

CHAPTER 14

METALLIC MINERAL MINING AND PROSPECTING.

14.01 Metallic Mining. Metallic mineral mining is an industrial land use and only allowed as a Conditional Use in an Industrial (I) Zoned area pursuant to section 2.05 of this ordinance. Metallic mining exploration as defined in this chapter, may be permitted as a conditional use of land in the Exclusive Agriculture (EA), Exclusive Agriculture-2 (EA-2), Primary Agriculture (PA), Transitional Agriculture (TA), and Industrial (I) zoning districts. Metallic mining, prospecting, and bulk sampling as defined in this chapter, may be permitted as a conditional use in the Industrial (I) zoning district. 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 metallic mining proposal 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, including the impact on the market value of the lands adjacent to or in the vicinity of the proposed operation. 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 metallic mining site may be permitted for exploration, prospecting, bulk sampling and mining, or all four categories of metallic mining as defined in this chapter. If a metallic mining site is permitted for all four, then a separate conditional use permit shall be obtained for each, and 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. 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) A lighting plan for the proposed site, including a pre-construction analysis to establish baseline night sky conditions, an assessment of future light impacts from the proposed non-metallic mining and related activities, and a photometric diagram showing lighting levels and locations of proposed fixtures.
- (f) County approved documents as specified within 14.02 (13) 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.

14.02 Standard Conditional Use Permit Requirements.

- (1) Hours of operation for metallic exploration, prospecting, bulk sampling, or 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 14.05 of this ordinance.
 - (c) Emergency Extraction. If a mine operator conducts 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 metallic exploration, prospecting, bulk sampling, or 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 metallic mine Processing contributes to the measured noise.
 - (c) Phase-One Noise Survey. If the owner/operator of a metallic operation, or applicant thereof, desires to conduct Processing at the 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 operation site, 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 metallic operation, 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 site.
 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 metallic operation 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 metallic operation. Within 72-hours of the owner/operator of the metallic site receiving the noise complaint, the owner/operator of the metallic operation 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 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.
- (3) Notification must be provided to the County as to the specific operation site location of equipment used to crush, separate, or drill metallic mining products. Notification of the re-location of crushing or separation equipment from one metallic mining site to another must be provided to the Zoning Administrator within twenty-four hours of the re-location of such equipment.
 - (4) Notification must be provided to the Zoning Administrator and adjacent neighbors at least 24 hours prior to any blasting.
 - (5) Public roadways must be scraped clean of materials at the end of the working day where mining equipment leaves a mining site and enters a public road.
 - (6) Prospecting, bulk sampling, and 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 operations on a site. Prospecting, bulk sampling, and 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 proposal and receives the approval of the County. In addition the applicant must demonstrate with

substantial evidence that the operation does not pose a legitimate risk as determined by the County to water table level or groundwater quality of the area.

- (7) All wells within 1 mile of the conditional use permit boundary shall be tested prior to any mine activity and annually thereafter. The well test shall at a minimum test for Coliform Bacteria, Total Hardness, Alkalinity, Conductivity, pH, Saturation Index, Nitrogen-Nitrate, Chloride, Arsenic, Calcium, Copper, Iron, Lead, Magnesium, Potassium, Sodium, Sulfate, and Zinc, and the test result shall also include the depth of water in the well on the day the test is performed. The initial and annual test results shall be submitted to the Department of Land Management and shall be kept on file.
- (8) All structures, buildings and wells within 1 mile of the conditional use permit boundary for bulk sampling, or mining shall be inspected and documented by a qualified inspector (includes licensed building inspector and engineer) for type, quality and existing overall condition of foundations and structures. The inspection reports shall be submitted to the Department of Land Management prior to any activity and shall be kept on file.
- (9) 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.
- (10) 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.
- (11) If a site will utilize a haul route on a county or town road, the permit shall have a condition that requires a road use agreement between the permit holder and the county/town, unless the county/town waives a road agreement.
- (12) All exploration, prospecting, bulk sampling, mining and reclamation activities must follow the operation and timeline of commencement that were approved with the conditional use permit.
- (13) Metallic exploration, prospecting, bulk sampling or mining sites must attach County approved erosion control and reclamation plan to a Conditional Use Permit application. The reclamation plan shall meet the requirements as set forth in Section 14.09 of this Ordinance. All DNR permits including, but not limited to storm water discharge permits, air pollution control, wetland or floodplain fill must be obtained prior to permitting or by the end of the preliminary approved period. Any violation of DNR permits on active metallic mining sites are a violation of this ordinance and will therefore, be enforced by the Zoning Administrator as well as the WDNR.

14.03 Mining Exploration Permit Requirements. Each person who wishes to engage in exploration on lands subject to this Ordinance shall first apply for and obtain a mining exploration permit. Before issuing a CUP for a mining exploration permit, the Committee shall satisfy itself that each applicant shall meet all of the following criteria. In addition, should the factual circumstances of the proposed exploration project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for an exploration permit shall submit proof of existence of its state exploration license under ss 293.21(2), Wis. Stats., a copy of the application submitted to secure the state exploration license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed. The granting of an exploration permit shall be subject to the restrictions against undertaking mining activity in proximity to residential areas as described in ss 293.21(2).
- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation and permanent closure of exploratory bore holes. At a minimum, the standards set for at Wis. Adm. Code NR 130.06(1), (2) and (4), as applied by the DNR, shall apply.
- (3) Exploration shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) Subject to (9), below, with respect to notification of the intent to drill, each application shall include both the number of bore holes expected to be drilled per lot or parcel together with the total number of bore holes expected to be drilled in the County during the term of the exploration permit.
- (5) It shall be a condition of each permit that the angle and length of bore holes shall not be such as to cross property lines between a lot or parcel with respect to which permission has been granted by the land owner for exploration activity and adjoining lots or parcels unless the owner(s) of said adjoining lot(s) or parcel(s) have similarly granted their permission to the permit holder. For purposes of this provision, property lines shall be assumed to extend groundward at a ninety degree (90) angle to the horizon.
- (6) A minimum 48-hour notice must be provided to the Zoning Department prior to commencing exploratory drilling and drill site reclamation.
- (7) Initial exploration efforts shall be limited as follows:

- One (1) bore hole may be drilled for each ten (10) acres subject to a given permit. The permit holder shall then contact the zoning administrator who, upon receipt of the hereinafter referred to hydro-geological report, with respect to conditions encountered during the course of said drilling, shall convene the Committee as soon as is practicable. Such a hydrological report shall address the potential environmental impacts of the mixing of waters from aquifers as well as ground water contamination from surface water runoff resulting from the drilling activity. If deemed necessary in the interest of the public health, safety and welfare, as based upon the findings from the initial bore hole drilling, conditions may be imposed as to additional drilling within the given ten(10) acre plot. Should the permit holder desire to drill additional holes in that area it shall both identify the number and approximate location of the same to the Zoning Administrator. Subject to conditions imposed as a result of the initial drilling, the permit holder may proceed to drill additional bore holes as identified to the Zoning Administrator.
- (8) To the extent that the DNR in administration of Wis. Adm. Code Chapter NR 130 establishes limitations and/or conditions on the drilling of bore holes, said conditions shall apply and shall be enforceable with respect to bore holes subject to each exploration permit granted by the County.
- (9) The granting of an exploration permit shall not constitute a pre-approval of nor afford to such permit holder the expectation that it will be entitled to a subsequent bulk sampling, prospecting, or mining permit for the same site or sites. Any investments made as part of mining exploration or the value of any minerals found cannot be claimed as a vested interest by the applicant or any subsequent person(s) pursuant to an application for active mining.
- (10) Each permit shall expire one (1) year after issuance or upon satisfaction of permit conditions.

14.05 Bulk Sampling Permit Requirements. Each person who wishes to engage in bulk sampling on lands subject to this Ordinance shall first apply for and obtain a mining bulk sampling permit. Before issuing a CUP for a bulk sampling permit, the Committee shall satisfy itself that each applicant shall meet all of the following criteria. In addition, should the factual circumstances of the proposed bulk sampling project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for a bulk sampling permit shall submit proof of existence of its state bulk sampling license under ss 293.26(2), Wis. Stats., a copy of the application submitted to secure the state bulk sampling license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed.

- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation.
- (3) Bulk sampling shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) Bulk sampling permits shall cover both the act of bulk sampling and such reclamation efforts as are required under the applicant's state permit. Bulk sampling permits shall be automatically revoked in the event of revocation of or expiration of the applicant's state permit. Even in the event, however, of revocation or expiration of the applicable state permit, the permit holder shall still have the responsibility to fully reclaim the site. No such permit shall take effect until a state permit has been issued.
- (5) The granting of a bulk sampling permit shall not afford the applicant with the expectation that a subsequent mining permit will be issued to it with respect to the site or sites in question. Any investment made as part of the bulk sampling activity or the value of any minerals found shall not be claim to entitle the permit holder to a vested interest in a subsequent permit for prospecting or active mining of the site in question.
- (6) Each permit shall expire one (1) year after issuance or upon satisfaction of permit conditions.

14.06 Prospecting Permit Requirements. Each person who wishes to engage in metallic mining prospecting on lands subject to this Ordinance shall first apply for and obtain a prospecting permit. Before issuing a CUP for a prospecting permit, the Committee shall satisfy itself that each applicant shall meet all of the following criteria. In addition, should the factual circumstances of the proposed bulk sampling project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for an prospecting permit shall submit proof of existence of its state prospecting license under ss 293.45, Wis. Stats., a copy of the application submitted to secure the state prospecting license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed.
- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation and documents required under ss 293.45(3).

- (3) Prospecting shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) Prospecting permits shall cover both the act of prospecting and such reclamation efforts as are required under the applicant's state permit. Prospecting permits shall be automatically revoked in the event of revocation of or expiration of the applicant's state permit. Even in the event, however, of revocation or expiration of the applicable state permit, the permit holder shall still have the responsibility to fully reclaim the site. No such permit shall take effect until a state permit has been issued.
- (5) Prospecting permits shall be valid solely for the site described therein and shall be further limited to the number of acres specified in the application.
- (6) The granting of a prospecting permit shall not afford the applicant with the expectation that a subsequent mining permit will be issued to it with respect to the site or sites in question. Any investment made as part of the prospecting activity or the value of any minerals found shall not be claim to entitle the permit holder to a vested interest in a subsequent permit for active mining of the site in question.
- (7) Each permit shall expire one (1) year after issuance or upon satisfaction of permit conditions.

14.07 Metallic Mineral Mining Permit Requirements. Before issuing a CUP for a mining project, the Committee shall satisfy itself that the operator shall meet certain, minimum conditions subject only to the exceptions set forth below. Each mining project shall meet all of the following criteria. In addition, should the factual circumstances of the proposed mining project warrant it, the Committee may impose more restrictive conditions than those expressed below and/or additional or further conditions, all of which shall be designed to promote the public health, welfare and safety.

- (1) An applicant for a metallic mining permit shall submit proof of existence of its state prospecting license under ss 293.45, Wis. Stats., a copy of the application submitted to secure the state prospecting license and proof of permission granted to it by the affected landowner, to engage in such activity, identifying each lot or parcel on which drilling activity is proposed.
- (2) In addition to submitting its application for its state exploration license, an applicant shall submit all other materials which it provided to the DNR to the Committee with respect to its plan for reclamation and environmental impact as required under ss 293.37(2) and 293.39.

- (3) Metallic mining shall be prohibited within those areas of the County in which mining is expressly prohibited by conditions set forth under this Ordinance or within state statutes, DNR variances notwithstanding.
- (4) A buffer zone, of a minimum of one thousand (1,000) feet along the property line, shall be required. The buffer zone shall be an area to be left in its natural state and which is to be left in its undisturbed condition for the entire term of the CUP or the state mining permit, whichever is longer. Principal or accessory structures are not to be located within the buffer zone. Security fences, pipelines, and other utilities, however may be located in the buffer zone provided that as a result of their construction and use only minimal disturbance to the buffer zone occurs. In the event that the buffer zone lacks trees, shrubs or other woody vegetation, the Committee may require the planting of trees or shrubs or the erection of a suitable screening fence.
- (5) Subject to review and approval by the Committee, the project design shall address the following considerations: adequate security measures, utility services, surface water drainage, storm water retention, water purification, de-watering and groundwater elimination and discharge, waste storage, dust and odor suppression, blasting limitations, noise and light, means of transportation and identification of substances and materials to be transported to and from the project, employee safety, visitor safety, environmental protection and site restoration. In addition, the operator shall make provision, by contract or otherwise, for all necessary public services to the project, including but not limited to police and fire protection, transportation and public education, as based upon the project design. The operator shall include in its application information as to public service requirements and the means of meeting those needs.
- (6) Each mining project shall be located, designed, constructed and operated in a manner as to protect ground water quality in accordance with the standards imposed under Chapters 281 and 293, Wis. Stats., and administrative rules adopted pursuant thereto.
- (7) Each mining project shall be located, designed and constructed in such a manner as to:
 - (a) Prevent any surface or subsurface discharge from the project into navigable and non-navigable waters that would cause a violation of state water quality standards issued pursuant to ss281.15(2)(b), Wis. Stats., as well as any surface discharge which shall cause an exceedance of the baseline temperature of and water quality parameters of the receiving surface waters.
 - (b) Prevent any surface or subsurface discharge from the mining project into waters of the state as defined at ss 283.01(20), Wis. Stats., which would cause a violation of the limitations on the discharge of toxic substances

- under ss283.21(1), Wis. Stats., generally and administrative rules adopted pursuant thereto.
- (c) Comply with all applicable regulations promulgated under Chapter 283, Wis. Stats., if point source discharges to surface waters shall be a feature of the mining project in question, including but not limited to point source discharges from Leachate Collection Systems or from Surface Water Runoff Collection Systems.
 - (d) Meet pretreatment standards, for discharges to publicly owned treatment works, issued pursuant to ss 283.21(2), Wis. Stats.
 - (e) Divert surface water runoff from a 72 hour, 100 year storm around portions of the facilities containing ore, product or mine or prospecting waste.
 - (f) Control surface water runoff from portions of the facilities containing ore, product or mine or prospecting waste up to the quantity anticipated from a 72 hour, 100 year storm by collecting, confining, treating and discharging it as may be required by regulations promulgated under Chapter 283, Wis. Stats.
- (8) Mining projects shall be located, designed, constructed and operated in such a manner as to prevent air emissions which constitute a violation of standards or regulations promulgated pursuant to Chapters 281 and 293, Wis. Stats., or administrative rules adopted pursuant thereto.
- (9) The proposed mining project shall also meet the following criteria:
- (a) All toxic and hazardous waste and refuse, the disposal of which is not subject to or controlled by the permit issued by the DNR under ss.293.37 or 293.49, Wis. Stats., shall be disposed of in licensed solid waste or hazardous waste facilities. No waste subject to the mine permit shall be disposed of contrary to the terms and conditions of the said permit. As a precondition to receiving a CUP, the applicant must supply a complete description of storage and transportation mediums to the Committee for such waste which shall be subject to the Committee's approval.
 - (b) All tunnels, shafts or other underground openings shall be sealed at or prior to the completion of the mining project, unless it can be demonstrated that alternative uses of tunnels, shafts or other openings may be made which do not threaten public health and safety and which conform to applicable environmental protection laws and rules.
 - (c) All underground or surface runoff waters from open pits or underground mining sites shall be managed, impounded and treated pursuant to state

and County standards so as to prevent soil erosion, or damage to agricultural lands or livestock.

- (d) All surface structures constructed as part of a mining project shall be destroyed and removed from the site and the waste resulting therefrom shall be disposed of in accord with the law, unless they are converted to an acceptable alternative use, which is approved of by the Committee in which event they may be authorized to be maintained but only if in compliance with the operator's state permit.
- (e) Adequate measures shall be taken to prevent surface subsidence, as determined by the Committee upon review, but if such subsidence does occur, as determined by the Committee upon review, provision for reclamation of the affected areas shall be taken.
- (f) All topsoil shall be preserved for purposes of future use in reclamation for this project.
- (g) Disturbed soils shall be re-vegetated for stabilization and reclamation, with the objective of re-establishing a variety of population of plants and animals indigenous to the area immediately prior to prospecting or mining, unless such re-establishment is determined by the Committee to be inconsistent with reclamation as defined herein.
- (h) **Accessory structures** may be constructed, maintained and operated in a manner consistent with the restrictions of the shoreland-wetland district, accessory structures to a mining project may be allowed in accord with ss293.13, 293.15 and 293.85, Wis. Stats., and the administrative rules and regulations adopted pursuant thereto. The purpose of said accessory structures shall be limited to those which are integral to and serve the mining project; however, disturbances created as a result thereby shall be minimized in such manner as is determined by the Committee upon review so as to limit adverse impacts upon shoreland-wetland properties.
- (i) The reclamation plan shall call for the removal of wastewater pipelines, pumping stations and/or outfall structures among other structures unless they are converted to an acceptable, alternative use, as determined by the Committee in which event they may be authorized to be maintained but only if in compliance with the operator's state permit.
- (j) No destruction, filling in or sedimentation of a lake bed, stream bed, impoundment or wetland shall occur.
- (k) A bond or bonds may be required to be provided to the County to the extent that those provided to the state DNR are not sufficient or designed to meet the needs of the County as set forth in this Ordinance.

- (10) A permit shall be denied by the Committee if any of the following situations may be expected to occur during or subsequent to prospecting or mining:
- (a) Landslides or deposition from the proposed operation in stream, lake beds, impoundments or wetlands.
 - (b) Surface subsidence which cannot be reclaimed.
 - (c) Hazards resulting in damage to any of the following, which cannot be avoided by removal from the hazard area or mitigated by purchase or by obtaining the consent of the owner:
 - 1. Dwellings
 - 2. Public Buildings
 - 3. Schools
 - 4. Churches
 - 5. Cemeteries and Native American burial grounds
 - 6. Commercial or institutional buildings
 - 7. Public highways
 - 8. Historical and geological landmarks
 - (d) Habitat required for survival of vegetation or wildlife designated as endangered species through prior inclusion in rules adopted by the DNR if such endangered species cannot be firmly re-established elsewhere.
 - (e) If the mining operation is projected to result in an adverse economic impact to the County for any period of time during the term of the conditional use permit, plus 20 years following completion of reclamation. For purposes of this paragraph "adverse economic impact to the County" as determined by the Committee shall include direct and indirect costs assumed by the taxpayers of the County or the affected town, city or village as a result of services provision, highway improvements or other expenditures projected to have to be made in conjunction with the project whether with respect to or as a result of construction, operation, closure and/or long term care, together with considerations of present or future unemployment, job retraining, educational and other impacts upon the public and private sectors in the County. Said determination may be made upon the basis of the Socioeconomic and Environmental Impact Report to be provided to the Committee by the operator in support of its request for a CUP and the Committee's investigation of the impact thereof. The Committee retains the right to require that an independent socioeconomic and environmental impact report be provided by a contractor selected by the Committee and that all associated costs be borne by the applicant.
- (11) The granting of a CUP under this Section shall not be deemed effective until the state environmental impact report has been issued and the master permit hearing

under Chapter 293, Wis. Stats., has been held and the operator has procured its permit from the DNR to construct, operate and close the mining project subject thereto. Unless the state permit is obtained, and state and federally required environmental impact studies have been completed, and unless construction is commenced within one (1) year of it's being granted, the CUP permit shall be deemed to be null and void.

- (12) No withdrawal of groundwater or de-watering of mines shall be allowed pursuant to a CUP if it would detrimentally affect either the quality or quantity of a public or private water supply, as determined by the DNR or by the Committee. No discharge of groundwater, wastewater or treated water to surface waters shall be maintained if the discharge results in an increase to the receiving water's normal high water mark or would result in increased downstream flooding as a result of a 10-year frequency storm event or from an annual spring thaw based on a 10-year average event.

14.08 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 a metallic exploration, bulk sampling, prospecting, or mining operation shall be established by the County based on the information submitted by the applicant. **Applicants may apply for extensions of a metallic exploration, bulk sampling, or prospecting permit for a period not to exceed an additional one (1) year at a time. Applicants may apply for an extension of a 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 metallic 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) 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 owner or operator. To determine the amount of the inspection fee, refer to 14.11 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. All requests for permit modifications or changes to permit conditions shall be based on substantial evidence.
- (3) Factors to be Considered for Conditional Use Permits.
- (a) When considering an application for a metallic mineral 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, established bicycle routes/loops, 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) Other important factors to consider for a conditional use permit for - metallic mineral operation are, that the proposed operation is an appropriate land use at the site in question, based upon consideration of such factors as: existence of 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) The County reserves the right to impose additional site specific requirements and conditions upon an applicant as requested by citizens, the Town Board, County staff or Board members. Any requirement or condition must be based on substantial evidence and follow the purpose of this ordinance. If all requirements and conditions are agreed to be met by the applicant, the permit will be preliminarily approved. The County reserves the right to deny an application for conditional use permit with which to engage in metallic mining if there is substantial evidence that any requirements of this section, zoning code, or site specific conditions are not able to be met. In the event that the County decides to deny a permit application it shall do so only in writing, setting forth the reasons and evidence 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 dependent 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. No activity will commence until all preliminary conditions have been met. The preliminarily 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.
- (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 metallic mineral operation 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) Due to the highly technical and time consuming procedure involved in processing a CUP for mining projects, Trempealeau County shall process applications for mining project CUP's under this section and shall impose against the applicant the costs of such processing as the Committee determines to be necessary in relationship thereto.
 - (a) Prior to processing an application for a CUP under this Section, the Committee shall undertake a permit approval process, for which costs,

including but not limited to staff time, equipment and material costs, legislative meetings and public hearings and the expenses associated with expert advice and assistance, if needed, the applicant shall be held liable. Prior to commencing permit processing, the Committee reserves the right to demand security against these expenditures and/or an agreement from the applicant that it will pay all processing costs billed to it. Should the applicant fail or refuse to pay costs on a timely basis upon request or demand from the Committee, such failure or refusal shall constitute cause for the Committee to terminate the permit application. Following termination of a permit application, the Committee reserves the right to refuse acceptance of future permit applications from the original applicant, its subsidiaries or parent companies.

- (b) As a condition of each CUP granted, the permit holder shall agree to reimburse the Committee for the Committee's costs of monitoring its compliance with the CUP. Such costs shall include, but not be limited to Committee expenses, staff costs, equipment and material costs and the cost of expert assistance required to assist the Committee in monitoring compliance with the terms and conditions of the permit.
- (8) Effect of Owner/Operator 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. All new owners or operators must meet with the Zoning Administrator to review the terms and conditions of the existing conditional use permit. **Prior to transfer of the permit, all financial assurances must be secured, and approved by the County.**

14.09 Reclamation Plan. A reclamation plan shall be prepared and submitted with an application for exploration, bulk sampling, prospecting, or mining activity.

- (1) A description of the proposed reclamation including final land use, final land shape, final topography, and the annual sequence of reclamation activity to be conducted.
- (2) A description of the utility and capacity of the reclaimed land to support the proposed sequential use.
- (3) A description of the measures to be taken to protect topsoils prior to, during and subsequent to prospecting or mining.
- (4) A description of the grading and backfilling sequences, final slope angles, highwall reduction, benching and terracing of slopes, slope stabilization and erosion control.
- (5) A description of the reclamation of waste areas, haulage highways, access roads, surface structures and related facilities.

- (6) A description of the final surface drainage, water impoundments and artificial lakes of the affected property.
- (7) A description of plant types, planting sequences and maintenance or replacement of vegetative cover both during the proposed operation and upon completion of site reclamation.
- (8) A plan for the adequate covering or disposal of all pollutant bearing minerals or materials.
- (9) The estimated cost of reclamation on a per acre of total project basis and proof that bonds sufficient to provide for such cost have been or will be provided to the DNR pursuant to state law. If decided upon by the committee an additional bond will be provided, payable to the County to cover the full estimated costs of reclamation.
- (10) A description of the manner of preventing environmental pollution as regulated by Chapter 293, Wis. Stats., resulting from the leaching of waste materials. The Committee reserves the right to perform an independent review of the viability of the technology used in preventing pollution from the leaching of waste materials. The applicant shall present to the Committee the past results (failures and successes) of the proposed technologies used in preventing pollution from the leaching of waste materials. This review will be done at the expense of the applicant.
- (11) A description of the manner of preventing environmental pollution as defined in SS285.01, Wis. Stats.

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

- (1) "Accessory structures" shall mean buildings and all other types of structures as defined at Chapter 16 of the Zoning Code which are erected or built for use in connection with a mining activity.
- (2) "Bulk sampling" means excavating in a potential mining site by removing less than 10,000 tons of material, including overburden and any other material removed from any portion of the excavation site, for the purposes of obtaining site-specific data to assess the quality and quantity of the nonferrous metallic mineral deposits and of collecting data from and analyzing the excavated materials in order to prepare the application for a mining permit or for any other approval. Bulk sampling does not constitute prospecting within the meaning of sub (16)
- (3) "CUP" shall mean conditional use permit for exploration, prospecting and/or mining.

- (4) "Committee" shall mean the Zoning Committee.
- (5) "DNR" shall mean the State of Wisconsin Department of Natural Resources.
- (6) "Exploration" shall mean the on-site geological examination from the surface of an area by core, rotary, percussion or other drilling, where the diameter of the hole does not exceed eighteen inches (18"), for the purpose of searching for metallic minerals or establishing the nature of known metallic mineral deposits, and includes associated activities such as clearing and preparing sites or constructing roads for drilling.
- (7) "Lot" or "parcel" shall mean a legally subdivided tract of land whose description has been recorded in a deed in the Office of the Register of Deeds on which lot or parcel or a combination of lots or parcels mining activity takes place.
- (8) "Metallic mineral mining" and "mining activities" shall include all exploration, prospecting and mining or mining operation activities as defined herein.
- (9) "Mining" and "mining operation" shall mean all or part of the process involved in the mining of metallic minerals, other than for exploration, bulk sampling or prospecting, including commercial extraction, agglomeration, beneficiation, construction of roads, removal of ore body and the production of refuse.
- (10) "Mining activity" and "mining project" shall mean prospecting and mining.
- (11) "Operator" shall mean a person or corporation, its subsidiaries and parent corporations which have been granted a permit under this Section for mineral exploration, bulk sampling, prospecting and mining.
- (12) "Ore" shall mean minerals of all types of geological origin which contain a valuable component, such as a metal which is extracted therefrom and is worked accordingly for such value.
- (13) "Original state standards" shall mean that language contained within referenced state statutes which are in effect on the date of Ordinance publication. Statutes referenced within this Ordinance shall be construed to be minimal County requirements.
- (14) "Parent corporation" shall mean a duly incorporated for profit or nonprofit corporation which is engaged in the business of mining but shall not include a corporation five percent (5%) or more of whose outstanding common stock is owned by another corporation.
- (15) "Property line" shall mean the exterior boundaries of the parcel or lot on which mining activities are taking place; however, for purposes of applying the buffer zone concept under Section 14.07(1), below, that portion of the right-of-way of a

public street or highway which extends onto the parcel or lot shall not be counted toward the calculation of the width of the buffer zone.

- (16) "Prospecting" means engaging in the examination of an area for the purpose of determining the quality and quantity of nonferrous metallic minerals, other than for exploration or bulk sampling but including the obtaining of a nonferrous metallic mineral sample, by such physical means as excavating, trenching, construction of shafts, ramps and tunnels and other means, other than for exploration or bulk sampling, which the department, by rule, identifies, and the production of prospecting refuse and other associated activities. "Prospecting" shall not include such activities when the activities are, by themselves, intended for and capable of commercial exploitation of the underlying nonferrous ore body. However, the fact that prospecting activities and construction may have use in mining, if approved, shall not mean that prospecting activities and construction constitute mining within the meaning of sub. (9), provided such activities and construction are reasonably related to prospecting requirements
- (17) "Prospecting site" shall mean an identified lot or parcel of land on which prospecting is proposed to take place within the County.
- (18) "Residential area" shall mean one or more houses or one or more building lots or parcels for residential use, consistent with minimum allowed County lot sizes which are used for residential purposes or zoned for such use and whether located in the same zoning district as mining activities or not.

14.11 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 Department of Land Management.