05 (6), with respect to variances from the County Shore land Zoning regulations, a copy of any variance granted shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.*

- (5) *Resubmission.* A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 6 months following the decision. The 6 month period may be waived by the Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered and provided that the Board of Adjustment votes by simple majority that the changes or new evidence would be of such significance that the Board might consider changing the previous decision.

10.06 Appeals.

(1) *General provisions.*

- (a) *Where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator an appeal may be taken the Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau of the municipality affected.*
- (b) *Such appeals shall be filed with the Zoning Department within 30 days after the date of written notice of the decision or order of the Zoning Administrator.*
- (c) *Stays.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board of Adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Adjustment or by a court of record or application and notice to the officer from whom the appeal is taken and on due cause shown.

(2) *Processing an appeal.*

- (a) *Petitions for appeals shall include:*
1. *Name, address, and signature of the appellant.*
 2. *Location of property affected by the appeal.*
 3. *The decision being appealed and the grounds claimed for the appeal. The burden of proof at all times remains with the appellant.*
 4. *Such additional information as may be required by the Board of Adjustment.*
- (b) *Fee.* An appeal shall be accompanied by a fee established by the County Board of Supervisors.
- (c) *The Trempealeau County Zoning Department shall forthwith transmit to the Board of Adjustment the appeal and all documents constituting the record upon which the action appealed from was taken.*
- (d) *Public hearing.* The Board of Adjustment shall hold a public hearing in accordance with s. 59.694, Wis. Stats., and after a public notice has been given as provided in s. 10.08 (1). At the hearing any party may appear in person or by agent or attorney.
- (e) *Decision.* The Board of Adjustment decision of the appeal shall be rendered in writing within 30 days after the public hearing. Such decision shall:
1. *State the specific facts which are the basis for the Board's decision.*
 2. *Either affirm, reverse, vary, or modify the order, requirement, decision or determination appealed from. The Board may also dismiss the appeal for lack of jurisdiction.*

- (3) *Department of Natural Resources notification.* Pursuant to NR 115.05 (6) (h), Wis. Admin. Code, a copy of any appeal decision of the Board of Adjustment which affects shore lands shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.

10.07 Amendments.

- (1) *The County Board of Supervisors may amend this Ordinance in accordance with 59.69(5), Wis. Stats., and, where applicable, Wis. Admin. Code, Chs. NR 115 and 116 and after a public notice has been given as provided in s. 10.08. At the hearing any party may appear in person or by agent or attorney.*
- (2) *Fee.* A petition for an amendment shall be accompanied by a fee established by the County Board of Supervisors.
- (3) *Zoning amendments in the Exclusive Agriculture district.*

- (a) *Trempealeau County may approve petitions for rezoning areas zoned for Exclusive Agriculture use only after findings are made based upon consideration of the following:*
 - 1. *Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.*
 - 2. *Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them.*
 - 3. *The land proposed for rezoning is suitable for development, and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas.*
- (b) *Pursuant to s. 91.77 (3), Wis. Stats., the Wisconsin Department of Agriculture, Trade, and Consumer Protection shall be notified of all rezonings pertaining to the Exclusive Agriculture district.*
- (4) *Department of Natural Resources notification. Pursuant to Wis. Admin. Code NR 115.05 (6) (h), a copy of any amendment decision which affects shorelands and Wis. Admin. Code NR 116.21 (6), a copy of any amendment which affects floodplains, shall be provided to the district office of the Department of Natural Resources within 10 days of the date such decision is rendered.*
- (5) *Resubmission. A petition for zoning amendment that has been heard and decided shall not be eligible to be resubmitted during the 6 months following final action by the Trempealeau County Board of Supervisors. The 6 month period may be waived by the Zoning Committee provided that the petitioner submits a written report identifying how the new zoning amendment petition differs substantially from the previous petition or identifying substantial new evidence that will be offered and provided that the Zoning Committee votes by simple majority that the changes or new evidence would be of such significance that the Trempealeau County Board of Supervisors might consider changing the previous decision.*
- (6) *Limitations on use. The Zoning Committee and the Trempealeau County Board of Supervisors may, in the process of approving a zoning amendment, limit the use of land to one or more specific uses permitted in the zoning district for which the amendment is sought.*
- 10.08 Public hearings.** *When public hearings are required by this Ordinance or by Wisconsin statutes, the following shall apply:*
 - (1) *Notice for public hearings.*
 - (a) *Notice of any public hearing which the Zoning Committee or Board of Adjustment is required to hold shall be given by publishing in the county a Class 2 notice in accordance with Ch. 985, Wis. Stats. The notice shall specify the time and place of such hearing.*
 - (b) *If the public hearing involves a petition for a zoning amendment, a copy of the hearing notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing.*
 - (c) *If the public hearing involves a variance or an appeal before the Board of Adjustment, the Board of Adjustment shall give due notice to the parties in interest.*
 - (d) *For any public hearing involving shore lands, notice shall be mailed to the Department of Natural Resources at least 10 days prior to the date of such hearing.*
 - (2) *Public hearing procedures. The Zoning Committee or Board of Adjustment may adopt any formal or informal public hearing procedures.*

**CHAPTER 13
NON-METALLIC MINING**

- 13.01 Non-metallic Mining.** *Non-metallic mining is a conditional use of land in the EA, EA-2, PA and TA districts. In addition to taking into consideration the general criteria governing the granting of conditional use permits under Sec. 10.04, the County shall specifically analyze non-metallic mineral mining proposals in light of the County's interest in providing for the wise use of the natural resources of the county, aesthetic implications of the siting of such a mine at a given location and the impacts of such a mining operation on the general health, safety and welfare of the public. Each application shall be judged on its own merits. Subject only to the standards set forth in this section and in the zoning*

ordinance as a whole, it is impossible to prescribe the criteria upon which such a permit may be granted in each and every case. A mining site may be permitted for Industrial Sand or Construction Aggregate, or both. If a mining site is permitted for both, then two separate conditional use permits shall be obtained and shall be enforced separately.

- (1) Permit Application. The application for a conditional use permit shall include:
- (a) A narrative description of the proposed operation, together with a time line for commencement and reclamation and the nature and degree of land disturbing activities.
 - (b) A listing of the types of equipment and machinery proposed to be utilized in the operation, together with both the types and locations of structures necessary for the operation.
 - (c) The source, quality, quantity and means of disposition of surface or ground water encountered in the process of or extracted in and used in the course of operating the non-metallic mine. If required by the County, information on impacts on surrounding wells shall be generated and supplied for review.
 - (d) A topographic map of the site of proposed operations showing existing contours with minimum vertical contour interval of 10 feet or an alternative vertical contour interval approved by the County. The topographic map shall show the pre-existing vegetation, including but not limited to tree cover, the locations of existing and proposed access highways or driveways and the depth of all pre-existing and proposed excavations.
 - (e) County approved documents as specified within 13.02 (7) of this Ordinance.
 - (f) The County reserves the right to request additional or further information or materials from the applicant beyond that submitted by him/her/it so as to enable the County to adequately analyze the proposed operation in light of the standards imposed in this section.
 - (g) The appropriate permit fee.
 - (h) A statement whether the permit application is for Industrial Sand mining or Construction Aggregate mining.

13.02 Standard Conditional Use Permit Rrequirements.

~~(1) Hours of operation for non-metallic mining operations shall be limited. The non-metallic mining site shall only engage in Extraction Activities from 6:00 am to 8:00 pm during Daylight Savings Time and 6:00 am to 6:00 pm during Standard Time, Monday through Friday. Saturday hours of operation are limited to 7:00 am to 3:00 pm with no Extraction Activities allowed on Sundays or Holidays unless the owner/operator of a Non-Metallic Mining site notifies the Zoning Administrator within forty-eight hours of its operation on Sundays, Holidays or outside of stated hours of operation when a natural disaster has occurred necessitating the need for non-metallic mining materials for emergency repair work. On the second offense or abuse of this natural disaster repair clause for operations on Sundays, Holidays or outside of state hours of operation, the Conditional Use Permit may be rescinded by the Zoning Administrator if the natural disasters have not occurred as stated in the notice to the county. All other activities associated with the non-metallic mining operation may be conducted without restriction as to hours of operation provided that such activities are not violative of the restrictions on noise set forth in Section 13.02(b) from the hours of 6:00 pm until 6:00 am during all times of the year.~~

(1) Hours of operation for non-metallic mining shall be limited based upon the defined activities of Extraction and Processing.

- (a) Extraction. Extraction shall be allowed Monday through Friday between 6:00 a.m. and 8:00 p.m. during Daylight Savings time and between 6:00 a.m. and 6:00 p.m. during Standard Time. Extraction shall be allowed Saturday between 7:00 a.m. and 3:00 p.m. No Extraction shall be allowed on Sundays or Holidays, as defined in section 13.05 of this ordinance.
- (b) Processing. Processing may be allowed between Monday at 6:00 a.m. through Saturday at 3:00 p.m. No Processing shall be allowed between Saturday at 3:00 p.m. and Monday at 6:00 a.m. No Processing shall be allowed on Holidays, as defined in section 13.05 of this ordinance.

- (c) Emergency Extraction. If a non-metallic mine operator conducts non-metallic mining Extraction outside of the stated hours of operation due to an emergency and at the request of the Governor of the State of Wisconsin, Sheriff of Trempealeau County, Emergency Management Director of Trempealeau County, Zoning Administrator of Trempealeau County, Highway Commissioner for Trempealeau County, or any Chairperson of a Town in Trempealeau County on behalf of their respective Town, then such operator shall give notice to the Zoning Administrator within 48 hours of the emergency Extraction. If the Zoning Administrator is unable to verify the emergency requiring the Extraction outside of the stated hours of operation, the operator shall be deemed to have violated the conditional use permit. If after a second occurrence when the Zoning Administrator is unable to verify the emergency, then the conditional use permit may be revoked by the Zoning Administrator.
- (2) Noise. Audible noise emitted during any Non-metallic Mining is limited to the standards set forth in this provision:
- (a) Processing During Extraction Hours. Noise due to Processing during Extraction hours of operation is not limited by this ordinance.
- (b) Processing During Non-Extraction Hours. Noise due to Processing during Non-Extraction hours of operation shall not exceed forty-five (45) decibels (dB) measured at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, unless the owner/operator of the non-metallic mine obtains a written waiver from the affected property owner(s). Affected Property Owner(s) shall be defined as the fee owner(s) of real estate where noise at such building or structure is measured exceeding 45 dB and the non-metallic mine Processing contributes to the measured noise.
- (c) Phase-One Noise Survey. If the owner/operator of a non-metallic mine, or applicant thereof, desires to conduct Processing at the non-metallic mining site during Non-Extraction hours of operation, then a phase-one noise survey shall be conducted. Processing during Non-Extraction hours shall not commence until a phase-one noise survey is complete and the survey indicates that the proposed Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.
1. Phase-one noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of a non-metallic mine, or applicant thereof.
 2. A phase-one noise survey shall duplicate the level of noise that will be produced by the Processing during Non-Extraction hours of operation. While the duplicated Processing noise is being produced, the phase-one noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the duplicated Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-one noise survey shall also determine whether duplicated Processing noise contributes to the measured noise levels at any such buildings or structures.
 3. The purpose of the phase-one noise survey is to identify any potential Affected Property Owner(s), and to afford the owner/operator of a non-metallic mine, or applicant thereof, the opportunity to mitigate the measured noise levels to achieve compliance with the noise limitations in section (2)(b) above.
- (d) Phase-Two Noise Survey. Within 24-hours after commencement of actual Processing during Non-Extraction hours of operation, a phase-two noise survey shall be completed. Processing during Non-Extraction hours shall not continue until a phase-two noise survey is complete and the survey indicates that the actual Processing during Non-Extraction hours will be compliant with the noise limitations in section (2)(b) above.

1. Phase-two noise survey shall be conducted by an independent noise consultant contractor at the expense of the owner/operator of the non-metallic mine.
 2. The phase-two noise survey shall measure the noise levels, in decibels, at the outside of any building or structure used for human habitation or the housing of farm animals, including but not limited to cattle, horses, and poultry, on all properties that may be affected by the actual Processing noise. The party conducting the noise survey shall obtain consent from each property owner to enter property to measure noise. The phase-two noise survey shall also determine whether the actual Processing noise contributes to the measured noise levels at any such buildings or structures.
 3. The purpose of the phase-two noise survey is to measure the actual Processing noise and to determine whether the actual Processing noise exceeds the limits in section (2)(b) above. The phase-two noise survey shall identify any Affected Property Owner(s).
- (e) Waivers. The owner/operator of the non-metallic mine may obtain a waiver from an Affected Property Owner(s). Such waiver shall be in writing and shall be signed by all fee owners of the affected real estate, and shall be recorded in the Trempealeau County Register of Deeds Office. Such waiver shall state that the Affected Property Owner(s) is aware of the noise limitations imposed by this ordinance and that consent is granted to allow noise levels to exceed the maximum noise limits in section (2)(b) above.
- (f) Noise Complaints. Any complaint of excessive noise due to Processing during Non-Extraction hours shall be made in writing and shall state the name and address of the party complaining. Any complaint shall be forwarded to the Zoning Administrator. The Zoning Administrator shall immediately forward any such complaint to the owner/operator of the non-metallic mine. Within 72-hours of the owner/operator of the non-metallic mine receiving the noise complaint, the owner/operator of the non-metallic mine shall install a decibel meter at the building or structure on the property of the complaining party at the sole expense of the owner/operator of the non-metallic mine.
1. If the measured noise at the building or structure of the complaining party exceeds the limits stated in section (2)(b) above, then all Processing during Non-Extraction hours of operation shall immediately cease. The owner/operator shall conduct a phase-one and phase-two noise survey prior re-commencing any Processing during Non-Extraction hours of operation.
 2. If the measured noise does not exceed the limits stated in section (2)(b) above, then the installed meter shall continue to measure and record noise levels for a period of forty-five (45) days. If after forty-five (45) days no noise violations occur, the meter may be removed.
- (g) Extraction. Noise due to Extraction is not limited by this section, but may be regulated through the conditions of the conditional use permit.
- (2) Notification must be provided to the County as to the specific non-metallic mining site location of equipment used to crush or separate non-metallic mining products. Notification of the re-location of crushing or separation equipment from one non-metallic mining site to another must be provided to the Zoning Administrator within twenty-four hours of the re-location of such equipment.
 - (3) Notification must be provided to the Zoning Administrator and adjacent neighbors at least 24 hours prior to any blasting.
 - (4) ~~Generators can be used only during Standard Time for the heating of equipment and providing a security light. Decibel levels shall be kept to 45db or lower as measured at the non metallic mining site's property line during the mines' non-operational hours.~~
 - (45) Public roadways must be scraped clean of materials at the end of the working day where non-metallic mining equipment leaves a non-metallic mining site and enters a public road.
 - (56) Non-metallic mining operations must at all times remain at least (10) feet above the water table level, unless an alternative level proposed by the applicant and established by water table elevation monitoring is approved by the County. The County may require monitoring wells to establish the groundwater level prior to the commencement of non-metallic mining operations on a site. Non-

metallic mining within 10 feet of the water table level or within the water table may be permitted provided the applicant receives a favorable letter from the Town Board regarding the mining proposal and receives the approval of the County. In addition the applicant must demonstrate that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area.

- (6) A 50-foot setback from the mining site boundary shall be maintained where no mining activity shall be allowed. In the event two adjoining property owners are permitted for non-metallic mining activity, the Zoning Administrator may review the mining and reclamation plans of the two sites and may authorize a setback less than 50-feet.
- (7) Any non-metallic mining boundary shall be setback at least 250 feet from any building or structure used for human habitation or for the housing of farm animals and from any potable water source, unless such setback is waived, in writing, by the fee owner(s) of the applicable building/structure or potable water source.
- (87) Non-metallic mining sites of less than one acre must attach County approved erosion control and non-metallic mining reclamation plans to a non-metallic mining Conditional Use Permit application. The reclamation plan shall meet the requirements as set forth in Section 13.04 of this Ordinance. Non-metallic mining sites of one acre or greater must attach a County approved erosion control plan, storm water management plan and a non-metallic mining reclamation permit issued through Chapter 20 of the County Comprehensive Zoning Ordinance.
- (98) Verification that the applicant has requested that a Cultural Resource Site Review be performed by the Department of Natural Resources and that the site review has been completed. A copy of the site review report must be provided the County prior to the issuance of a Conditional Use Permit.
- (109) The County upon its review of the conditional use permit application may require screening from adjacent public highways and adjacent non-compatible land uses. Existing vegetation shall be taken into consideration provided it is of sufficient height and density.

13.03 Term of Conditional Use Permit. Subject only to reclamation activities which may take place after the end of a permit term with the permission of the County, a conditional use permit for non-metallic mining operation shall be established by the County based on the information submitted by the applicant. Applicants may apply for extensions of a non-metallic mining permit for a period not to exceed an additional two (2) years at a time. Upon the filing of a request for an extension of a permit the County shall review the conformity of the applicant's operations/reclamation activities to date with the conditional use permit in effect, together with the current degree of compatibility of the non-metallic mining operation with surrounding land uses for the purpose of determining to what extent that further or additional permit conditions should be imposed in accord with this section and the ordinance in general. There shall be no limitation upon the number of permit extensions which may be applied for subject only to the right of the County to deny extensions on a case by case basis.

- (1) Non-metallic mining operations shall be inspected as needed, but at a minimum annually, by the Zoning Administrator to ensure compliance with the requirements of the conditional use permit. An inspection fee is required to be paid by the operator. To determine the amount of the inspection fee, refer to 13.06 of this Ordinance.
- (2) Permit Modifications. In the event that during the life of a permit the operator seeks to have permit conditions modified or, in the event that the County recommends further or additional permit conditions as being required to meet with concerns of the County under this section or under the ordinance in general, upon request of either the operator or the Zoning Administrator the County shall hold a public hearing in the matter of altering the original permit conditions for the remaining life of the permit. Upon the basis of the public hearing and information received and reviewed, the County shall have the discretion to either impose additional and further permit conditions, to remove permit conditions or to allow the original permit conditions to stand.
- (3) Factors to be Considered for Adopting Conditions.
 - (a) When considering an application for a non-metallic mineral mine permit, the County shall consider, among other factors, the following: the effect or impact of the proposed operation upon; (1) public infrastructure, including but not limited to streets and highways, schools and other public facilities; (2) present and proposed uses of land in the vicinity of the proposed

operation; (3) surface water drainage, water quality and supply; (4) soil erosion; (5) aesthetics, including but not limited to scenic beauty and the conservation of natural resources of outstanding quality or uniqueness; (6) the market value of lands in the vicinity of the proposed operation; (7) the physical practicality of reclamation of the site after the operation has been concluded; and (8) the public interest from the standpoints of smoke, dust, noxious or toxic gases and odors, noise, vibration, blasting and the operation of heavy machinery and equipment.

- (b) In order to grant a conditional use permit for non-metallic mineral mining, the County shall find that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of non-metallic mineral deposits; proximity of site to transportation facilities and to markets; and the ability of the operator to avoid harm to the public health, safety and welfare and to the legitimate interests of properties in the vicinity of the proposed operation.
- (4) *County Empowered to Reject Permit Application.* The county reserves the right to deny an application for conditional use permit with which to engage in non-metallic mineral mining upon application of the standards of this section or of this zoning code in general. In the event that the County decides to deny permit application it shall do so only in writing, setting forth the reasons for such denial.
- (5) *Lapsing of Permits: Conditions Causing and Effect Of.*
- (a) The County may preliminarily approve a conditional use permit if the County requires certain actions to take place prior to actual issuance of the conditional use permit. Any preliminarily approved conditional use permit shall expressly identify that the conditional use permit is only preliminarily approved and shall state that the issuance of the conditional use permit is dependant upon the satisfaction of all identified preliminary conditions.
- (1) The applicant shall be allowed twelve (12) months from the date when the conditional use permit was preliminarily approved to satisfy all preliminary conditions. The preliminary approved conditional use permit shall lapse as a matter of law upon the failure to satisfy all of the preliminary conditions prior to the expiration of the twelve (12) month period.
- (2) The County may allow one extension of time to the twelve (12) month period to satisfy the preliminary conditions, upon the applicant showing just cause. The length of any extension shall be for a fixed period of time in the discretion of the County. In order to seek such an extension, the applicant must submit a written request to the Department of Land Management prior to the expiration of the 12-month period.
- (b) After a conditional use permit has been issued and if no activity has taken place at a Industrial Sand mining site, or rail load out facility under the permit whatsoever or, alternatively, where activity was originally commenced but then has been terminated and such condition of non-activity, exclusive of required, ongoing reclamation under such a permit, has continued for a period of twelve (12) months in succession, the permit shall lapse as a matter of law and no further or other activities in operating the site other than reclamation will be allowed. Conditional use permits for Construction Aggregate mining sites shall not lapse regardless of whether activity is taking place or not. The County shall identify at the time of permitting whether a site is Industrial Sand or Construction Aggregate.
- (1) The Zoning Administrator shall determine whether activity or non-activity has taken place at a mining site. Activity shall include, but is not limited to: Blasting, Construction, Crushing, Drying, Extraction, Hauling (truck/rail load out), Washing, Screening, Stripping, Non-metallic Mining, Operation, and Processing, all as defined in this chapter. Upon the premise that the ultimate goal of non-metallic mining is to sell and/or remove non-metallic minerals from a given mining site, the Zoning Administrator shall consider whether progress is being made at a mining site to produce a finished product intended to leave the site in determining whether a mining site is active.

(2) The legislative purpose of separating Construction Aggregate mining from Industrial Sand mining is based upon the type, volume of product, and the scale of the mining operations. Construction Aggregate sites are primarily used for infrastructure projects in a given area to reduce hauling from sites that are not in the vicinity. The foot print of a Construction Aggregate mining site is historically much smaller in scale and correspondingly runoff and erosion concerns are significantly reduced. Industrial Sand mine sites are rarely if ever used for local infrastructure projects; footprints are very large in nature. The separated sand particles from an Industrial Sand mining site are prone to both wind and runoff erosion at a much higher rate than Construction Aggregate.

- (cb) In order to seek to engage in further operations pertaining to a non-metallic mineral mine whose permit has lapsed, it shall be required that the applicant file a new application for operation as if no permit had been granted in the first place and such permit application shall be processed in accord with all of the requirements of this action.
 - (de) Upon the lapsing of a permit under this section the Zoning Administrator shall immediately inform the permit holder of the lapsing of the permit and notify of their obligation to engage in reclamation activities to the extent that they are required under and in order to fulfill the requirements of the original permit.
 - (ed) Should a permit holder wish to contest the conclusion of the Zoning Administrator that no activity on site has taken place during the 12 month period immediately preceding notice to that effect, the holder may request a public hearing before the County to present evidence of activity at the site. At such hearing the burden shall be upon the permit holder to establish to the satisfaction of the County that allowable activity did take place within that 12 month period of time other than site restoration or reclamation efforts. The permit holder shall be responsible for all costs associated there with. In the event the County shall conclude that the Zoning Administrator was in error, it shall continue the permit for the period of time remaining under the original permit commencing with the date of notice of its decision.
- (6) *Impact of Lapsed or Expired Permits Upon Application for New Permit.* No permit holder shall have a right to a new permit based upon their faithful performance under a lapsed or expired permit. In the event that a permitted operation has been completed and the site reclaimed in accord with the original permit or if it has been terminated due to a cessation of operations and the lapsing of the permit, future applications for operation of a non-metallic mineral mine at the same site shall be required to comply with and shall be subject to all of the terms and conditions of this section. With respect to future permit applications, the County may, however, take into consideration the nature and degree of cooperation and compliance of the permit holder with a previous conditional use permit for such activity on the site in question and may take such information into account in the process of either granting or refusing to grant a permit and in establishing permit conditions.
- (7) *Affect of Ownership transfer on conditional use permit.* A conditional use permit issued under this chapter shall be transferable to a new owner or operator upon compliance with the terms and conditions of the existing conditional use permit.

13.04 Reclamation Plans. For non-metallic mining sites of less than one acre, the reclamation requirements as specified in **13.04 (2) and (3)** shall apply. For sites of one acre or greater or in the event that a non-metallic mining site permitted under the reclamation requirements of this Ordinance expands to one acre or greater, the owner/operator of the non-metallic mining site must comply with the non-metallic mining reclamation requirements of Chapter 20 of the County Comprehensive Zoning Ordinance.

- (1) *Goals or Purposes of Reclamation.* In deciding upon the appropriateness of a reclamation plan for sites under one acre the County shall at a minimum, base its determination upon the following goals or purposes. It shall be the intent of the County that upon reclamation the site shall be restored as closely as possible to its physical condition immediately prior to the commencement of construction and operation of the non-metallic mineral mine but for the removal of the non-metallic minerals. To this extent topsoil and overburden shall be stockpiled for use in restoring the site, all buildings and structures erected and used in the course of the operations and reclamation shall be destroyed, access driveways or roads shall be removed and through means of appropriate soil conservation and

vegetation practices erosion shall be prevented and the site shall be restored to a vegetative state which is consistent with sound land management practices. The County may approve alternative final designs that enhance property values and/or natural habitat through wetland development and/or surface water creation.

(2) *Required reclamation plan contents for non-metallic mining operations of less than one acre are as follow:*

(a) *Two (2) copies of a map of the site described in the original application showing the final, proposed contours of all restored excavations including but not limited to final slope angles and measures to be taken to stabilize all slopes.*

(b) *A description of the methods used during the course of operations and reclamation for topsoil stripping, stabilization and conservation and the process proposed to be utilized for its replacement during site restoration efforts.*

(c) *Two (2) copies of a plan and description of proposed revegetation and anticipated future land use of the site.*

(d) *A description of the proposed means of destruction of or other disposition of surface structures and related facilities and restoration of access roads after mining operations have ceased.*

(e) *The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned. Include in the estimate the number of man-hours and equipment hours needed for the reclamation.*

(f) *A seeding plan which shall include methods of seed bed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.*

(g) *An estimated timetable of the commencement, duration, and cessation of reclamation activities.*

(h) *The County may require additional or further information, data or materials so as to enable it to adequately analyze the proposed operation in light of the standards imposed in this section.*

(3) *Minimum reclamation standards for sites under one acre are as follows:*

(a) *Slopes. Final reclaimed slopes may not be steeper than a 3:1 horizontal to vertical incline. The County may approve final slopes steeper than 3:1 horizontal to vertical ratio, such as existing stable slopes or rock faces that do not require final grading and seeding, if the applicant demonstrates to the County's satisfaction that the proposed final slope is not a safety or environmental hazard.*

(b) *Groundwater. Upon completion of reclamation of the site it must be established to the satisfaction of the County that the finished grade is at least ten (10) feet above the water table level. This condition may be waived by the County if the applicant demonstrates to County satisfaction that a finished grade which is closer to or below the water table level will not adversely impact upon the quality of the groundwater.*

(c) *Topsoil storage and reapplication.*

1. *All topsoil on a nonmetallic mining site shall be saved for future application, unless it can be proven that it is not all needed for reclamation.*

2. *Topsoil shall be reapplied to the slopes as uniformly as possible. Sites which lack stored topsoil in amounts sufficient to restore all disturbed areas shall have the topsoil preferentially applied to the sloped areas; nonetheless, the County reserves the option to require that alternative means of surface restoration be engaged in if topsoil reserves are insufficient.*

(d) *Seeding/re-vegetation/stabilization.*

1. *Seeding shall be done in accord with a specific ~~Soil~~ Natural Resource Conservation Service Critical Area Plan or the most recent edition of the "State of Wisconsin, Department of Transportation Standard Specification for Road and Bridge Construction", standards at Sec. 630, entitled "Seeding", whichever is determined to be more appropriate for the site in question by the County.*

2. *Alternative seeding mixtures shall be considered by the County on a case by case basis. Evidence must be provided showing that the proposed mix will be sufficient to deter erosion on the site.*
3. *Planting of woody vegetation may be accepted in combination with other stabilization techniques if approved by the County.*
4. *Drainage ways, ditches or other highly erodible areas shall be protected by sod or riprap as approved by the County.*

13.05 Definitions. *The following definitions shall apply in the interpretation of an application of this chapter.*

(1) *“Applicant” shall mean the person, corporation, partnership or other legal entity which makes application for a conditional use permit under this section.*

~~(2)~~ *“Blasting” is the act of using a set charge of dynamite or other explosive at one firing to free up, loosen, or dislodge a desired product at the permitted mine site.*

~~(3)~~ *“Construction” shall mean the process involved in preparing a site for non-metallic mineral extraction activities, including but not limited to the stripping of topsoil and overburden, the destruction of tree cover and other vegetation, the building of access roads and the construction of accessory structures and buildings to be used in the course of mining activities.*

~~(4)~~ *“County” shall mean the standing committee of the County Board of Supervisors that is assigned the responsibility for the implementation of the County Non-metallic Mining Ordinance.*

(5) *“Crushing” is the act of breaking down, squeezing, pressing and pounding an object or material so that the action destroys or deforms the object into a usable or desired form.*

(6) *“Drying” is the action to remove moisture from the intended marketable material.*

(7) *“Extraction” shall mean obtaining the raw material from the permitted site following the permitted conditions. This also includes the acts of “Blasting”, “Stripping,” “Hauling,” and “Construction.”*

(8) *“Hauling” is the action of carting or transporting of any material on public roadways, either raw or processed, from the original location of the raw or processed material to another location not on the permitted grounds.*

~~(9)~~ *“Holiday” shall mean those legal holidays recognized by the State of Wisconsin on which no work is performed by employees of the State. These shall include; New Years Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Year’s Eve Day.*

~~(10)~~ *“Non-Metallic Mineral-Mining” or “Non Metallic Mining” shall mean all or any part of the process involved in the mining of non-metallic minerals including but not limited to the commercial extraction, agglomeration, beneficiation, removal of overburden and the production of refuse. It does not mean exploration, ~~or~~ prospecting, or mining of non-metallic minerals for a property-owner’s sole use on the property-owner’s property.*

(a) “Industrial Sand” is a high purity silica sand product sold for any of the following uses: glassmaking, metal casting, metal production, chemical production, paint and coatings, ceramics and refractories, and oil and gas recovery (i.e. “frac sand”). This sand is classified as 212322 Industrial Sand Mining according to the NAICS (North American Industry Classification System) Standard Industrial Classification (SIC) System.

(b) “Construction Aggregate” is either sand and gravel or crushed stone (stone crushed from bedrock) that is predominately produced and used for local construction purposes (i.e., asphalt or concrete roads, concrete, asphalt, building or dimension stone, railroad ballast, decorate stone, retaining walls, revetment stone, roofing granules, and other similar uses) or used for agricultural uses such as aglime and bedding sand for livestock operations. Small amounts of sand and gravel or crushed stone may be produced and used for other purposes such as salt and sand for icy roads, water filtration systems in septic systems, landfills, mortar sand, and sand for sand blasting.

~~(11)~~ *“Operation” shall mean the conducting of all activities associated with the mining of non-metallic minerals from the site, their removal from the ground and their processing on site.*

~~(12)~~ *“Permit Holder” shall mean that person to whom a permit has been issued under this section.*

- (13) “Processing” shall mean to convert raw material into a marketable form, on site, by a special process that includes the actions of “crushing”, “washing”, “screening”, “drying” and “rail-load out”. Processing shall also include moving material by way of conveyor system or other forms of transportation, but shall not include moving material on public roadways.
- (14) “Rail-load out” means to load the marketable material at a rail site and transport the material to the necessary location by train.
- (158) “Reclamation” shall mean the restoration efforts required to be engaged ~~in by a permit holder pursuant to the conditional use permit to restore the site of the non-metallic mining operation to as close to its original condition as possible after mining operations have ceased or, in the case of a phased scope of operations, during the course of operations~~ to restore the Site pursuant to Wisconsin Statutes Chapter 295, Wisconsin Administrative Code NR 135, Trempealeau County Comprehensive Zoning Ordinance Chapter 20, a reclamation permit, and/or any approved reclamation plan.
- (16) “Screening” is sorting or sizing of material into a marketable product size.
- (179) “Site” shall mean the entire legally described location of a non-metallic mining operation including but not limited to the actual sites of land disturbing activities, non-metallic mineral extraction, storage, access roadways and associated structures, buildings and other facilities.
- (18) “Stripping” is to take away or remove soil, rock, or other overburden materials from Nonmetallic minerals and use that material in the reclamation process, where applicable.
- (19) “Washing” is the action that involves water or some other liquid for the purpose of cleansing by removing impurities or undesirables from the intended product.
- (20+0) “Water table” shall mean the upper surface of the unconfined saturated zone where the pore pressure is equal to the atmospheric pressure. It is measured by installing wells extending a few feet into the zone of saturation and then measuring the water level in those wells.
- (21+4) “Zoning Administrator” shall mean the person(s) designated by the County to administer the County Zoning Ordinances.
- 13.06 Fees.** Permit fees which apply to this chapter are established annually by Trempealeau County and are listed in the Trempealeau County fee schedule. Copies of the current fee schedule shall be kept on file at the Trempealeau County ~~Division~~ Department of Land Management.

CHAPTER 19

Erosion Control and Storm Water Management Ordinance

19.01 Authority for Ordinance. This ordinance is adopted by the County Board under the authority granted by 59.69, Section 59.693, 92.07(15), Chapters 101 and 236 Wisconsin Statutes.

19.02 General Administration. The Department of Land Management (“DLM”) is designated to administer and enforce this ordinance.

19.03 Findings of Fact. The Trempealeau County Board finds that uncontrolled storm water runoff and construction site erosion from land development and land disturbing activity can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, uncontrolled soil erosion and storm water runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
- (3) Alter wetland communities by changing wetland hydrology and increasing pollutant loads;
- (4) Reduce the quality of groundwater by increasing pollutant loading;
- (5) Threaten public health, safety, property, and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;
- (6) Undermine floodplain management efforts by increasing the incidence and levels of flooding; and

(7) *Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.*

19.04 Purpose and Intent

(1) **Purpose.** *The general purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Trempealeau County from construction site erosion and post-construction storm water runoff. Specific purposes are to:*

(a) *Further the maintenance of safe and healthful conditions.*

(b) *Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; establish erosion control and storm water standards for building sites, placement of structures and land uses; and preserve ground cover and scenic beauty.*

(c) *Control exceeding the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger property.*

(2) **Intent.** *Through a single erosion control and storm water permit process; this ordinance is intended to meet the current construction site erosion control and post-construction storm water management regulatory requirements of Subchapter III of NR 151 and NR 216 Wis. Admin. Code on the effective date of this ordinance. Nothing in this ordinance prevents the Wisconsin Department of Natural Resources from adopting or enforcing more stringent storm water management requirements in future revisions of Wis. Admin. Code.*

Provisions have also been incorporated to coordinate the storm water permit requirements of this ordinance with other county and town zoning and land division regulations.

19.05 Jurisdiction

(1) **Jurisdictional Boundaries.** *This ordinance applies to all unincorporated lands within the jurisdictional boundaries of Trempealeau County, unless a town board:*

(a) *Adopts an ordinance that complies with the minimum standards established by the Wisconsin Department of Natural Resources and is at least as restrictive as this ordinance, as determined by the DLM; and*

(b) *Provides reasonable notice to the DLM of the effective date of the town ordinance and the enforcement contact(s), if not the DLM.*

(2) **Newly Annexed Areas.** *If any area within the jurisdiction described in 19.05(1)(a) above is annexed by a city or village after January 20, 2003 the provisions of this ordinance apply and shall be enforced after annexation by the annexing city or village unless any of the following occurs:*

(a) *The city or village enacts, administers and enforces an ordinance for the annexed area that complies with the minimum standards established by the Wisconsin Department of Natural Resources and is at least as restrictive as this ordinance, as determined by the DLM; or*

(b) *After annexation, the city or village requests that this ordinance, as it applies to the annexed area, continues to be in effect and enforced by the DLM and the DLM agrees to enforce the ordinance.*

19.06 Applicability and Exemptions

(1) **Construction Site Erosion Control.** *Unless otherwise exempted under sub. (3) below, an erosion control and storm water permit under sec. 19.07 shall be required and all erosion control and other provisions of this ordinance shall apply to all proposed land disturbing activity that meets any of the following:*

(a) *Disturbs a total land surface area of 4,000 square feet or more; or*

(b) *Involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material; or*

(c) *Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other facility, or the disturbance of road ditch, grass swale or other open channel for a distance of 300 feet or more; or*

(d) *Is a land disturbing activity, regardless of size, that the DLM determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion control standard set forth in this ordinance.*

- (2) **Storm Water Management.** Unless otherwise exempted in this ordinance, an erosion control and storm water permit under sec. 19.07 shall be required and all storm water management and other provisions of this ordinance shall apply to all proposed land development activity that meet any of the following:
- (a) Is a subdivision plat; or
 - (b) Is a certified survey map or any other land development activity that may ultimately result in the addition of 0.75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times; or
 - (c) Involves the construction of any new public or private road; or
 - (d) Is a land development activity, regardless of size, that the DLM determines is likely to cause an adverse impact to an environmentally sensitive area or other property. For purposes of this section, adverse impacts shall include causing chronic wetness on other property due to reoccurring discharges of storm water, or violating any other storm water management standard set forth in this ordinance.

(3) **Applicability Exemptions.**

- (a) **Exempt From All Requirements.** The following activities shall be exempt from all of the requirements of this ordinance:
- 1. Land disturbing activities directly involved in the planting, growing and harvesting of any plant grown for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.

2. Best Management Practices installed for the purpose of controlling erosion and reducing non-point source pollution.

- (b) **Exempt From Erosion Control Requirements Only.** The following land disturbing activities shall be exempt from the erosion control provisions of sub. (1) above:

1. **Construction Aggregate** Nonmetallic mining activities, as defined in Chapter 13.05(10)(b) of the County Comprehensive Zoning Ordinance, that are covered under a nonmetallic mining reclamation permit under NR 135 Wis. Admin. Code.

2. Placement of underground pipe or other utility that is plowed or bored into the ground outside areas of channelized runoff.

- (c) **Other Exemptions.** The DLM may exempt a site or a portion of a site from meeting certain technical requirements of this ordinance in accordance with sec. 19.10 (5).

19.07 Erosion Control and Storm Water Permit Process, Land Divisions and Zoning

(1) **Permit Required.** An erosion control and storm water permit under sub. (3) shall be obtained before any person commences a land disturbing or land development activity, pursuant to the applicability and exemption provisions of Sec. 19.06. Based upon the scope of the project, a preliminary review letter under sub. (2) below and certification of compliance under sub. (4) below may also be required as part of the permit process.

(2) **Preliminary Storm Water Review Letter.**

(a) **Purpose and Intent.** A preliminary storm water review letter is prepared by the DLM to ensure that early site-planning for any new development accounts for compliance with this ordinance. Preliminary storm water planning will help resolve spatial and soils issues early in the site-planning phase, preventing a conflict with other permit requirements or the recording of land divisions. This will also assist the applicant in obtaining other permits or zoning approvals prior to finalizing detailed construction plans. An erosion control and storm water permit is required prior to the start of any proposed land disturbing or land development activity.

(b) **Applicability and Requirements.**

1. A preliminary storm water review letter from the DLM is required prior to the approval of a preliminary plat and shall also be required prior to approval of a certified survey map, site plan, conditional use permit, zoning permit or zoning amendment for any proposed land disturbing or land development activity that meets one or more of the following:

- a. Disturbs a total land surface area of 1 acre or more;
- b. Involves the construction of a new public or private road of any length;
- c. Ultimately results in the addition of 0.75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; or
- d. Other land disturbing or land development activities, as determined by the DLM.

2. All project approvals described in sub. 1. above shall be subject to the recommendations, requirements or objections contained in a preliminary review letter from the DLM, which may include requiring certification of compliance under sub. (4) below.

3. For preliminary plats, a county interdepartmental review meeting shall not be scheduled prior to 10 working days after the application submittal date for a preliminary review letter in accordance with sub. (6)(a) below.

(c) **Preliminary Review Letter Application.**

1. To request a preliminary review letter, the applicant shall submit a complete application to the DLM, which shall include all of the following:

- a. A completed and signed application on a form provided by the DLM for that purpose;
- b. The application fee;
- c. A site plan map in accordance with sec. 19.10 (3), which may be in a preliminary stage as prepared for zoning amendments and certified survey maps;
- d. A preliminary erosion control plan in accordance with sec. 19.09(4);
- e. A preliminary storm water management plan in accordance with sec. 19.10 (6) for those sites that propose to add a new road or add 0.75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; and
- f. A preliminary maintenance agreement for all storm water BMP's proposed for the site.

2. The DLM may waive the requirement for a preliminary erosion control or preliminary storm water management plan if the DLM determines that it is not necessary to ensure compliance with this ordinance based on the site map submitted. However, all items required for an erosion control and storm water permit shall apply.

3. Review procedures for a preliminary review letter application shall be in accordance with sub. (6)(a) below.

(3) **Erosion Control and Storm Water Permit Application.**

(a) To request an erosion control and storm water permit under this ordinance, the applicant shall submit a complete application, which shall include all of the following:

1. A completed and signed application on a form provided by the DLM for that purpose;
2. The applicable fee(s);
3. A site plan map in accordance with sec. 19.10 (3);
4. A final erosion control plan in accordance with sec. 19.09(5);
5. A final storm water management plan in accordance with sec. 19.10(7);
6. A maintenance agreement in accordance with sec. 19.12; and
7. A financial assurance, in accordance with sec. 19.08 (3).

(4) **Certification of Compliance for Final Plat or Certified Survey Map.**

(a) **Applicability.** The DLM shall certify compliance with this section prior to the approval of any final plat, and prior to the recording of any certified survey map with the Trempealeau County Register of Deeds that meets one of the following:

1. The site plan may ultimately result in the addition of .75 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development;
2. Includes the construction of any new public or private road; or
3. Other land development activities as determined by the DLM under sub. (2)(b) above.

(b) **Review Items.** To obtain certification of compliance, the applicant shall submit a final plat or CSM to the DLM for review. The DLM shall review submittals for compliance with all of the following items based on preliminary or final site plans and storm water management plans:

1. Location and size of drainage easements and other areas set aside for storm water management, and the associated language describing use restrictions;
2. Setback requirements from wells, structures, steep slopes, road right-of-ways and other items related to the location of storm water management facilities;
3. Location of access drives and associated easements and use restrictions to ensure adequate access to storm water management facilities for future maintenance;

4. Utility easements as they may affect the grading and erosion control plans;
 5. The final maintenance agreement in accordance with sec. 19.12 for all storm water BMP's;
- and
6. Other items that the DLM determines are necessary to achieve compliance with this ordinance.

(c) Review Process. Review procedures for certification of compliance for final plat or CSM shall be as described in sub. (6)(a) below.

(5) **Fees.** Application and review fees under this ordinance shall be in accordance with the following:

(a) All fees shall be established by the DLM and approved by the Environmental and Land Use Committee.

(b) A fee schedule shall be available for review and public distribution.

(6) **Application Review Processes.**

(a) Preliminary Storm Water Review Letter and Certification of Compliance. Upon submittal of a complete application or a final plat or CSM, the applicant is authorizing the DLM to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

1. The DLM shall have 10 working days from the date the DLM receives the application to issue a review letter to the applicable review authorities and the applicant based on the requirements of this ordinance.

2. If within the 10 working days, the DLM determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the DLM shall have 10 working days from the date additional information is received to issue a review letter. The DLM shall inform the applicant and the applicable review authorities when additional information is requested from another source.

3. If the DLM does not notify the applicant of missing information or issue a review letter within the 10 working days, the applicant may continue pursuing other applicable approvals or deed recording without the preliminary storm water review letter or certification of compliance.

4. If within the 10 working days, the DLM notifies the applicable review authorities that the application is not complete, information has been requested from another source, or recommended changes or objections to the application need to be addressed before other approvals can proceed, then the applicable review authorities may:

a. At the request of the applicant, grant an extension to the review period, if needed, to allow more time for the DLM review process to be completed or to address DLM recommendations, requirements or objections to the application; or

b. Disapprove the application, plat or CSM.

(b) Erosion Control and Storm Water Permit Under 1 acre Land Disturbance and Applicability Exemptions. Upon submittal of a complete permit application under sub. (3) above or applicability exemption application under sec. 19.06(3), the applicant is authorizing the DLM to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

1. Within 10 working days from the date the DLM receives the application, the DLM shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.

2. If all requirements of this ordinance have been met through the application, the DLM shall approve the application and issue a permit or exemption. If all requirements of this ordinance have not been met, the DLM shall state in writing the reasons for disapproval.

3. If within the 10 working days, the DLM determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the DLM shall have 10 working days from the date the additional information is received to review and act on the application. The DLM shall inform the applicant when additional information is requested from another source.

4. Failure of the DLM to inform the applicant of missing information or of a decision within 10 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

(c) Erosion Control and Storm Water Permit 1 Acre and Over Land Disturbance and Technical Exemptions. Upon submittal of a complete application under sub. (3) above or a technical exemption application under sec. 19.10 (5), the applicant is authorizing the DLM to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

1. Within 20 working days from the date the DLM receives the application, the DLM shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.

2. If all requirements of this ordinance have been met through the application, the DLM shall approve the application and issue a permit. If all requirements of this ordinance have not been met, the DLM shall state in writing the reasons for disapproval.

3. If within the 20 working days, the DLM determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the DLM shall have 20 working days from the date the additional information is received to review and act on the application. The DLM shall inform the applicant when additional information is requested.

4. Failure of the DLM to inform the applicant of missing information or of a decision within the 20 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

19.08 Erosion Control and Storm Water Permit Requirements.

(1) **General Permit Requirements.** Erosion Control and Storm water permits shall be subject to all of the requirements of this section. Violation of any permit requirement shall cause the permit holder and any other responsible party to be subject to enforcement action under sec. 19.14. Upon issuance of a permit, the permit holder and any other responsible party shall be deemed to have accepted these requirements. General requirements include all of the following:

(a) Other Permits. Compliance with an erosion control and storm water permit does not relieve the permit holder or other responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations. The DLM may require the applicant to obtain other permits or plan approvals prior to issuing an erosion control and storm water permit.

(b) Approved Plans. All best management practices shall be installed and maintained in accordance with approved plans and construction schedules. A copy of the approved plans shall be kept at the construction site at all times during normal business hours.

(c) Plan Modifications. The DLM shall be notified of any significant modifications proposed to be made to the approved plans. The DLM may require proposed changes to be submitted for review prior to incorporation into the approved plans or implementation. Any modifications made during plan implementation without prior approval are subject to enforcement action.

(d) Notification. The DLM shall be notified at least 2 working days before commencing any work in conjunction with approved plans. The DLM shall also be notified within 1 working day of completing construction of storm water BMP. The DLM may require additional notification according to a schedule established by the DLM so that practice installations can be inspected during construction.

(e) DLM Access. The DLM or its designee shall be permitted access to the site for the purpose of inspecting the property for compliance with the approved plans and other permit requirements.

(f) Inspection Log. The permit holder shall provide a qualified professional to conduct inspections and maintain an inspection log for the site. All best management practices shall be inspected within 24 hours after each rain event of 0.5 inch or more that results in runoff, or at least once each week. The permit holder shall maintain a copy of the inspection log at the construction site.

(g) BMP Maintenance. The permit holder shall maintain and repair all best management practices within 24 hours of inspection, or upon notification by the DLM, unless the DLM approves a longer period due to weather conditions. All BMP maintenance shall be in accordance with approved plans and applicable technical standards until the site is stabilized and a permit termination letter is issued.

(h) Other Repairs. The permit holder shall be responsible for any damage to adjoining properties, municipal facilities or drainage ways caused by erosion, siltation, runoff, or equipment tracking. The DLM may order immediate repairs or clean-up within road right-of-ways or other public lands if the DLM determines that such damage is caused by activities regulated by a permit under this ordinance. With the approval of the landowner, the DLM may also order repairs or clean-up on other affected property.

(i) Emergency Work. The permit holder authorizes the DLM, in accordance with the enforcement procedures under sec. 19.14, to perform any work or operations necessary to bring erosion control or storm water management practices into conformance with the approved plans and consents to charging such costs against the financial assurance pursuant to sub. (3) below.

(j) Permit Display. The permit holder shall display the permit in a manner that can be seen from the nearest public road and shall protect it from damage from weather and construction activities until permit termination.

(k) Project Engineer. The permit holder shall provide an engineer licensed in the state of Wisconsin to be responsible for achieving compliance with approved Storm Water Management construction plans, including the implementation of the approved inspection plan and verification of construction as required by the DLM.

(l) Other Requirements. The DLM may include other permit requirements that the DLM determines are necessary to ensure compliance with this ordinance.

(2) Erosion Control and Storm Water Permit Issuance, Duration, Amendments, Transfer and Termination.

(a) Permit issuance. The DLM shall issue a permit to the applicant after verifying that all applicable conditions of this ordinance and possibly other related permits have been met, including the submittal of contact information for all responsible parties and the submittal of the financial assurance. The DLM may delay issuance of the permit if the DLM determines that the proposed construction timelines and best management practices will not comply with the erosion control plan requirements under sec. 19.09 or the purposes of the ordinance under sec. 19.04, including proposed late season new road construction with grass swales.

(b) Permit duration. The DLM shall establish an expiration date of two years following the erosion control and storm water permit issuance date.

(c) Permit amendments. The DLM may amend any terms of a storm water permit, including extending the permit expiration date, if the DLM determines it is necessary to ensure compliance with this ordinance. The applicant shall request an amendment to an erosion control and storm water permit at least 2 weeks before permit expiration and shall pay the corresponding fee if applicable. The DLM may require additional erosion control or storm water management measures as a condition of granting a permit amendment.

(d) Permit transfer. The DLM may transfer an erosion control and storm water permit issued under this ordinance to a new applicant upon a written request from the DLM. The permit transfer shall not take effect until the DLM verifies in writing that the new applicant has satisfied all conditions of this ordinance, including an updated list of responsible parties and the submittal of a new financial assurance.

(e) Permit termination. The DLM shall issue a permit termination letter to the permit holder upon releasing the financial assurance, which shall serve as documentation that all conditions of this ordinance have been satisfied and the permit has been terminated.

(3) Financial Assurance.

(a) Purpose. The DLM may require the applicant to submit a financial assurance to ensure compliance with the approved erosion control and storm water management plans and permit requirements.

(b) Type and Authority. The DLM shall determine the acceptable type and form of financial assurance, which may include cash, a bond, an escrow account or irrevocable letter of credit. The DLM shall, upon written notice to the permit holder, be authorized to use the funds to complete activities required in the approved plans or this ordinance if the permit holder or other responsible party defaults or does not properly implement the requirements.

(c) Amount. The amount of the financial assurance shall be determined by the DLM and shall not exceed the estimated cost of completing the approved erosion control and storm water management plans.

(d) Exemption. Publicly funded land disturbing or land development activities shall be exempt from providing a financial assurance.

(e) Security. The DLM shall provide the permit holder or other responsible party a written statement outlining the purpose of the financial assurance, the applicable amount and type received and all of the conditions for release.

(f) Conditions for Release. The DLM shall release the financial assurance, and issue a termination letter, only after determining full compliance with the permit and this ordinance, including the following:

1. Completing a satisfactory final inspection pursuant to sub (4) below;
2. Receiving a copy of the recorded maintenance agreement pursuant to sec. 19.12 of this ordinance.

(g) Partial Releases. The permit holder may apply for a partial release of the financial assurance based on the completion or partial completion of various construction components or satisfaction of individual requirements noted above.

(h) Amounts Withheld. The DLM shall withhold from the financial assurance amount released to the permit holder any costs incurred by the DLM to complete installation or maintenance of best management practices through enforcement action or prior to the transfer of maintenance responsibilities through an approved maintenance agreement, or other unpaid fees or costs incurred by the DLM associated with the enforcement of this ordinance.

(4) Final Inspection. After completion of construction, the DLM shall conduct a final inspection of all permitted sites to determine compliance with the approved plans and other applicable ordinance requirements, including ensuring the site is stabilized. If, upon inspection, the DLM determines that any of the applicable requirements have not been met, the DLM shall notify the permit holder what changes would be necessary to meet the requirements. At the request of the permit holder, the DLM shall provide a notification of noncompliance or a report of final inspection in written or electronic form.

19.09 Erosion Control Plan Requirements.

(1) General Erosion Control Plan Requirements and Performance Standards. An erosion control plan shall describe how the permit holder and other responsible party will minimize, to the maximum extent practicable, soil erosion and the transport of sediment from land disturbing activities to waters of the state or other property. To meet this requirement, the following performance standards shall apply:

(a) All erosion control plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements of this ordinance.

(b) All erosion control plans shall by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the site is stabilized.

(c) Erosion and sediment control BMPs may be used alone or in combination to meet the 80% sediment reduction goal. Plans that comply with the guiding principles described in sub. (2) below and the specific erosion control plan requirements described in sub. (3) below shall be determined by the DLM as meeting the 80% sediment reduction goal.

(2) Guiding Principles for Erosion Control. To satisfy the requirements of this section, an erosion control plan shall, to the maximum extent practicable, adhere to the following guiding principles:

(a) Propose grading that best fits the terrain of the site, avoiding steep slopes, wetlands, floodplains and environmental corridors;

(b) Minimize, through project phasing and construction sequencing, the time the disturbed soil surface is exposed to erosive forces.

(c) Minimize soil compaction, the loss of trees and other natural vegetation and the size of the disturbed area at any one time;

(d) Locate erosion control BMPs upstream from where runoff leaves the site or enters waters of the state and outside of wetlands, floodplains, environmental corridors or isolated natural areas.

(e) Emphasize the use of BMPs that prevent soil detachment and transport over those aimed to reduce soil deposition (sedimentation) or repair erosion damage.

(3) Specific Erosion Control Plan Requirements. The following applicable minimum requirements shall be addressed in erosion control plans to the maximum extent practicable. The DLM may establish more stringent erosion and sediment control requirements than the minimums set forth in this section if the DLM determines that an added level of protection is needed to protect an environmentally sensitive area or other property.

(a) Access Drives and Tracking. Provide access drive(s) for construction vehicles that minimize tracking of soil off site using BMPs such as stone tracking pads, tire washing or grates. Minimize runoff and sediment from adjacent areas from flowing down or eroding the access drive.

- (b) Diversion of Upslope Runoff. Divert excess runoff from upslope land, rooftops or other surfaces, if practicable, using BMPs such as earthen diversion berms, silt fence and downspout extenders. Prevent erosion of the flow path and the outlet.
- (c) Inlet Protection. Protect inlets to storm drains, culverts and other storm water conveyance systems from siltation until the site is stabilized.
- (d) Soil Stockpiles. Locate soil stockpiles away from channelized flow and no closer than 25 feet from roads, ditches, lakes, streams, ponds, wetlands or environmental corridors, unless otherwise approved by the DLM. Control sediment from soil stockpiles. Any soil stockpile that remains for more than 30 days shall be stabilized.
- (e) Cut and Fill Slopes. Minimize the length and steepness of proposed cut and fill slopes and stabilize them as soon as practicable.
- (f) Channel Flow. Trap sediment in channelized flow before discharge from the site using BMPs such as sediment traps and sediment basins
- (g) Outlet Protection. Protect outlets from erosion during site dewatering and storm water conveyance, including velocity dissipation at pipe outfalls or open channels entering or leaving a storm water management facility.
- (h) Overland Flow. Trap sediment in overland flow before discharge from the site using BMPs such as silt fence and vegetative filter strips.
- (i) Site Dewatering. Treat pumped water to remove sediment prior to discharge from the site, using BMPs such as sediment basins and portable sediment tanks.
- (j) Dust Control. Prevent excessive dust from leaving the construction site through construction phasing and timely stabilization or the use of BMPs such as site watering and mulch – especially with very dry or fine sandy soils.
- (k) Topsoil Application. Save existing topsoil and reapply a minimum of 4 inches to all disturbed areas for final stabilization, unless otherwise approved by the DLM, such as for temporary seeding or storm water infiltration BMPs. If adequate topsoil does not exist on the site to meet this requirement, it shall be imported or a topsoil substitute such as compost may be used, upon approval by the DLM.
- (l) Waste Material. Recycle or properly dispose all waste and unused building materials in a timely manner. Control runoff from waste materials until they are removed or reused.
- (m) Sediment Cleanup. By the end of each workday, clean up all off-site sediment deposits or tracked soil that originated from the permitted site. Flushing shall not be allowed unless runoff is treated before discharge from the site.
- (n) Final Site Stabilization. All previous cropland areas where land disturbing activities will not be occurring under the proposed grading plans shall be stabilized within 30 days of permit issuance. Stabilize all other disturbed areas within 7 days of final grading and topsoil application. Large sites shall be treated in stages as final grading is completed in each stage.
- (o) Temporary Site Stabilization. Any disturbed site that remains inactive for greater than 7 days shall be stabilized with temporary stabilization measures such as soil treatment, temporary seeding or mulching. For purposes of this subsection, “inactive” means that no site grading, landscaping or utility work is occurring on the site and that precipitation events are not limiting these activities. Frozen soils do not exclude the site from this requirement.
- (p) Removal of Practices. Remove all temporary BMPs such as silt fences, ditch checks and sediment traps as soon as all disturbed areas have been stabilized.
- (4) Preliminary Erosion Control Plan Contents.** Preliminary erosion and sediment control plans shall contain the following items:
- (a) A site map in accordance with sec. 19.10 (3) below;
- (b) A brief narrative describing the proposed land disturbing activity, construction timeline and sequencing, and a general review of the major erosion and sediment control BMPs proposed to be used to minimize off-site impacts during the construction phase and to stabilize the site following construction.
- (5) Final Erosion Control Plan Contents.** The following shall be the minimum requirements for items to be included in a final erosion and sediment control plan:
- (a) Sites Less than One Acre of Total Land Disturbance.

1. *A narrative describing the proposed land disturbing activity, construction timeline and sequencing, temporary BMPs to be used to minimize off-site impacts during the construction phase, and proposed methods to stabilize the site following construction in accordance with the requirements of this ordinance;*
 2. *A survey map or scaled site plan drawing of sufficient clarity showing a north arrow, the location of proposed land disturbance, direction of flow for runoff entering and leaving the disturbed area, upslope drainage area (if known), proposed BMPs, existing and proposed slopes, ground cover, buildings, roads, access drives, property boundaries, drainage ways, water bodies, trees, culverts, utilities and other structures within 50 feet of the proposed land disturbance;*
 3. *The name, address and daytime phone number of the person(s) charged with installing and maintaining all best management practices;*
 4. *For underground utility installations, the plans must delineate where utilities will be installed, show the location of the open cut and the topography in the area, and list the total lineal feet to be installed and the lineal feet that will be done by open cut; and*
 5. *Other information determined to be necessary by the DLM to ensure compliance with the requirements of this chapter.*
- (b) Sites One Acre or Greater in Total Land Disturbance.*
1. *A site map in accordance with sec. 19.10 (3) below;*
 2. *A map at a scale of 1 inch equals no more than 100 feet (unless otherwise noted), delineating and labeling the following applicable items:*
 - a. *North arrow, graphic scale, draft date, name and contact information for project engineer or planner and designation of source documents for all map features.*
 - b. *Proposed site topography at contour intervals not to exceed two feet, proposed percent slope for all open channels and side slopes and all proposed runoff discharge points from the site;*
 - c. *Proposed building envelopes and other land area to be disturbed and size in acres;*
 - d. *All woodland areas, those proposed to be lost or transplanted during construction and acres or numbers of each. For woodlands proposed to be lost, show individual trees larger than eight (8) inches in diameter that are located within twenty (20) feet of proposed grading boundaries;*
 - e. *Temporary access drive and specified surface material and minimum depth;*
 - f. *Temporary flow diversion devices for upslope or roof runoff until site is stabilized;*
 - g. *Temporary sediment trapping devices for site perimeter and inlets to culverts and storm drains;*
 - h. *Temporary settling basin or other BMP to be used for site dewatering during utility or other subsurface work;*
 - i. *Temporary soil stockpile sites indicating setbacks from nearby water resources or environmental corridors and the proposed erosion protection methods;*
 - j. *Detailed drawings and cross-sections for any sediment traps, basins or other major cut or fill areas requested by the DLM, showing side slopes and elevations;*
 - k. *Final stabilization measures for open channels and erosion protection for pipe and channel inlets, outlets and emergency spillways;*
 - l. *Location of proposed utilities, including: standard cross-section for buried utilities, associated easements, labeling the type of utility and notes on erosion control and restoration plans;*
 - m. *Final site stabilization instructions for all other disturbed areas, showing areas to be stabilized in acres, depth of applied topsoil, seed types, rates and methodology, fertilizer, sod or erosion matting specifications, maintenance requirements until plants are well established, and other BMPs used to stabilize the site;*
 - n. *Detailed construction notes clearly explaining all necessary procedures to be followed to properly implement the plan, including estimated starting date of grading, timing and sequence of construction or demolition, any construction stages or phases, utility installation, dewatering plans, refuse disposal, inspection requirements, and the installation, use, and maintenance of best management practices proposed in the plan;*

- o. *Location of soil evaluations with surface elevations, estimated seasonal water table depths and soil textures down to planned excavation depths.*
- p. *Other items specified by the DLM as necessary to ensure compliance with this ordinance.*
- 3. *Supporting information for the plan reviewer only:*
 - a. *A narrative summary of the erosion control plan, briefly explaining the overall plan and, any unique information that led to the selection of BMPs and how the plan meets the guiding principles.*
 - b. *Summary of design data for any structural BMP such as sediment basins or sediment traps.*
 - c. *Open channel design and stabilization data to support the selected BMPs for stabilization;*
 - d. *Estimated time soil stockpiles will exist to support the selected BMPs for erosion control;*
 - e. *Documentation that proposed utility locations and installation scheduling has been coordinated with the affected utility companies.*
 - f. *Documentation of any other calculations used to demonstrate compliance with the performance standards in this section.*

19.10 Storm Water Management Plan Requirements.

(1) General Storm Water Management Plan Requirements.

(a) *Plan. A storm water management plan shall describe how the permit holder and other responsible party will meet the storm water management requirements of this section and other related requirements in this ordinance. All storm water management plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements described in this ordinance.*

(2) Guiding Principles for Storm Water Management. *To satisfy the requirements of this section, a storm water management plan shall, to the maximum extent practicable, adhere to the following guiding principles:*

- (a) *Preserve natural watershed boundaries and drainage patterns;*
- (b) *Reserve adequately sized areas for storm water infiltration, detention and treatment early in the site planning process;*
- (c) *Locate storm water BMPs prior to runoff leaving the site or entering waters of the state, and outside of wetlands, floodplains, primary or secondary environmental corridors or isolated natural areas;*
- (d) *Minimize soil compaction and maintain pre-development groundwater recharge areas;*
- (e) *Minimize impervious surfaces and have them drain to vegetated areas for pollutant filtering and infiltration;*
- (f) *Emphasize vegetated swales, warm season and wetland plantings, and low flow velocities for storm water conveyance, treatment and infiltration, especially for transportation related projects;*
- (g) *Allow for different storm water management strategies for cleaner runoff (i.e. roofs) versus more polluted runoff (i.e. heavily used streets and parking lots);*
- (h) *Provide for emergency overflow in all storm water BMP designs;*
- (i) *Distribute storm water bioretention and infiltration BMPs throughout the site plan for large land developments;*

(3) Site Plan Map Requirements. *A site plan map and supporting data of site conditions at a scale of 1 inch equals no more than 100 feet (unless otherwise noted) shall delineate or display all the following applicable items:*

- (a) *Development title, graphic scale and north arrow;*
- (b) *Property location description by public land survey system (1/4 section, section, township, range, county);*
- (c) *Location map (smaller scale) showing the site location within a public land survey section or subdivision, oriented the same as par. 4 below;*
- (d) *Ownership boundaries, bearings, lengths and other survey references that will accurately identify the sites location, in accordance with s. 236 Wisconsin Statutes and county mapping standards for all land divisions;*
- (e) *Lot numbers and dimensions, including outlots for all land divisions;*
- (f) *Name and complete contact information for the applicant, landowner, developer and project engineer;*

- (g) Surveyor's certificate, signed, dated and sealed for all land divisions;
 - (h) Sheet numbers and revision dates on every page;
 - (i) Existing site topography at a contour interval not to exceed 2 feet, including spot elevations for physical features such as culvert (invert elevations), retaining walls, road and ditch centerlines and topographic high and low points;
 - (j) Location and name, if applicable, of all lakes, streams, channels, ditches, and other water bodies or areas of channelized flow on or adjacent to the site;
 - (k) Location and name, if applicable, of all wetlands and identification of source of delineation. For final land divisions, these boundaries shall be field verified;
 - (l) Boundaries of shoreland zones and the ordinary high water mark (OHWM) for any navigable water body as defined by the Trempealeau County Shoreland and Floodland Protection ordinance. For final land divisions, the OHWM boundaries shall be field verified;
 - (m) Boundaries and elevation of the 100-year floodplains, flood fringes and floodways, as defined by the Trempealeau County Shoreland and Floodland Protection ordinance. For final land divisions, these boundaries and elevations shall be field verified;
 - (n) Boundaries and soil symbol for each soil mapping unit and the identification of all hydric soils as defined by the USDA-Natural Resources Conservation Service;
 - (o) Locations of all available soil borings or soil profile evaluations with unique references to supplemental data report forms;
 - (p) Location and descriptive notes for existing and proposed structures within 50 feet of the property boundaries and their proposed use, including, but not limited to buildings and foundations, roads, parking areas, fence lines, access lanes, culverts (include size and type), above ground utilities and retaining walls;
 - (q) Location and descriptive notes for other known existing site features including, but not limited to rock outcrops or other karst features, tile drains, buried utilities, dumps, landfills, manure or other waste storage facilities;
 - (r) Location and descriptive notes for any existing or proposed easements, right-of-ways, vision corners or other known site restrictions. Road right-of ways and building setbacks shall be in compliance with all applicable administrative codes, adopted plans and ordinances;
 - (s) Location and descriptive notes for existing and proposed public dedications of parcels or right-of-ways;
 - (t) Location and descriptive notes for preplanned building or waste disposal sites, when limited by site features;
 - (u) Location and documentation of any existing well and delineation of any applicable regulatory setbacks, in accordance with ch. NR 811 and 812 Wis. Admin. Code;
 - (v) Other site information that the DLM determines is necessary to administer this ordinance.
- (4) Specific Storm Water Management Plan Requirements and Performance Standards.** All storm water management plans and associated BMPs shall meet the following minimum requirements to the maximum extent practicable. It is highly recommended that the applicant meet with the DLM prior to preparing a storm water management plan to determine the applicability of these requirements early in the site planning process.
- (a) Peak Discharge. Minimum requirement. To minimize downstream bank erosion and the failure of downstream conveyance systems, the calculated post-development peak storm water discharge rate shall not exceed the calculated pre-development discharge rates for the 2-year, 10-year, and 100-year, 24-hour design storms.
 - (b) Total Suspended Solids. By design, each storm water management plan shall meet the following post-development total suspended solids reduction targets, based on average annual rainfalls, as compared to no runoff management controls:
 1. For new land development, 80% reduction in total suspended solids load;
 2. For redevelopment, 40% reduction of total suspended solids load;
 - (c) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following requirements, except as provided in subs. 5. through 8. below.
 1. Residential. For residential developments one of the following shall be met:

- a. *Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.*
- b. *Infiltrate 25% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate runoff curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as prescribed in sec. 19.11. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.*
2. *Nonresidential. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:*
 - a. *Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.*
 - b. *Infiltrate 10% of the post-development runoff volume from the 2-year, 24-hour design storm. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.*
3. *Modeling. Refer to sec. 19.11(1) for details on calculating runoff volumes and pre-development conditions.*
4. *Pretreatment. Pretreatment shall be required before infiltrating parking lot and road runoff from commercial, industrial and institutional areas. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality. Pretreatment options may include, but are not limited to, oil/grease separators, sedimentation or bioretention basins, filtration swales or filter strips.*
5. *Infiltration Exclusions. Infiltration of runoff shall not be credited toward meeting the requirements of this subsection for the following:*
 - a. *Runoff from outdoor material storage and loading docks for tier 1 and tier 2 industrial facilities, as identified in NR 216(2) Wis. Admin. Code.*
 - b. *Runoff from fueling and vehicle maintenance areas, not including rooftops and canopies.*
 - c. *Infiltration of runoff within 1000 feet up gradient or within 100 feet down gradient of karst features.*
 - d. *Infiltration of runoff from any area except rooftops with less than 3 feet separation distance from the top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.*
 - e. *Infiltration of runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.*
 - f. *Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development, not including rooftop runoff.*
6. *Infiltration Exemptions. The infiltration requirements of this subsection do not apply to frozen soil conditions and may be exempted if soils have a measured infiltration rate of less than 0.6 inches per hour and the DLM determines it would be impracticable to modify existing soil conditions.*
7. *Alternate runoff uses. Where storage and reuse of runoff are employed, such as to support green roofs, landscape watering, toilet flushing, laundry or irrigation, such alternate uses shall be given equal credit toward the infiltration volume required by this section.*
8. *Groundwater protection.*
 - a. *Infiltration systems designed in accordance with this subsection shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and*

shall maintain compliance with the preventive action limit at a point of standards application in accordance with Chapter NR 140 Wis. Adm. Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. The discharge from BMPs shall remain below the enforcement standard at the point of standards application.

c. No storm water BMP shall be installed that meets the definition of an injection well under Chapter NR 812 Wis. Admin. Code.

d. All storm water BMPs shall comply with the provisions of any applicable wellhead protection plan for a community water supply under Chapter NR 811 Wis. Admin. Code.

(d) Protective Areas.

1. *Definitions.* “Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

a. For outstanding resource waters and exceptional resource waters and for wetlands in areas of special natural resource interest as specified in Chapter NR 103 Wis. Admin. Code, 75 feet.

b. For perennial and intermittent streams identified on the Trempealeau County GIS system, 50 feet. If there is a discrepancy between the Trempealeau County GIS system and the applicable United States Geological Survey 7.5-minute series topographic map, the more stringent stream identification shall apply.

c. For lakes, 50 feet.

d. For highly susceptible wetlands, as determined by the DLM, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Chapter NR 103 Wis. Admin. Code. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

f. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

2. *Requirements.* The following requirements shall be met for all land development activity located within a protective area:

a. Impervious surfaces shall be kept out of the protective area, except for boathouses and walkways authorized under shoreland and floodland zoning. The erosion control plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land disturbing activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

c. Best management practices such as filter strips, swales, or wet detention basins, which are designed to control pollutants from non-point sources may be located in the protective area, but shall not encroach into wetlands, floodplains or primary or secondary environmental corridors.

- (e) Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- (f) Site Drainage. Measures shall be implemented to ensure proper site drainage, prevent property damage and protect public health and safety, including the following minimum requirements:
1. Drainage easement. Perpetual drainage easements or other deed restrictions shall be recorded on the property to preserve major storm water flow paths and permanent storm water BMP locations. Covenants in these areas shall not allow buildings or other structures and shall prevent any grading, filling or other activities that interrupt or obstruct flows in any way. Covenants shall also specify maintenance responsibilities and authorities in accordance with sec. 19.12.
 2. Site grading. Site grading shall ensure positive flows away from all buildings, roads, driveways and septic systems, be coordinated with the general storm water drainage patterns for the area, and minimize adverse impacts on adjacent properties.
 3. Street drainage. All street drainage shall be designed to prevent concentrated flows from crossing the traffic lanes to the maximum extent practicable. Design flow depths at the road centerline for on-street drainage, shall not exceed six (6) inches during the peak flows generated by the 100-year, 24 hour design storm, using planned land use conditions for the entire contributing watershed area.
 4. Bridges and cross-culverts. All new or modified bridges and cross-culverts shall comply with applicable design standards and regulations, facilitate fish passage and prevent increased flooding or channel erosion upstream or downstream from the structure. Design flow depths at the road centerline for all crossings shall not exceed six (6) inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area. All predevelopment runoff storage areas within the flow path upstream of bridges and cross-culverts shall be preserved and designated as drainage easements, unless compensatory storage is provided and accounted for in modeling. As-built documentation shall be submitted in accordance with sec.19.08 for all new or modified structures that are located within a mapped floodplain or that the DLM determines to be necessary to maintain floodplain modeling for the applicable watershed.
 5. Subsurface drainage. Basement floor surfaces shall be built one (1) foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible. The DLM shall be notified of any drain tiles that are uncovered during construction, which the DLM may require to be restored or connected to other drainage systems. No discharge of groundwater from tile lines, sump pumps or other means shall be allowed onto another persons land or any public space without the written approval of the owner or unit of government.
 6. Open channels. All open channel drainage systems shall at a minimum be designed to carry the peak flows from a 10-year, 24-hour design storm using planned land use for the entire contributing watershed area. Side slopes shall be no steeper than 3h:1v unless otherwise approved by the DLM for unique site conditions. Open channels that carry runoff from more than 130 acres shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm.
 7. Storm sewers. All storm sewers shall be designed in accordance with applicable community technical standards and specifications.
 8. Structure protection and safety. Flows generated by the 100-year, 24-hour design storm under planned land use conditions may exceed the design capacity of conveyance systems, but shall not come in contact with any buildings. For buildings designed for human occupation on a regular basis, the following additional requirements shall apply:
 - a. The lowest elevation of the structure that is exposed to the ground surface shall be a minimum of two (2) feet above the maximum water elevation produced by the 100-year, 24 hour design storm, including flows through any storm water BMP that may temporarily or permanently store water at a depth of greater than one (1) foot; and
 - b. The structure shall be setback at least 50 feet from any storm water BMP that may temporarily or permanently store water at a depth of greater than one (1) foot. Setback distance shall be measured from the closest edge of water at the elevation produced by the 100-year, 24-hour design storm.
- (g) Additional Requirements. The DLM may establish more stringent requirements than the minimums set forth in this section, such as addressing thermal impacts of storm water or chronic wetness conditions, if the

DLM determines that an added level of protection is needed to protect:

1. *A class 1 trout stream*
2. *An outstanding water resource or exceptional water resource, as listed below:*
 - a. *Abraham Coulee Creek from headwaters to Abraham Road bridge*
 - b. *Bear Creek*
 - c. *Buffalo River (from HWY 53 to Strum Pond)*
 - d. *Creek 11-4 T20N R7W*
 - e. *Creek 11-7 T20N R7W*
 - f. *Creek 13-15 T24N R7W*
 - g. *Creek 13-3a T20N R7W*
 - h. *Creek 13-3b T20N R7W*
 - i. *Creek 13-1 T20N R7W*
 - j. *Creek 14-13 T24N R7W*
 - k. *Creek 15-13 T20N R8W*
 - l. *Creek 15-4 T20N R7W*
 - m. *Creek 2-12 T19N R7W*
 - n. *Creek 24-4 T24N R7W*
 - o. *Creek 25-13 T22N R6W*
 - p. *Creek 34-15 T20N R7W*
 - q. *Creek 34-2 T20N R8W*
 - r. *Creek 5-6 T19N R8W*
 - s. *Creek 7-4 T20N R7W*
 - t. *Creek 8-14 T20N R7W*
 - u. *Creek 8-9 T20N R7W*
 - v. *Dutch Creek*
 - w. *Joe Coulee Creek*
 - x. *Johnson Valley Creek*
 - y. *Vosse Coulee Creek*
 - z. *Washington Coulee Creek*
3. *An environmentally sensitive area;*
4. *A downstream property;*
5. *Public health or safety.*

(5) Technical Exemptions.

(a) Exemption Criteria. Following the provisions of this subsection, the DLM may exempt a site or a portion of a site from meeting certain technical requirements of this section if the DLM determines that one or more of the following applies:

1. *Off-Site BMP(s). The requirement has been satisfied through the use of off-site BMP(s). Off-site BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the off-site BMP(s) must treat runoff from the site covered by the application;*
2. *Internally Drained Sites. The site is internally drained and will not discharge runoff from the site after development occurs; or*
3. *Site Conditions. It is impracticable to meet the requirement due to site conditions such as slopes, soils, proximity to structures or desirable trees, limited site dimensions, surrounding land uses, the potential for groundwater contamination, public health or safety problems, or other factors beyond the control of the applicant. No site shall be entitled to an exemption under this paragraph due solely to the size of the proposed land development activity in relation to the parcel size. However, the DLM shall provide special consideration in granting exemptions under this paragraph for the following sites:*
 - a. *Redevelopment sites.*
 - b. *In-fill development areas less than 5 acres.*
 - c. *Highway projects where limited public right-of-way land is available for the installation of storm water BMPs.*

- d. Land developments with less than 10% of the site planned to be impervious surfaces and the total cumulative area of all impervious areas is less than 1 acre using the final build-out condition.
- (b) **Application for Exemption.** An exemption under sub. (a) above may only be granted by the DLM upon the applicant submitting the following items to the DLM, which shall constitute a completed application:
1. A written request describing the provisions of this subsection for which an exception is being requested and an explanation of why;
 2. A site plan, including the delineation of the area and size (in acres) to which the exemption would apply and any other storm water BMPs required to meet this ordinance;
 3. The necessary technical documentation to demonstrate that the site meets one or more of the criteria for which an exemption is being applied;
 4. For off-site BMP(s):
 - a. Documentation that the necessary BMP(s) have been properly installed, including as-built plans, construction certification and design summaries in accordance with sec. 19.08(4);
 - b. A copy of the recorded maintenance agreement in accordance with sec. 19.12, and any other easements or legal arrangement that may be involved to ensure the long-term maintenance of the off-site BMP(s).
 5. Other materials that the DLM determines to be necessary to make a determination under this subsection or to comply with this ordinance.
- (c) **Review Procedure.** The DLM shall review all exemption application materials, determine compliance with this section and notify the applicant of a decision within 20 working days of the submittal date, in accordance with the procedures under sec. 19.07 in consideration of all exemption requests, the DLM shall ensure that the applicant meets the requirements of this section to the maximum extent practicable.
- (d) **Exemption Fee.** The DLM shall publish a fee schedule for this purpose, to be updated as needed to reflect current BMP costs.
- (e) **Appeal.** If the applicant does not agree with any determination of the DLM under this subsection, the applicant may appeal the decision pursuant to the procedures in sec. 19.14(3).
- (6) Preliminary Storm Water Management Plan Requirements.** Preliminary storm water management plans shall contain the following applicable items:
- (a) Drafting date and contact information for the project engineer with all other mapping elements and scale consistent with the site plan map;
 - (b) Delineation of existing and proposed major flow paths within the site and draining into the site from adjacent properties;
 - (c) Location, type and preliminary design of proposed storm water BMPs needed to comply with this ordinance;
 - (d) Location and type of major storm water conveyance systems proposed for the site;
 - (e) Existing and proposed storm water discharge points;
 - (f) Location and preliminary dimensions of proposed drainage easements;
 - (g) Location of soil borings and soil profile evaluations with surface elevations;
 - (h) Preliminary location of access lanes for maintenance of storm water BMPs;
 - (i) Support documentation for the plan reviewer, including:
 1. A preliminary plan narrative describing site drainage, ultimate receiving water body for off-site discharges, major site restrictions, and how the preliminary storm water management plan will meet the requirements of this ordinance;
 2. Summary of watershed, subwatershed and land use data in acres and the preliminary results of any hydrology calculations;
 3. Soil profile evaluation data in accordance with BMP technical standards;
 4. Proposed ownership and maintenance responsibilities for all proposed storm water BMPs.
- (7) Final Storm Water Management Plan Requirements.** Final storm water management plans shall contain the following applicable items:
- (a) Drafting date and contact information for the project engineer, with all other mapping elements and scale consistent with the site plan map;

- (b) *Location of existing and proposed storm water discharge points;*
- (c) *Delineation and labeling of all proposed impervious areas and accompanying area computations;*
- (d) *Final design drawings of all proposed storm water BMPs with unique references to support documentation, prepared in accordance with minimum DLM standards and of sufficient clarity for those responsible for site grading, including:*
 - 1. *Plan views showing the location of proposed BMPs in combination with the site plan map at a scale of 1 inch equals no more than 100 feet;*
 - 2. *Additional detail plan view drawings at a scale of 1 inch equals no more than 40 lineal feet, showing proposed 2 foot contours and all critical design features and elevations;*
 - 3. *Detailed cross-sections and profiles of each BMP showing all critical design features, side slopes, structures, soil profiles and applicable elevations, including seasonal high water table;*
 - 4. *Detailed drawings or material specifications for inlets or outlets.*
- (e) *Type, size, location and cross-sections of all pipes, open channels, grade stabilization structures and other proposed storm water conveyance systems, with unique references to support documentation;*
- (f) *Location and dimensions of proposed drainage easements;*
- (g) *Location, dimensions and surfacing material or soils data of proposed access lanes and delineation of easements needed to allow future maintenance of all storm water BMPs. The minimum width of any access easement shall be 15 feet;*
- (h) *Location of soil borings and soil profile evaluations with surface elevations and unique references to supplemental data sheets, as needed to determine feasibility of any proposed storm water BMP and to comply with applicable technical standards;*
- (i) *Detailed construction notes explaining all necessary procedures to be followed to properly implement the plan, including planting and landscaping specifications, timing and sequencing of construction and any temporary measures needed to protect BMPs during the construction phase;*
- (j) *A detailed construction inspection plan, outlining the critical elements in the plan that need to be surveyed or inspected by a representative of the project engineer or the DLM, and the timing and notification requirements involved.*
- (k) *A final storm water BMP maintenance agreement in accordance with sec. 19.12;*
- (l) *Support documentation summarized in accordance with DLM standards, including but not limited to:*
 - 1. *A narrative summary of the storm water management plan, briefly explaining any unique information that led to the selection of BMPs, how the proposed plan meets the guiding principles and the specific storm water planning requirements.*
 - 2. *Maps of existing and proposed watersheds, subwatersheds, flow paths, soil types, hydrologic soil groups, land uses/cover type and accompanying runoff curve numbers within the site and draining into the site from adjacent properties, and a description of the ultimate receiving water body(s) for off-site discharges;*
 - 3. *Pre-development and post-development hydrology and pollutant loading (if applicable) data for each watershed, such as peak flows and runoff volumes, as needed to meet the requirements of this ordinance. Impervious surface maps and calculations of runoff volumes and effective infiltration areas.*
 - 4. *Hydraulic and hydrologic data summaries for all existing and proposed pipes, open channels, grade stabilization structures and other storm water conveyance systems, and the necessary documentation to demonstrate compliance with the site drainage requirements.*
 - 5. *BMP design data for each proposed BMP, showing how it complies with applicable technical standards and the requirements of this ordinance;*
 - 6. *Soil evaluation reports, with matching references to map features showing their location and elevations;*
 - 7. *A signed cover sheet indicating that all plans and supporting documentation have been reviewed and approved by the designer and certifying that they have read the requirements of this ordinance and that, to the best of their knowledge, the submitted plans comply with the requirements.*
 - 8. *Cost estimates for the installation of proposed storm water BMPs, which shall serve as a basis for the financial assurance. The applicant may use average costs for BMP installations in the county rather*

than specific estimates, upon approval by the DLM.

9. For sites where changes are proposed in storm water flow paths, or where proposed storm water discharges may otherwise have a significant negative impact on downstream property owner(s), the DLM may require the applicant to submit written authorization or complete other legal arrangements with the affected property owner(s); and

(m) Other items deemed necessary by the DLM to ensure compliance with the requirements of this ordinance.

19.11 Technical Standards and Specifications.

(1) Hydrologic and Hydraulic Computations.

(a) Models. All computations of runoff volumes and peak flow rates used in the development of erosion control and storm water management plans in accordance with this ordinance shall be based on United States Department of Agriculture - Natural Resources Conservation Service (NRCS) methodology. Models such as SLAMM, P8 or other DLM approved models may be used to evaluate the efficiency of the design in reducing total suspended solids to meet this ordinance. Models such as RECARGA or other DLM approved models may be used to evaluate the efficiency of the design in meeting the infiltration requirements of this ordinance.

(b) Rainfall depths. To determine compliance with this ordinance, the following design storm rainfall depths shall be used, which are derived from NRCS publications and extrapolated for Trempealeau County:

Design Storm	1-year 24-hour	2-year 24-hour	10-year 24-hour	100-year 24-hour
Rainfall Depth	2.5 inches	2.9 inches	4.3 inches	6.1 inches

(c) Runoff curve numbers. All computations of pre-development conditions as specified in this ordinance shall use those NRCS runoff curve numbers assigned for a "good" hydrologic condition for each land cover type. For lands where the pre-development land use was cropland, the following NRCS curve number values shall be used as maximums:

Soil Hydrologic Group	A	B	C	D
NRCS Runoff Curve Number	56	70	79	83

(d) Average annual rainfalls. All modeling involving average annual rainfall or runoff volumes shall use rainfall data from the Minneapolis area between March 13 through November 4, 1959 as the typical annual rainfall pattern for Trempealeau County.

(e) Rainfall distribution. All peak flow calculations shall use Type II rainfall distribution patterns, as defined in NRCS methodologies.

(f) Other methods. All velocity and peak flow computations for open channels and storm sewer pipe flows shall be based on Manning's Formula. Flow routing, culvert design, weir and orifice flow and other related hydraulic computations used to design storm water management facilities shall be based on standard applicable engineering formulas. Any design data or methodology proposed to be used for hydrologic or hydraulic computations other than those prescribed in this ordinance shall be approved by the DLM. Revisions or updates to the rainfall depths and distribution prescribed above may be allowed upon approval by the applicable regulatory agencies, the Storm Water Advisory Committee and the DLM.

(2) Best Management Practice (BMP) Design Standards.

(a) The design, installation and maintenance of all BMPs used to meet the requirements of this ordinance shall comply with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of ch. NR 151, Wis. Adm. Code.

(b) Where BMP standards have not been identified or developed under sub. 1 above, the DLM may approve the use of other available standards, such as those from other states or the USDA-Natural Resources Conservation Service.

(3) Technical Guidelines. The DLM may adopt technical guidelines to facilitate the consistent administration of certain provisions of this ordinance. The DLM shall seek the expertise and input from the

Storm Water Advisory Committee and other agencies in the development and maintenance of technical guidelines under this subsection.

(4) **Construction Specifications.** The construction or installation of all BMPs and BMP components shall comply with all applicable manufacturers and industry standards and specifications, including but not limited to those published by ASTM and the USDA - Natural Resources Conservation Service (NRCS).

(5) **Soil Evaluations.** All soil profile evaluations and forms submitted for review by the DLM under the provisions of this ordinance shall be completed in accordance with Chapter COM 85 Wis. Admin. Code. Where there are no specific standards for the number, location or depth of soil profile evaluations for a proposed BMP, the DLM shall determine the minimum requirements based on the design of the BMP and the likely variability of the on-site soils.

(6) **Future Revisions or Updates.** The technical references in this section are made a part of this ordinance and shall be updated periodically in order to keep current with field experiences, research, technological advances and the development of related technical standards by other agencies and units of government. Any future revisions of the documents incorporated herein are also made part of this ordinance unless otherwise acted upon by the DLM.

19.12 Maintenance of Storm Water BMPs.

(1) **Maintenance Agreement Required.** A maintenance agreement shall be required for all permanent storm water BMPs installed to comply with the requirements of this ordinance. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of this section.

(2) **Agreement Provisions.** The maintenance agreement shall, at a minimum, contain the following information and provisions:

(a) **Ownership.** Identification of the owner(s) of the land parcel(s) where the storm water BMP(s) is located. Ownership shall be the same as those assigned maintenance responsibilities. For subdivisions, all storm water BMPs that collect runoff from more than one lot shall be located on outlots. For all privately owned outlots, ownership shall be by proportional undividable interest for all properties that are within the control of the applicant and drain to the BMP. However, the applicant may combine ownership of more than one BMP within the site;

(b) **Location.** A legal description and survey map of the storm water BMP location(s), showing associated drainage or access easements required to maintain the BMP;

(c) **Design.** Detailed drawings of each storm water BMP and a general description of its purpose and design, including but not limited to BMP dimensions and elevations, inlet and outlet designs and elevations and the drainage area served by the BMP. If possible, use as-built survey information.

(d) **Maintenance plan.** A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, and an estimated time interval between each activity;

(e) **Access.** Authorization for vehicle access, including a minimum 15-foot wide access easement dedicated to the local municipality and connecting to a public road right-of-way, to allow for future BMP maintenance work. The access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard construction equipment, and shall not include any area where channelized flow of runoff occurs or where storm water may pond to a depth greater than six (6) inches during a 100-year, 24-hour design storm.

(f) **Maintenance responsibility.** Identification of the person(s), organization, municipality or other entity responsible for long-term maintenance of the storm water BMP. The assignment of maintenance responsibilities for privately owned storm water BMP shall, at a minimum, include all properties that are within the control of the applicant and drain to the BMP. However, the applicant may combine the maintenance responsibilities of more than one BMP within the site;

(g) **Inspections.** Authorizations for access to the property by representatives of the local municipality or their designee and Trempealeau County to conduct inspections of the BMP, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary.

(h) **Municipal maintenance.** Authorization for the local municipality or their designee to carry out any maintenance activities and associated inspections if the entity does not perform the required activity

within the specified time period in the notification or if the local municipality does not accept the work conducted by the designated entity;

(i) **Special assessment.** A statement that the applicable local unit of government may exercise their statutory authority to levy and collect a special assessment or charge pursuant to sub ch. VII of ch. 66 Wisconsin Statutes, or s. 60.0627, Wisconsin Statutes for towns, for any services carried out relating to sub. (g) or (h) above;

(j) **Binding agreement.** A statement confirming that the entire agreement shall remain binding on all subsequent owners of the property upon which the storm water BMP is located and that the restrictions shall run with the land and on any other property which is subject to maintenance responsibility in the agreement.

(k) **Other.** Other information as determined to be necessary by the DLM to ensure compliance with this ordinance.

(3) Agreement Approval and Recording.

(a) **Approval.** The DLM shall review and approve the maintenance agreements proposed under this ordinance and ensure compliance with all provisions of this section. If the agreement does not comply, the DLM shall notify the applicant what changes are needed in order to comply.

(b) **Recording.** Upon certification of compliance by the DLM, an abridged maintenance agreement shall be recorded at the Trempealeau County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains the subject storm water BMP or is subject to maintenance responsibility in the approved agreement. For new land divisions, the recording of the maintenance agreement shall occur simultaneously with the recording of the land division. However, no storm water BMP maintenance agreement shall be recorded prior to DLM approval.

(c) **Copy.** The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the DLM as a condition of release of the financial assurance.

(4) Maintenance Responsibilities Prior to a Maintenance Agreement. The permit holder and other responsible party shall be responsible for the maintenance of all storm water BMPs prior to permit termination under sec. 19.08(2).

19.13 Illicit Discharges.

(1) Prohibitions.

(a) **Discharges.** Except for storm water and other discharges specifically exempted under sub. (2) below, no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

(b) **Connections.** The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

(2) **Exemptions.** The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:

(a) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

(b) Discharges resulting from fire fighting activities.

(c) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.

(3) **Notice of Violation.** Whenever the DLM finds a violation of this section, the DLM may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

(a) The elimination of illicit connections or discharges;

(b) That violating discharges, practices, or operations shall cease and desist;

(c) The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;

(d) Any responsible party that fails to comply with a notice of violation under this section, shall be subject to further enforcement action under the provisions of sec. 19.14 below.

19.14 Enforcement.

(1) **Prohibited Practices.** Not complying with any requirement of this ordinance shall be deemed a violation, and shall subject the responsible party to enforcement action under this section. Prohibited practices shall include but not limited to the following:

(a) Commencing any land disturbing or land development activity prior to:

1. Obtaining an erosion control and storm water permit;
2. Notifying the DLM a minimum of 2 working days prior to land disturbance; or
3. Installing those BMPs identified in the approved plans.

(b) Failing to apply for a DLM preliminary storm water review letter in accordance with subsection 19.07(2) of this ordinance.

(c) Failing to obtain DLM certification of compliance for a final plat or certified survey map in accordance with subsection 19.07(4) of this ordinance.

(d) Failing to comply with all permit conditions, erosion control or storm water management requirements and approved plans in accordance this ordinance.

(e) Failing to maintain BMPs until permit termination.

(f) Failing to comply with any requirements in a notice of violation.

(2) **Violations.** The DLM shall notify the permit holder of any violation in writing, and copy any other known responsible party involved in the violation. The DLM is authorized to use the following methods of enforcement in any combination thereof against any applicant or responsible party that is found to be in violation of any provision of this ordinance:

(a) **Forfeiture.** Any violator shall be subject to a forfeiture of not less than \$100 or more than \$1000 plus the cost of prosecution for each violation. Each day that a violation exists shall constitute a separate offense.

(b) **Stop Work Order.** Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance.

(c) **Permit Revocation.** The DLM may revoke a permit issued under this ordinance. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the County to be charged against the financial assurance.

(d) **Emergency Action.** The DLM or it's agents may enter upon the property and take any necessary emergency action if the DLM determines that the site in violation is an immediate threat to public health, safety, welfare, the environment or downstream property, or if the permit holder or other violator refuses to take the corrective action as ordered by the DLM. Any cost incurred by the DLM as a result of this action shall be billed to the permit holder or other responsible party or subtracted from the financial assurance. The DLM shall provide reasonable notice to the permit holder and other responsible party after exercising this authority.

(e) **Citation.** The County elects to also use the citation method of enforcement under Section 66.0113 of the Wisconsin Statutes for violations of this ordinance, including those for which a statutory counterpart exists. The procedures contained in Section 66.0113(3) of the Wisconsin Statutes, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.

(3) **Appeals.**

(a) **Authority.** The Board of Adjustment shall act as the review and appeal authority for any order, requirement, decision or determination by the DLM under this ordinance.

(b) **Procedure.** The rules, procedures, duties and powers of the Board of Adjustment shall be as provided in the County Comprehensive Zoning Ordinance and the provisions of §59.694, Wisconsin Statutes shall apply to any review or appeal under this ordinance.

(c) **Variances.** Upon appeal, the Board of Adjustment may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.

(d) **Who May Appeal.** Appeals to the Board of Adjustment may be taken by any aggrieved person or by an officer, department, board, or bureau of the County affected by any decision of the DLM.

19.15 Validity.

- (1) **Repeal of conflicting Ordinances.** This ordinance repeals all provisions of an ordinance previously enacted under s. 59.693 relating to construction site erosion control and storm water management regulations. Wherever there may be a conflict with other county ordinances relating to erosion control, storm water management or site drainage, the more restrictive provision shall apply, as determined by the DLM.
- (2) **Declaration of severability.** The several sections, subsections and paragraphs of this Ordinance are hereby declared to be severable. If any section, subsection, or paragraph or subparagraph of this Ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Ordinance, or of the section of which the invalid portion or paragraph may be a part.
- (3) **Effective date.** Following passage and publication by the county board, this Ordinance shall be in full force and effect in all areas described in sec. 19.05.
- (4) **Adoption.** Passed and approved by the Board of Supervisors of Trempealeau County, Wisconsin, this 20th day of September, 2010.

19.16 Definitions.

- (1) **“Applicant”** means any person or entity holding fee title to the property or their representative. The applicant shall become the “permit holder” once a permit is issued. The applicant shall sign the initial permit application, after which the applicant may provide the DLM written authorization for others to serve as the applicant’s representative.
- (2) **“Best management practice” (or “BMP”)** means structural and non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or other pollutants carried in runoff.
- (3) **“Common plan of development”** means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.
- (4) **“Design storm”** means a hypothetical depth of rainfall that would occur for the stated return frequency (i.e. once every 2 years or 10 years), duration (i.e. 24-hours) and timing of distribution (i.e. type II). All values are based on the historical rainfall records for the area.
- (5) **“Dewatering”** means the removal of trapped water from a construction site to allow land development or utility installation activities to occur.
- (6) **“DLM”** means the Department of Land Management of Trempealeau County.
- (7) **“Erosion”** means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.
- (8) **“Effective infiltration area”** means the area of the infiltration system that is used exclusively to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (9) **“Environmentally sensitive area”** means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and runoff.
- (10) **“Erosion Control and Storm water permit”** means a written authorization made by the DLM to the applicant to conduct land disturbing or land development activities in accordance with the requirements of this ordinance. An erosion control and storm water permit regulates both construction site erosion and post-construction storm water runoff from a site.
- (11) **“Filtering layer”** means soil that has at least a 3-foot deep layer with at least 20% that passes through a #200 sieve (fines); or at least a 5-foot deep layer with at least 10% that passes through a #200 sieve (fines); or another medium exists with an equivalent level of protection, as determined by the DLM.
- (12) **“Final plat”** means a map of a proposed condominium or subdivision to be recorded with the Trempealeau County Register of Deeds pursuant Wisconsin Statutes.
- (13) **“Groundwater recharge areas”** means where, prior to any land disturbing or land development activity, precipitation or runoff could only leave the area by infiltrating the ground, thereby recharging the groundwater.
- (14) **“Illicit connection”** means any drain or conveyance, whether on the surface or subsurface, which allows an illegal non-storm water discharge to enter the storm drain system, including but not limited to: sewage, process wastewater and wash water, any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

- (15) **“Impervious surface”** means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, driveways, parking lots and streets are typical examples of impervious surfaces. For purposes of this ordinance, typical gravel driveways and other examples listed shall be considered impervious unless specifically designed to encourage infiltration or storage of runoff.
- (16) **“Impracticable”** means that complying with a specific requirement would cause undue economic hardship and that special conditions exist that are beyond the control of the applicant and would prevent compliance.
- (17) **“In-fill development”** means land development that occurs where there was no previous land development and is surrounded by other existing land development;
- (18) **“Infiltration”** means the entry of precipitation or runoff into or through the soil.
- (19) **“Infiltration system(s)”** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (20) **“Land development activity” or “land development”** means any construction related activity that may ultimately result in the addition of impervious surfaces, such as the construction of buildings, roads, parking lots and other structures.
- (21) **“Land disturbing activity” (or “disturbance”)** means any man-made alteration of the land surface that may result in a change in the topography or existing vegetative or non-vegetative soil cover, or may expose soil and lead to an increase in soil erosion and movement of sediment. Land disturbing activity includes clearing and grubbing for future land development, excavating, filling, grading, building construction or demolition, and pit trench dewatering.
- (22) **“Manning’s Formula”** is an empirical formula for open channel flow, or free-surface flow driven by gravity.
- (23) **“Maximum Extent Practicable” or “MEP”** means an acceptable level of implementing best management practices to achieve a performance standard specified in this ordinance, as determined by the DLM. In determining MEP, the DLM shall take into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (24) **“Navigable”** has the meaning given in the Trempealeau County Shoreland Ordinance.
- (25) **“Off-site BMP”** means best management practice(s) that are located outside of the boundaries of the site covered by a permit application. Off-site BMPs are usually installed as part of a regional storm water management plan approved by a local government.
- (26) **Ordinary high water mark (OHWM)** has the meaning given in s. NR115 Wis. Admin. Code.
- (27) **“Planned land use”** means the land use designated in the latest version of the Trempealeau County Comprehensive Land Use Plan.
- (28) **“Plat”** means a map of a proposed condominium or subdivision.
- (29) **“Pollutant”**, as per s. 283.01(13) Wisconsin Statutes, means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
- (30) **“Pollution”**, as per s. 283.01(10) Wisconsin Statutes, means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.
- (31) **“Preliminary plat”** means a map showing the salient features of a proposed condominium or subdivision submitted to an approving authority for purposes of preliminary consideration.
- (32) **“Preventive action limit”** has the meaning given in s. NR 140.05(17), Wis. Admin. Code.
- (33) **“Publicly funded”** means a land development, such as a public road or municipal building that is being funded solely by a unit of government. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.

- (34) **“Redevelopment”** means land development that replaces previous land development of similar impervious conditions.
- (35) **“Regional storm water management plan”** means a planning document, adopted by a local unit of government that coordinates storm water management activities for an entire drainage area or watershed including future land development activities within the watershed. The plan may prescribe the use of BMPs for individual development sites and for selected points within the watershed to meet the goals and objectives of the plan.
- (36) **“Regulatory agency”** means a public agency that the DLM recognizes as having the legal authority to review and approve erosion control and storm water management plans and enforce their implementation, with requirements at least as restrictive as this ordinance.
- (37) **“Responsible party”** means any person or entity holding fee title to the property or acting as the owners representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of erosion control and storm water plans and permits under this ordinance.
- (38) **“Road”** as used in sec. 19.06 of this ordinance, means any access drive that serves more than two (2) residences or businesses.
- (39) **“Runoff”** means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.
- (40) **“Runoff Curve Number”** is an empirical parameter used in hydrology for predicting direct runoff or infiltration from rainfall excess.
- (41) **“Shoreland”** has the meaning given in the Trempealeau County Shoreland Ordinance.
- (42) **“Site”** means the entire area included in the legal description of which the land disturbing or land development activity will occur.
- (43) **“Stabilized”** means that all land disturbing activities are completed and that a uniform, perennial vegetative cover has been established on at least 70% of the soil surface or other surfacing material is in place and the risk of further soil erosion is minimal, as determined by the DLM.
- (44) **“Storm drainage system”** means a publicly-owned facility by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (45) **“Storm water”** has the same meaning as the term “runoff”.
- (46) **“Storm Water Advisory Committee”** means a committee created and chaired by the DLM for the purpose of advising the DLM and the County Board on matters relating to the administration of this ordinance. At a minimum, the committee shall also contain representatives of the Environmental and Land Use Committee, the Wisconsin Department of Natural Resources, the Mississippi River Regional Planning Commission, local municipal officials and representatives from the land development community. All committee meetings shall be posted in accordance with the Wisconsin Open Meetings Law.
- (47) **“Storm water BMP”** means any best management practice that is designed to collect or manage the quantity or quality of storm water runoff for an indefinite time period. This term is a subset of the term “best management practice” and distinct in that they require long-term maintenance. Some examples include, but are not limited to: wet or dry detention basin, infiltration trench or basin, bio-retention basin, stilling basin, green roof, filter strip, artificial wetland, or any combination of these or other permanent storm water management practices, as determined by the DLM.
- (48) **“Subdivision”** means a division of a lot, parcel or tract of land by the owner thereof or the owner’s agent for the purpose of sale or of building development that meets the subdivision definition criteria under s. 236.03(12) Wisconsin Statutes or a more restrictive definition adopted by a local unit of government.
- (49) **“Technical standard”** means a document that specifies design, predicted performance and operation and maintenance requirements for a material, device or method.
- (50) **“Utility”** means a wire, pipe, tube or other conduit designed to distribute or collect a product or service, including but not limited to electricity, natural gas, oil, telecommunications, drinking water, storm water, sewage, or any combination of these items.
- (51) **“Warm season and wetland plantings”** means seed or plant stock that is native to a prairie or wetland setting. These types of plantings usually take a couple of years to get established and require diligent

removal of invasive species during this time. Upon maturity, warm season plants generally have a deep root system, which enhances infiltration.

(52) **“Waters of the state”** has the meaning given in s. 281.01 (18), Wisconsin Statutes

(53) **“Wetlands”** means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions

(54) **“Woodland”** means an area where a grouping of 10 or more trees exist that have trunk diameters of at least 4 inches at four feet above the ground surface. The boundaries of a woodland shall be defined by the canopy, commonly referred to as the “drip line”.

(55) **“Working day”** means any day the office of the DLM is routinely and customarily open for business, and does not include Saturday, Sunday and any official county holidays.

CHAPTER 20

NON-METALLIC MINING RECLAMATION

20.1 Title. Nonmetallic mining reclamation ordinance for the County of Trempealeau.

20.2 Purpose. The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Trempealeau County after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.

20.3 Statutory Authority. This chapter is adopted under authority of Section 295.13(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 59.51, Wisconsin Statutes.

20.4 Restrictions Adopted Under Other Authority. The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

20.5 Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

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

20.7 Applicability.

(1) **Overall Applicability.** The requirements of this chapter apply to all operators of nonmetallic mining sites within Trempealeau County and as provided in Sections NR135.02 (1) and (2), Wisconsin Administrative Code except where exempted in sub. 20.7(2) and for nonmetallic mining sites located in a city, village or town within Trempealeau County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code

(2) **Exemptions.** This chapter does not apply to exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

20.8 Administration. The provisions of this chapter shall be administered by the Standing Committee of the County Board of Supervisors so assigned this responsibility by the Trempealeau County Board of Supervisors.

20.9 Effective Date. The provisions of this chapter shall take effect upon publication.

20.10 Definitions. All definitions for the purposes of this chapter are contained in Section NR135.03, Wisconsin Administrative Code.

20.11 Standards. All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the general performance standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

(1) **GENERAL STANDARDS.**

- (a) **REFUSE AND OTHER SOLID WASTES.** *Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.*
- (b) **AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION.** *Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.*
- (c) **PUBLIC HEALTH, SAFETY AND WELFARE.** *All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.*
- (d) **HABITAT RESTORATION.** *When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.*
- (e) **COMPLIANCE WITH ENVIRONMENTAL REGULATIONS.** *Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.*
- (f) **SURFACE WATER AND WETLANDS PROTECTION.** *Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.*

(2) **GROUNDWATER PROTECTION.**

(a) **GROUNDWATER QUANTITY.** *A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.*

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

20.12 Nonmetallic Mining Reclamation Permit Application Required. *No person may engage in nonmetallic mining involving one acre or greater or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 20.7(1), 20.7(2) or NR135.03 (16) (b), Wisconsin Administrative Code.*

(1) **Required Submittal.** *The operator of all nonmetallic mining sites of one acre or greater shall apply for a reclamation permit from Trempealeau County. All applications for reclamation permits under this section shall be accompanied by information required by section NR 135.18 (1), Wisconsin Administrative Code.*

(2) **Reclamation Permit Application Contents.** *The operator of any nonmetallic mine site shall submit an application that meets the requirements of Sections NR135.18 (2), Wisconsin Administrative Code and the submittals required under sub. 20.12(1) to the County prior to beginning operations.*

20.13 Reclamation Plan.

(1) **Reclamation Plan Requirements.** *All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.*

(2) **Existing Plans and Approvals.** *To avoid duplication of effort, the reclamation plan required by sub. 20.13(1) may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.*

(3) **Approval of Reclamation Plan.** *Trempealeau County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with sub. 20.16(2). Conditional*

approvals of reclamation plans shall be made according to sub. 20.16(5) and denials of reclamation plans shall be made pursuant to sub. 20.17. The operator shall keep a copy of the reclamation plan required by this Section, once approved by Trempealeau County under this Chapter at the mine site or, if not practicable, at the operator's nearest place of business.

20.14 Financial Assurance.

(1) *Financial Assurance Requirements.* All operators of nonmetallic mining sites in Trempealeau County that are subject to this Chapter shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code.

(2) *Private Nonmetallic Mines.* The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sub. 20.12 shall submit the proof of financial assurance required by sub. 20.14(1) as specified in the reclamation permit issued to it under this chapter.

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

20.15 Public Notice and Right of Hearing.

(1) *Reclamation Plan Hearing.* Trempealeau County shall, provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies sub. 20.12. is received.

(2) *Local Transportation-Related Mines.* No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 20.16(3).

20.16 Issuance of a Nonmetallic Mining Reclamation Permit.

(1) *Permit Required.* No person may engage in nonmetallic mining involving one acre or greater or nonmetallic mining reclamation in Trempealeau County without obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter as provided in sub. 20.7(2).

(2) *Permit Issuance.* Applications for reclamation permits for nonmetallic mining sites that satisfy sub. 20.12. shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms to sub. 20.13(1) and provision by the applicant of financial assurance that conforms to sub. 20.14. payable to Trempealeau County prior to beginning mining.

(3) *Automatic Permit for Local Transportation-Related Mines.* Trempealeau County shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(a) through (j), Wisconsin Administrative Code.

(4) *Expedited Review.* Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in sub. 20.26(4). The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to sub. 20.15.

(5) *Permit Conditions.* Permits issued under this section may include conditions as provided in Section NR 135.21(2), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

20.17 Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

20.18 Alternative Requirements.

(1) *Scope of Alternative Requirements Approvable.* An operator of a nonmetallic mining site may submit to the County a written request for County consideration of an alternative requirement to any reclamation standard established in sub. 20.11. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

(2) *Procedures.* The operator of a nonmetallic mining site requesting an alternate requirement in sub. 20.18(1) shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Zoning Administrator. The Zoning-Administrator shall evaluate and act

upon the request. The request may be granted, granted with conditions, or the request may be denied pursuant to factors specified in Section NR 135.22, Wisconsin Administrative Code. Decisions of the Zoning Administrator, as rendered under this section, may be appealed to the County Committee established under S.59 and acting under the authority of 59.69

(3) **Transmittal of Decision on Request for Alternative Requirement.** The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

(4) **Notice to Wisconsin Department of Natural Resources.** Trempealeau County shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.

20.19 Permit Duration. A nonmetallic mining reclamation permit issued under this chapter shall last through operation and final reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sub. 20.32(2), or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner

20.20 Permit Transfer. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

20.21 Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Trempealeau County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Trempealeau County pursuant to sub. 20.23(1).

20.22 Review. Any permitting decision or action made by Trempealeau County under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

20.23 Permit Modification.

(1) **By Trempealeau County.** A nonmetallic mining reclamation permit issued under this chapter may be modified by Trempealeau County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this Chapter. Such modification shall be by an order modifying the permit in accordance with sub. 20.32. and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

(2) **At the Operator's Option.** If the operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, such modification may be requested by submitting a written application for such modification to Trempealeau County. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

(3) **Required by the Operator.** The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if required under the circumstances set out in Section NR135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

(4) **All actions by Trempealeau County on permit modifications requested or initiated under this section are subject to review under sub. 20.22.**

20.24 Permit Suspension and Revocation

(1) **Grounds.** Trempealeau County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

(2) **Procedures.** If Trempealeau County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 20.24(1), it may issue a special order suspending or revoking such permit as set forth in sub. 20.32(2).

(3) **Consequences.** The consequences of a reclamation permit suspension or revocation order under sub. 20.24(2) shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

20.25 Annual Operator Reporting.

(1) **Contents and Deadline.** Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year

to Trempealeau County. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 20.29.

(2) *Inspection in Lieu of Report.* Trempealeau County may, at its discretion, obtain the information required in sub. 20.25(1) by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

(3) *Retention of Annual Reports.* Annual reports submitted under this Section or inspection records that replace them shall be retained by Trempealeau County for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

20.26 Plan Review Fees.

(1) *Amount and Applicability.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 20.12. shall submit a non-refundable plan review fee based upon a plan review fee schedule approved by the Trempealeau County Board of Supervisors. No Plan review fee may be assessed under this Section for any Local Transportation –Related Mine issued an automatic permit under sub. 20.16(3). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to sub. 20.23.

(2) *Plan Review Fee.* The plan review fee shall be established to equal as closely as possible the County's cost of administering the permitting and plan review processes established in sections 20.12 – 20.18 of this ordinance.

(3) *Annual Fee Review.* The plan review fee shall be reviewed annually by the County and shall be adjusted to account for changes in the cost of public administration.

(4) *Expedited Plan Review Fee.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 20.12 may obtain expedited reclamation plan review by paying a double fee ~~of \$500.~~ This expedited plan review process ~~and permit action~~ shall be completed within 45 30 days instead of the normal 60 days. of the permit application. ~~Such fee shall be in addition to that required in sub. 20.26(1).~~

(5) *Relation to Annual Fee.* Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under sub. 20.27.

20.27 Annual Fees.

(1) *Areas Subject to Fees, Procedures, Deadline and Amount.* Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall submit an annual fee to Trempealeau County. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under sub. 20.27(2) and a share for Trempealeau County under sub. 20.27(3) that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on amount of unreclaimed acres of each site, as defined in Section NR 135.39(1)(a), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under sub. 20.29. Fees shall be paid no later than January 31 for the previous year.

(2) *Wisconsin Department of Natural Resources Share of Fee.* Fees paid under this section shall, except where provided in sub. 20.27(3), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in the permit fee schedule. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be the amount specified in the permit fee schedule. Trempealeau County shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31.

(3) *Trempealeau County's Share of Fee.*

(a) Fees paid under this section shall also include an annual fee due to Trempealeau County which shall be the amount specified in the permit fee schedule.

(b) The annual fee collected by Trempealeau County under this subsection for local transportation-related mines issued permits under sub. 20.16(3) may not exceed the amounts set forth in Table

2 of Section NR 135.39 and shall include both a share for the Wisconsin Department of Natural Resources and Trempealeau County.

(4) **Reduced Fee for Inactive Construction Aggregate Mines.** Any Construction Aggregate site, as defined in Chapter 13.05(10)(b) of the County Comprehensive Zoning Ordinance, on which no nonmetallic mining activity has taken place in a calendar year, and where no activity is planned for the following calendar year, shall be assessed at a reduced fee as specified in the permit fee schedule.

(5) **Documentation of Trempealeau County's Share of Fee.** If the annual fee in sub. 20.27(3) is greater than that established in Section NR135.39(4)(c), Wisconsin Administrative Code, Trempealeau County shall document in writing its estimated program costs and the need for its annual fees established in sub. 20.27(3). This documentation shall be available for public inspection.

20.28 Regulatory Reporting and Documentation.

(1) **Reporting.** Trempealeau County shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code by May 31st of each calendar year.

(2) **Documentation.** Trempealeau County shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Trempealeau County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

20.29 Completed Reclamation - Reporting, Certification and Effect

(1) **Reporting.** The operator of a nonmetallic mining site may provide written certification to the County of completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code.

(2) **Reporting of Interim Reclamation.** The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 20.29(1).

(3) **Certification of Completed Reclamation.** Trempealeau County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with sub. 20.13, Trempealeau County shall issue the mine operator a written certificate of completion.

(4) **Effect of Completed Reclamation.** If reclamation is certified by Trempealeau County as complete under sub. 20.29(3) for part or all of a nonmetallic mining site, then:

(a) No fee shall be assessed under sub. 20.27 for the area so certified.

(b) The financial assurance required by sub. 20.14 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

(c) For sites which are reported as interim reclaimed under sub. 20.29(2) and so certified under sub. 20.29(3), financial assurance for reclaiming the certified area may be reduced upon inspection of the site by Trempealeau County to assure compliance with the approved reclamation plan.

(5) **Effect of Inaction Following Report of Completed Reclamation.** If no written response as required by sub. 20.29(3) for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to Trempealeau County for it under sub. 20.27 shall be refunded.

20.30 Permit Termination. When all final reclamation required by a reclamation plan conforming to sub. 20.13 and required by this chapter is certified as complete pursuant to sub. 20.29(3), Trempealeau County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

20.31 Right of Entry and Inspection. For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of Trempealeau County may inspect any nonmetallic mining site subject to this chapter as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

20.32 Orders and Citations.

(1) *Enforcement Orders.* Trempealeau County may issue orders as set forth in Section 295.19(1)(a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

(2) *Special Orders.* Trempealeau County may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to sub. 20.24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

(3) *Review of Orders.* An order issued under sub. 20.32(1) or sub. 20.32(2) may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

(4) *Citations.* Trempealeau County may issue a citation in accordance with the Trempealeau County Citation Ordinance and collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

(5) *Enforcement.* Trempealeau County may submit any order issued under sub. 20.32 to abate violations of this chapter to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

20.33 Penalties. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by sub. 20.13 and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

(1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under sub. 20.32 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under sub. 20.32 is suspended, stayed or enjoined, this penalty does not accrue.

(2) Except for the violations referred to in sub. 20.33(1), any person who violates subchapter I of Ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to sub. 20.32 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under sub. 20.32 is suspended, stayed or enjoined, this penalty does not accrue.

**2013-12-05
RESOLUTION**

REVISE CITATION ORDINANCE FOR ZONING VIOLATIONS

WHEREAS the County's existing Citation Ordinance addressing violations of the County's Sanitary and Private Sewage System Ordinance, Comprehensive Zoning Ordinance, Shoreland Zoning Ordinance, and Uniform Dwelling Code Ordinance includes outdated references to certain Wisconsin Statutes, and

WHEREAS the existing Citation Ordinance lists specific violations separately and sets forth a separate forfeiture amount for such violations, and

WHEREAS the Environment and Land Use Committee recommends that the Citation Ordinance be updated to properly reference current Wisconsin Statutes, and to eliminate the listing of separate violations and provide for one forfeiture amount for all violations of the afore-stated ordinances.

THEREFORE BE IT RESOLVED that the Trempealeau County Board of Supervisors amend the Trempealeau County Citation Ordinance, as attached hereto, which addresses violations of the County's Sanitary and Private Sewage System Ordinance, Comprehensive Zoning Ordinance, Shoreland Zoning Ordinance, and Uniform Dwelling Code Ordinance.

Dated this 16th day of December 2013, at Whitehall, Wisconsin

Respectfully submitted,
/s/ Tom Bice
/s/ Michael Nelson
/s/ Jay Low
/s/ George Brandt
/s/ Kathy Zeglin
/s/ Ed Patzner
/s/ Jeff Bawek
ENVIRONMENT & LAND USE
COMMITTEE

(Ordinance is on file in the County Clerk's Office)

It was moved by George Brandt and seconded by Michael Nelson to adopt the resolution. David Larson had a question on section 3.70 regarding what comes after a third offense and maybe add some language for that. Rian Radtke said items were mainly taken out and not added in to the existing ordinance. He did say that if there was a fourth offense within a one year span, they would probably be looking at a long form complaint most likely for an injunction action or a court order to stop the violation. Rian referred to section 6 that would give the department and Rian's office the discretion on how to proceed in a case by case situation. Tom Bice asked if someone is issued a citation, can it be appealed. Rian said they can appear in court and there is due process protection to anyone issued a citation. Rian said all this came about when Kevin Lien brought this up and Rian noticed that the citation references were all outdated so he cleaned up the language and now it is accurate and easier to use. State Statutes require that if you want to issue citations, a set amount of forfeiture needs to be established, not a varying amount. Roll call taken; motion carried with 15 yes votes and 1 no vote; resolution adopted. The no vote was Tom Bice.

TREMPEALEAU COUNTY CITATION ORDINANCE

The County Board of Supervisors of the County of Trempealeau does ordain as follows:

Section 1 *Purpose and Authority*

1.1 To expedite the resolution of ordinance violations, the County Board of Trempealeau hereby adopts the citation enforcement procedure authorized by Section 66.0113, WI STATS, to enforce those ordinance identified in Section 3.

1.2 Any law enforcement officers or administrative staff of the Zoning Department employed by Trempealeau County may issue citations for the enforcement of any ordinance authorized under this ordinance. Any ordinance adopted subsequent to this ordinance shall be enforced by the citation method provided that the County Board shall, in conjunction with enacting any such ordinance, establish a forfeiture

amount for the violation. The forfeiture amount set for each new ordinance shall be incorporated by reference to the schedule contained herein.

Section 2 Effect of Citation

The citation shall have the legal effect specified in Section 66.0113, WI STATS, and a duly issued citation shall confer subject matter jurisdiction upon the Circuit Court for the County of Trempealeau.

Section 3 Ordinance Identified: Schedule of Forfeiture Amounts and Penalty Assessments

3.1 This ordinance shall apply to the following identified ordinances together with such other and further ordinances as may be adopted or amended from time to time by the County, which are denominated as being subject to enforcement by the issuance of citation and which either set forth a schedule of forfeiture amounts to be collected in lieu of prosecution or make reference to this ordinance. All such other ordinances to be enforced by the issuance of citation are incorporated herein by reference.

3.2 Sanitary and Private Sewage System Ordinance:

<u>Subject Matter</u>	<u>Forfeiture Amount</u>
A. Violation of ordinance	\$ 55.00

3.3 Comprehensive Zoning Ordinance:

<u>Subject Matter</u>	<u>Forfeiture Amount</u>
A. Violation of ordinance	\$ 55.00

3.4 Shoreland Ordinance adopted 11-9-71:

<u>Subject Matter</u>	<u>Forfeiture Amount</u>
A. Violation of ordinance	\$ 55.00

3.5 Ordinance adopting the Uniform Dwelling Code, effective 01-01-2005:

<u>Subject Matter</u>	<u>Forfeiture Amount</u>
A. Violation of ordinance	\$ 55.00

3.6 A person issued a citation under any ordinance listed in the schedule shall be required to remit the amount provided for therein in addition to statutory costs and assessments, in cash or by certified check or money order, to the Clerk of Court at the County Courthouse, Whitehall, Wisconsin. The forfeiture amounts listed do not include court costs. The Clerk shall provide a receipt for each forfeiture amount received. Forfeiture amounts may be mailed to the Clerk of Court or delivered personally to the office of the Clerk of Court.

3.7 The forfeiture amount shall double on the second offense and triple on the third offense if such repeated offense occurred within one year prior to the date of the new offense and if a conviction is entered for the previous offenses.

Section 4 Procedure

The provisions of Section 66.0113(3), WI STATS, on the violator's options and the procedure on default is hereby adopted.

Section 5 Outstanding Unpaid Forfeitures

5.1 The provisions of Section 66.0115, WI STATS, on outstanding unpaid forfeitures is hereby adopted.

Section 6 Nonexclusivity

Adoption of this ordinance in no way precludes adoption of any law or ordinance relating to the same or any other subject matter. The adoption herein of the citation method of enforcement shall not preclude the county or officers authorized to issue citations under this ordinance from proceeding under any other enforcement ordinance, regulation, statute, law, rule, or other that pertains to the subject matter addressed by the citations or to any other matter. Proceedings under any other ordinance, statute, law, rule, or regulation pertaining to that or any other matter shall not preclude the issuance of a citation.

Section 7 Severability

Should any section or provision of this ordinance be declared unconstitutional or invalid or be repealed, the constitutionality or validity of the remainder shall be not affected thereby.

Section 8 Form of Citation

Citations authorized by the ordinance shall substantially follow the form shown and comply with 66.0113(1)(b).

Section 9 Citations May Include Multiple Infractions.

Unless otherwise limited by the ordinance subject to enforcement by use of a citation, each day a violation continues shall be subject to additional penalties in the form of a forfeiture amount. More than one citation may be issued for the same violation, each day of continuance constituting a new offense. In addition, multiple violations may be cited on the face of a single citation where such violations are daily violations of the same ordinance. The total amount of the forfeiture shall be the sum total of the forfeiture amounts listed for each, individual infraction listed.

**2013-12-06
RESOLUTION**

REPORT – CLAIMS OF MEMBERS

Your Audit Committee hereby respectfully reports that they have audited the following claims and recommend that they be allowed as follows:

NAME	PER DIEM	EXPENSES	TOTAL
John Aasen	\$140.00	\$24.86	\$164.86
Tom Bice	\$105.00	\$61.02	\$166.02
George Brandt	\$140.00	\$57.63	\$197.63
Arild Engelién	\$245.00	\$180.80	\$425.80
Olin Fimreite	\$175.00	\$0.00	\$175.00
Michelle Haines	\$105.00	\$28.26	\$133.26
David Larson	\$140.00	\$101.70	\$241.70
Jay Low	\$0.00	\$0.00	\$0.00
Dick Miller	\$175.00	\$54.24	\$229.24
Sally Miller	\$140.00	\$88.14	\$228.14
Michael Nelson	\$210.00	\$64.41	\$274.41
Robert Reichwein	\$140.00	\$72.32	\$212.32
Curtis Skoyen	\$175.00	\$100.59	\$275.59
David Suchla	\$35.00	\$9.04	\$44.04
Ernest Vold	\$280.00	\$150.29	\$430.29
Hensel Vold	\$0.00	\$0.00	\$0.00

Douglas Winters	<u>\$140.00</u>	<u>\$133.34</u>	<u>\$273.34</u>
TOTALS	\$2,345.00	\$1,126.64	\$3,471.64
YTD Totals	\$29,820.00	\$14,862.32	\$44,682.32

Dated at Whitehall, Wisconsin, this 16th day of December, 2013

Respectfully submitted,
/s/ Ernest Vold
/s/ Michelle Haines
/s/ John Aasen
AUDIT COMMITTEE

It was moved by David Larson and seconded by Curtis Skoyen to adopt the resolution. David Suchla had submitted his lawyer fees and mileage for a total of \$2,746.44 which was denied in Audit Committee. He said the legal fees were for a charge against him that was false and it came back from the cops that it was false and done for political reasons and feels the county should pay for it. Sally Miller said 58 pages of documents based on public records and meetings has now been turned over the State Attorney General's office and under state statutes you can't tax the taxpayers with your legal fees. Much discussion held. Rob Reichwein asked Rian if a suit was filed against a board member what protection would they have. Rian said there may be some protection, but he represents the County Board not individuals and wouldn't necessarily give individuals legal advice. Tom Bice said the investigation was completed a long time ago but the results have not been made public, but he has heard from reliable sources that there is no credibility to the claims. Tom said David Suchla requested that we cover expenses and he had to defend himself because he was a member of the board and in Tom's opinion we should cover the expenses. Sally Miller said she understands that we will cover expenses incurred when acting under the capacity as a board member. But state statutes don't allow open meeting or ethics violations be covered unless it is vindicated. The District Attorney handed it over to the State Attorney General's Office so it is not vindicated. David Suchla said there are two employees here who have recanted their stories and said they were coerced by Sally Miller. He said shortly after the interview began in the lawyer's office the cops said the employees said they had recanted and it was recorded and asked Sally if she wanted him to bring her a copy of it. She asked for a copy of it. Olin Fimreite said we have rights and we should be considered innocent until proven guilty. Chair Vold said if we deny this David Suchla should file a claim another way. He also said it looks like we are wide open if we aren't protected with the county acting as a county supervisor. He said Dave really had to defend himself, whether right or wrong and we haven't gotten any official write up from the D.A. Rian said any authorization to pay that type of expense is pretty limited under the statutes and it is his opinion that we are not obligated to pay those fees because it was not authorized by the County Board and he recommended that the board review the ordinances for reimbursing expenses. Rian also said an individual filed a complaint against David Suchla and did not do it on behalf of the board and to paying the fees of attorneys that David selected and not the County is also concerning. Tom Bice said we need to be able to protect members of this board otherwise we don't get true representation. So when someone makes an attack on a member of this committee, and feels this was politically motivated, we need to stand behind that person. Dick Miller then said that David Suchla was out of line for making a very derogatory statement against Sally Miller that was inaudible to the full board. David Suchla said she made a very derogatory charge against him but when she received information that Dick Miller was involved in sand mining, she did nothing. George Brandt called a point of order and Rob Reichwein seconded

it. Roll call taken; motion carried with 14 yes votes and 2 no votes; resolution adopted. The no votes were Tom Bice and David Suchla.

ANNOUNCEMENT/APPOINTMENTS/ELECTIONS – APPOINTMENTS TO TREMPEALEAU COUNTY BOARD OF HEALTH: Clerk Syverson read letters from Cheryl Rhoda, Director/Health Officer, asking for reappointments of Dr. William Baxa and Pamela Nelson to the Board of Health. It was moved by John Aasen and seconded by Olin Fimreite to approve both of the appointments. Motion carried unanimously by vote of acclamation to approve.

COMMITTEE REPORTS: EXECUTIVE & FINANCE COMMITTEE BUDGET UPDATE REPORT: Reports are on everyone’s desks for review.

MEMO FROM TREMPEALEAU COUNTY HIGHWAY SAFETY COMMITTEE: Chair Vold said there is a letter from Safety Committee that each supervisor should read over.

CORRESPONDENCE: Chair Vold said there is a letter from the City of Independence regarding CapX2020 funds to read over. Rian suggested forming a committee soon to look at ways to spend the \$1.4 million funding around the county.

CLOSING: It was moved by George Brandt and seconded by David Larson to instruct the Clerk to pay mileage and per diem; roll call vote; motion carried with 16 yes votes.

ADJOURNMENT: Chair Vold declared the meeting adjourned until January 20, 2014 at 7:00 p.m. The meeting adjourned at 10:10 pm.

Recording Secretary,
Mary Martin

Dist #	SUPERVISOR	PER DIEM	# Of MILES	MILEAGE
1	ARILD ENGELIEN	\$70.00	64	\$36.16
2	DOUGLAS WINTERS	\$70.00	60	\$33.90
3	SALLY MILLER	\$70.00	52	\$29.38
4	JAY LOW	\$70.00	50	\$28.25
5	TOM BICE	\$70.00	54	\$30.51
6	GEORGE BRANDT	\$70.00	34	\$19.21
7	ROBERT REICHWEIN	\$70.00	32	\$18.08
8	DICK MILLER	\$70.00	24	\$13.56
9	MICHELLE HAINES	\$70.00	25	\$14.13
10	JOHN AASEN	\$70.00	10	\$5.65
11	DAVID SUCHLA	\$70.00	14	\$7.91
12	DAVID LARSON	\$70.00	46	\$25.99
13	OLIN FIMREITE	\$70.00	2	\$1.13
14	MICHAEL NELSON	\$70.00	22	\$12.43
15	HENSEL VOLD	\$0.00	0	\$0.00
16	CURTIS SKOYEN	\$70.00	33	\$18.65
17	ERNEST VOLD	\$70.00	38	\$21.47
	TOTALS	\$1120.00	560	\$316.41