

Changes to I-2 Zoning District

-Section 9.4.9 (A) Purpose. This district is established for the principal purpose of providing long-term sites for heavy industrial uses in conjunction with a metallic mineral mining site/operation. Uses within this zoning district are likely to cause smoke, noise, odors, dust, fumes, visual impacts, and heavy equipment traffic and thus require separation from residential or other more sensitive uses. An applicant for a metallic mineral mine may enter into a local agreement which may include the matters listed in Wis. Stats. 295.443 (1m). This district shall apply only to lands in the Town of Knight and the Town of Anderson along the State Highway 77 corridor.

-Section 9.4.9(B) Permitted Uses: Remove "(1) Mining, quarrying and processing of products from these activities subject to the provisions of Section 9.7.2." Renumber accordingly.

-Section 9.4.9 (C) Uses Authorized by Conditional Permit. : Add: "(3) Metallic Mineral Mining subject to the provisions of Section 9.7.14."

New Section: Section 9.7.14 Metallic Mineral Mining

Section 9.7.14 Metallic Mineral Mining.

- (A) **Title.** Metallic Mineral Mining Section for the County of Iron.
- (B) **Purpose.** Require a person or entity that desires to engage in metallic mineral mining activity in the County to first obtain a Conditional Use Permit from the County and subsequently act and operate in accordance with the conditions of such Permit so the County can, to the extent of the County's zoning authority, promote the public health, safety, convenience and general welfare, and encourage planned and orderly land use development; to protect property values and property tax base; to permit the careful planning and efficient maintenance of highway systems; to ensure adequate highway, utility, health, educational and recreational facilities; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage uses of land and other natural resources which are in accordance with their character and adaptability; to encourage the protection of surface and groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of the landscape and physical features; to provide healthy

surroundings for family life; and to promote the efficient and economical use of public funds.

- (C) **Statutory Authority.** This section is adopted pursuant to section 59.01-59.04, 59.51, 59.54, 59.69-59.70, 92.07, 92.11, 293.41, 293.43(4) and 295.443(1m) Wisconsin Statutes.
- (D) **Restrictions Adopted Under other Authority.** The purpose of this section is not intended to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits not concerning metallic mineral mining previously adopted pursuant to Wisconsin Law.
- (E) **Severability.** Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.
- (F) **Overall Applicability.** The requirements of this section apply to all owners and mine operators of metallic mineral mining sites within the County of Iron operating on or commencing to operate after adoption of this section.
- (G) **Administration.** The provisions of this section shall be administered by the Iron County Zoning Department.
- (H) **Effective Date.** The provisions of this section shall take immediate effect after passage and publication, as required by law.
- (I) **Definitions.** When used herein, the following words are defined as follows:
 - (1) **“Applicant”** shall mean a person(s) that has applied for a Conditional Use Permit from Iron County pursuant to this section.
 - (2) **“Application”** shall mean and refer to a conditional use permit application filed or to be filed with Iron County pursuant to this section.
 - (3) **“Blasting”** shall mean the practice or act of using dynamite or other substance or material to cause an explosion to assist in metallic mineral mining.
 - (4) **“Zoning Committee”** shall mean the Zoning Committee of the Board of Supervisors of Iron County, Wisconsin.
 - (5) **“County”** shall mean the County of Iron in the State of Wisconsin.
 - (6) **“Metallic mineral mining”** shall mean mining for any metal or metals, including ferrous. This definition does not refer to exploration, exploring, prospecting or bulk sampling.

- (7) **“Mine”** shall mean an excavation in the earth from which metallic ores or other materials are removed.
- (8) **“Mine Operator”** shall refer to the person operating a metallic mineral mine.
- (9) **“Mine site” or “site”** shall mean land from which mineral aggregates or metallic and/or nonmetallic minerals will be or are extracted by the mine operator or on behalf of the mine operator, including all land on which is or will be located any structures, equipment, storage facilities, stockpiles, washing or screening facilities, private roads or haulage ways associated with a mining operation; and all contiguous lands to the mining operation under common ownership or control of the owner or mine operator.
- (11) **“Mining operation”** shall mean or refer to all or any part of the process or activities involved in mining.
- (12) **“Neighboring properties”** means and refers to real property or land, improved or unimproved, situated in Iron County which is in close enough physical or geographic proximity to a metallic mineral mine or metallic mineral mining activities to be adversely affected by the same.
- (13) **“Nonmetallic minerals”** means a product, commodity or material consisting principally of naturally occurring organic, inorganic, nonmetallic, or non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- (14) **“Owner”** shall mean any person having a real property interest in a mine site or site.
- (15) **“Permit”** shall mean a Conditional Use Permit issued pursuant to this section permitting metallic mineral mining in the County.
- (16) **“Person”** shall mean an individual, owner, mine operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, federal agency or another entity.
- (17) **“Reclamation plan”** shall mean a written plan for the reclamation of an exploration site or metallic mineral mining site.
- (18) **“WDNR”** shall mean the Wisconsin Department of Natural Resources.
- (19) **“Conditional Use Permit” or “Permit”** shall mean a Permit to mine metallic minerals that is duly issued by Iron County in accordance with this section.
- (20) **“Waste Material”** means tailings, over burden and any other non-marketable by-products that result from metallic mineral mining activity or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the mine site or some other site as part of a reclamation plan.
- (21) **Other Words Defined.** Words which are not defined in this section shall have the meaning provided for in Wisconsin Statutes unless such a

definition is inconsistent with a definition provided for herein.

- (J) Consideration of Compatibility.** In reviewing a proposal for a metallic mineral mining activity, the Iron County Zoning Committee shall take into consideration:
- (1) The impact upon and the opinions and positions of the owners of neighboring properties of the proposed metallic mineral mining site.
 - (2) Adverse effects on agriculture, forestry, industry, future business growth, or property tax due to the proximity of mine, neighboring properties and on the ability of municipalities to efficiently and economically use public lands.
 - (3) Damage to or destruction of public roads, public highways, bridges and other public infrastructure from vehicles and equipment used in metallic mineral mining.
- (K) Project Description.** The applicant for a Conditional Use Permit shall include, as part of the project description, a written narrative description of the project in sufficient detail to allow the County and the public to understand and assess the size and scope of the project and probable and possible impacts of the proposed mine on public health, safety, convenience and general wellbeing within the County. This is intended to provide the information necessary to determine what conditions should be placed on the permit. The project description shall include all significant aspects of the proposed metallic mineral mining operation including, but not limited to, the following:
- (1) A summary of planned facilities for excavating, extracting, metallic mineral mining, milling, ore processing, transportation, tailings disposal, other waste disposal, sedimentation, settling, retention and detention ponds, office buildings and other structures, roads, railroad lines and utilities and the proposed location of each.
 - (2) Maps showing the maximum lateral extent and minimum and maximum depth of underground or open pit workings and the location of primary shafts, tunnels and other primary underground workings. Any map submitted to satisfy this requirement shall be updated on an annual basis.
 - (3) Hours of mining operation.

- (4) An estimate of the maximum number of people directly employed at the mine site during each phase and an estimated breakdown by the job classification of all such employees.
- (5) Type of metallic mineral mining and processing equipment to be used.
- (6) Chemical reagents, if any, to be used in mine operation and ore processing and how they will be handled.
- (7) Plans for visual screening of metallic mineral mining activities around the perimeter of the mine site and the sides of any public highway.
- (8) Plans for lighting on site and measures to limit light pollution.
- (9) Radiation levels anticipated in waste rock.
- (10) Methods for preventing access to all underground mine workings after mine closure.

(L) Written Plans. The application for a Conditional Use Permit shall be accompanied by the following written plans:

- (1) Erosion Plan. An erosion plan which describes in detail what the mine operator will do to prevent material from the mine site from eroding, migrating or moving onto neighboring properties.
- (2) Air Quality Plan. An air quality plan which describes in detail what the mine operator will do to prevent/limit/minimize the effect on neighboring properties from particles from the mine site.
- (3) Noise Plan. A noise plan which describes in detail what the mine operator will do to minimize the effect of noise pollution on neighboring properties.
- (4) Blasting Plan. A blasting plan which describes under what circumstances blasting will be used, what type and volume of explosives will be used, with what frequency blasting will occur, between what hours blasting will occur and what steps the mine operator will undertake to minimize the effects of noise and vibration from blasting on neighboring properties.
- (5) Waste Products Plan. A plan which sets forth what projected volume of tailings or other waste products or materials will be generated each year, an indication of what parcels of land such waste materials will be situated, how the waste products will be moved and what steps the mine operator will undertake to minimize the amount of particulate matter entering neighboring properties. This plan shall address specifically what mine operator will do if mine operator's metallic mineral mining activities encounter radioactive materials, radon or other hazardous substances or materials.

- (6) Utilities. A utilities plan which sets forth the public utility and public service requirements for the metallic mineral mining operation and describes the manner in which all utility services will be provided at the site and the potential system upgrades which the metallic mineral mining operation may require.
- (7) Fencing Plan. A fencing plan will diagram and describe the perimeter of fencing and what type of fencing will be installed. Included in this plan is how the fencing will be installed and maintained to prevent injury to persons and animals from entering the site.
- (8) Socio-economic Impact Analysis. A socio-economic impact analysis will be completed by an independent party selected by the County, but paid for by the applicant. A socio-economic impact analysis will include a summary of anticipated positive and negative impacts on the health, safety, convenience and welfare and the economic wellbeing of the residents and others in the County, based on the potential socio-economic impacts of the proposed metallic mineral mining operation. This shall include roadway and traffic impacts and needs.
- (9) Reclamation Plan. The applicant shall prepare and submit to the County Zoning Committee:
 - a. All information relative to reclamation which the applicant submits to the WDNR.
 - b. A description of the proposed reclamation plan, including final land use and shape, estimated final topography and the annual sequence of reclamation activity to be conducted.
 - c. A description of the utility and capacity of the reclaimed land to support the proposed sequential use.
 - d. A description of the kinds of measures to be taken to protect topsoils and subsoils.
 - e. A description of the grading and backfilling sequences, final slope angles, highwall reduction, benching and terracing of slope stabilization and erosion control methods.
 - f. A description of the reclamation of waste areas, tailing ponds, sediment ponds, haulage roads, access roads, surface structures, open pits and related facilities.
 - g. A description of the final surface drainage, water impoundments and artificial lakes, if any, on the affected property.

- h. A description of plant types, planting sequences and maintenance or replacement of vegetative cover both during the proposed mining operation and upon the completion of site reclamation.
- i. A plan for the adequate covering or disposal of all pollutant-bearing minerals or materials.
- j. The estimated cost of reclamation on a per acre of total project basis and proof that bonds sufficient to provide for such costs have been provided to the Wisconsin Department of Natural Resources pursuant to applicable state law.
- k. A description of the manner of preventing pollution which results from the leaching of waste materials.

(M) Conditions of Approval. The Zoning Committee may set forth conditions of approval regarding appropriate setback and other dimensional requirements particularly with reference to avoiding a nuisance effect on surrounding residential uses, or an attractive nuisance effect upon children or passersby. Suitable fencing, capping and landscaping may be required. The following conditions apply although this list is not comprehensive, additional requirements shall be determined by the County Zoning Committee:

- (1) No tailings from outside the County will be disposed in Iron County.
- (2) Proposed metallic mineral mine will be located, designed, constructed and operated in such a manner that it meets all state and federal requirements.
- (3) Adequate buffer area to protect neighboring properties as well as shoreland and wetland areas.
- (4) Applicant is required to get all necessary County issued permits.
- (5) The Application for Conditional Use Permit shall contain a written statement granting the County, its officers, employees, agents, consultants, contractors and representatives the Applicant's consent and permission to enter, from time to time, upon the real property and physical structures and improvements included in the metallic mineral mining project for the purpose of inspecting, measuring, testing, gathering, sampling, photographing, assessing, monitoring and determining whether:
 - a) The representations in the Application for Conditional Use Permit are accurate and are being complied with.

- b) The mine and its improvements are being constructed, maintained and operated in accordance with the Application, this section and any Permit issued pursuant to this section.
- c) The metallic mineral mining operations are having a negative impact on neighboring properties and their occupants.
- d) The mine property is being reclaimed or restored in accordance with the Application, this section or any permit issued pursuant to it.

(6) No person holding a conditional use permit issued under this section may avoid financial responsibility for reclamation by becoming delinquent in the payment of its taxes.

(7) Reclamation must begin within one year after the closing, whether temporary or permanent, of any mine.

(8) The application shall be accompanied by proper financial assurances. Also, as a condition of approval and as an integral part of the conditional use permit, the Applicant will at all times provide financial assurances, adequate in kinds and amounts to the County's satisfaction, of the Applicant's ability to undertake and complete the requirements of this section and the conditions on a Conditional Use Permit issued pursuant to this section. Until the scope and details of a proposed metallic mineral mining project are ascertained, the Committee is not in a position to determine what financial assurance is appropriate under the circumstances. Any such determination by the Committee will be based upon relevant criteria. Such financial assurances may be a condition on a Conditional Use Permit.

(N) Fees. The Application for Conditional Use Permit shall be accompanied by a one-time non-refundable fee of Fifty Thousand Dollars (\$50,000.00) for the County Conditional Use Permit.

The amount of the application fee of Fifty Thousand Dollars (\$50,000.00) provided for in this section, which was established in calendar year 2013, may be adjusted by the zoning committee.

(O) Administrative Fee Deposit. At the time an Application for Conditional Use Permit for metallic mineral mining in the County is filed with the Zoning Administrator, the Applicant shall initially deposit One Hundred Thousand Dollars (\$100,000.00) with the County to be deposited in an administrative fee

account for that project so such funds are available to be withdrawn by the County and used to reimburse the County for the costs and expenses the County incurs in connection with Permit activities.

After the initial deposit of One Hundred Thousand Dollars (\$100,000.00), any time the remaining balance in the administrative fee account for the project falls below Fifty Thousand Dollars (\$50,000.00), the County will notify the mine operator and the mine operator will make an additional deposit into such administrative fee account within fifteen (15) days of receipt of such notice so that the remaining balance in the administrative fee account never remains below Fifty Thousand Dollars (\$50,000.00) for more than fifteen (15) days. The administrative fee account shall remain funded for the life of the metallic mineral mine, and for (10) ten years after closing.

This section is not intended to generate excess revenues for the County's use for unrelated purposes, but the County, and hence its taxpayers, should not be required to bear the financial burden and obligations associated with the costs and expenses the County incurs in connection with its aforesaid activities, which are referred to as "mining activities". To that end, this section of the Ordinance places the responsibility for reimbursement of the costs and expenses of Permit activities on the Applicant and mine operator.

- (P) Other Zoning Provisions.** Unless modified by this section, all other applicable provisions of the County's zoning ordinance shall apply, including the provisions of Article VIII Conditional Uses (except for the public hearing [section 9.8.2C] and determination [section 9.8.2D] time requirements).