

STATE OF WISCONSIN COUNTY OF IRON

ORDINANCE NO: 14-_____

**An Ordinance to Amend Section 9.4.12 and to Create Section 9.4.19
of the County Land Use Ordinance**

The County Board of Supervisors of the County of Iron, Wisconsin does ordain as follows:

SECTION 1: Section 9.4.12 of the Iron County Zoning Code is hereby retitled as follows:

“Section 9.4.12 RESIDENTIAL PUD PLANNED DEVELOPMENT DISTRICT.”

SECTION 2: Section 9.4.12 (A) of the Municipal Code is hereby amended to delete the first sentence and replace it with the following:

“The Residential PUD District (“R-PUD”) is intended to provide for large-scale residential-recreational development.”

SECTION 3: Section 9.4.19 of the Iron County Zoning Code is hereby created to read as follows:

SECTION 9.4.19: Metallic Mining or Industrial Planned Unit Development.

A. INTENT AND PURPOSE

1. It is the intent of the Metallic Mining or Industrial Planned Unit Development Provision as authorized for village-power towns in *Wis. Stats.* Section 60.62, and for counties in Section 59.69(3).(d.), to allow flexibility in dealing with large-scale industrial, and metallic mineral developments while insuring such development conforms with the intent of the County’s development plan. "Metallic Mining" shall include both non-ferrous (under Chapter 293 Wis. Stats. and ferrous (under Chapter 295 Wis. Stats) mining.

2. In instances where larger areas and unique uses are involved, the most appropriate method for addressing these uses often includes relaxation of minimum standards and the imposition of site and use specific requirements by rezoning to establish a Planned Unit Development. The Planned Unit Development is intended to permit metallic mineral mining or industrial development subject to requirements that are specific to the proposed use to protect human health and the environment to the extent practicable while encouraging economic growth, employment, property values, and the general welfare of the residents of Iron County.

B. REQUIREMENTS FOR ALL METALLIC MINING OR INDUSTRIAL PLANNED UNIT DEVELOPMENT

An applicant (“Applicant”) may only file a petition for a Metallic Mining or Industrial Planned Unit Development (“Petition”) as set forth in this Ordinance. The County Board may, at its

discretion, upon its own motion, or upon petition, approve a Metallic Mining or Industrial Planned Unit Development by approving an overlay district with concept plan upon finding, after a public hearing, that all of the following facts exists:

1. The area proposed for the Metallic Mining or Industrial Planned Unit Development is a minimum of ten (10) acres in size;
2. The location and nature of the stormwater and wastewater treatment systems which will serve the development individually, or collectively, will assure that effluent from the systems will not reach the ground or surface waters in a condition which would contribute to health hazards, taste, odor, turbidity, or impair the aesthetic character of navigable waters;
3. The Planned Unit Development will not adversely impact air quality in the County generally and will not lead to violations of air quality rules and regulations on site or in the vicinity;
4. The location of facilities, and the dedication of any part of the land for use by the public will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion, and other pertinent factors;
5. Lands dedicated to the public have been accepted by action of the governing body of the accepting unit of government;
6. Any restriction placed on platted land by covenant, grant of easement, or any other manner which was required by a public body or which names a public body as grantee, recipient, or beneficiary, has vested in the public body the right to enforce the restriction at law or in equity against anyone who has, or acquires, an interest in the land subject to the restriction;
7. The Planned Unit Development District Ordinance is approved;
8. All necessary conditional use permits have been issued;
9. All State and Federal approvals and permits have been issued or, with regard to state mining permits, vested rights have been created;
10. All Planned Unit Development Permits have been issued;
11. A valid Local Agreement (for Metallic Mining Planned Unit Developments) pursuant to Section 293.41 or 295.443 Wis. Stats. has been executed; and
12. The Planned Unit Development is in the best interest of the residents of the County.

C. TYPES AND LOCATION OF PLANNED UNIT DEVELOPMENT

Metallic Mining Planned Unit Development (“M-PUD”) or Industrial Planned Unit Development (“I-PUD”) shall only be permitted in the following Districts:

Industrial Planned Development	I-PUD	A-1, A-2, I-1, I-2, F-1
Metallic Mining Planned Development	M-PUD	A-1, A-2, C-1, I-1, I-2, F-1, W-1, W-2

D. OWNERSHIP

A Petition for approval and establishment of a M or I-PUD may be filed by a person having an interest in the property to be included in the planned unit development. Prior to final approval, the entire tract shall be either under single ownership, evidenced by legal title or binding sales contract, or under lease or such other legal control over the land and proposed use this is sufficient to insure that the Applicant will be able to carry out the proposed project and assume all liability for the project which would normally be assumed under full land ownership.

E. FILING

1. A Prepetition for M-PUD or I-PUD shall first be filed with Zoning Administrator for forwarding to the Iron County Mining Impact Committee (Local Impact Committee). A Prepetition shall include a description of the proposed developments and uses sufficient to satisfy the Zoning Administrator that the County Board can make its Prepetition decision based on the Prepetition. At a minimum, the Prepetition shall include:

- (a) An application fee in the amount of \$5,000.00 which may be reduced on a finding of hardship by the Local Impact Committee and (50% of which may be refunded by the Local Impact Committee on denial of the Prepetition);
- (b) A map showing the property in question, proposed location of structures and facilities, neighboring properties and uses, and roads and surface waters;
- (c) A description of ownership and current uses and structures;
- (d) A summary of proposed uses, facilities, operations, timelines, and total cost of construction, development, operation, and decommissioning of proposed facilities and uses; and
- (e) Applicant name, address, phone, email, and current occupation and businesses.

2. A Petition for I-PUD or M-PUD shall include the following:

- (a) An application fee in the amount of \$100,000, which fee may be reduced on a finding of hardship by the County Board and may be partially refunded by the County Board by up to 50% in the event of denial of the Petition;
- (b) A signed and notarized statement from the Applicant stating:
 - (i) The name and address of the Applicant;

- (ii) A summary in less than five hundred (500) words which describes the nature and scope of the project;
 - (iii) A legal description of all land proposed to be included in the district;
 - (iv) A description of the Applicant's ownership interests in the property with respect to Section D, above;
 - (v) Dates construction will begin and be completed, and use will be commenced;
 - (vi) The Applicant's best estimate and explanation of the life expectancy of the project;
 - (vii) Evidence of the Applicant's ability to carry out the project. This may include an explanation of the method of financing a financial statement of the Applicant, a list of experience of the Applicant in similar projects, letters of reference, or other material;
 - (viii) An indication of the date of Local Impact Committee Prepetition Conference and approval; and
 - (ix) A statement that all information is accurate and complete to the best of the Applicant's knowledge.
- (c) A map prepared by a registered surveyor in the State of Wisconsin showing the proposed district as it currently exists. The map shall show the following at an appropriate scale:
- (i) Boundaries of the property and location of monuments;
 - (ii) Contour lines at five (5) foot intervals;
 - (iii) All major drainage and surface waters;
 - (iv) Size of the property;
 - (v) High-water mark of watercourses or water bodies, if any;
 - (vi) Adjacent roadways and distances to public road to which access is proposed;
 - (vii) Existing structures or other manmade features;
 - (viii) Scale and north arrow;
 - (ix) Public and private water supplies; and
 - (x) Any other feature of major importance or other information necessary to accurately represent the area.

(d) A description of the proposed project in sufficient detail to allow the Zoning Committee to assess probable physical, environmental, economic, employment, and developmental impacts of the proposal. The description shall include at a minimum, the following:

- (i) A description of the timing and phasing of the project including maps of all major phases;
- (ii) A map of the completed development;
- (iii) A description of any related development taking place in the county, or planned to take place;
- (iv) A statement of known physical, environmental, economic, employment, or any developmental impacts on other property in Iron County;
- (v) A description of any entities that will be responsible for maintenance of facilities, security, hygiene, and implementation plan;
- (vi) Any other information necessary for the Zoning Committee to assess probable physical, developmental, economic, employment, or environmental impacts of the project;
- (vii) Sewer and water lines, streets, parking septic system, refuse, utilities, wells and lighting;
- (viii) A statement of the socioeconomic baseline conditions in Iron County at the time of application addressing, without limitation, population, demographics, employment, income, net worth, debt, public health issues, crime, education, and property value; and
- (ix) Any other documents required below by the Local Impact Committee, Zoning Committee, or County Board under regulations for the specific type of planned development.

F. PROCEDURE FOR ESTABLISHING A METALLIC MINING OR INDUSTRIAL PLANNED UNIT DEVELOPMENT DISTRICT

The procedure for establishing limited rezoning in the form of a Metallic Mining or Industrial Planned Unit Development District shall be as follows:

1. Prepetition and Prepetition Conference.

- (a) A Prepetition shall be filed with the Zoning Administrator. The Zoning Administrator shall forward the Prepetition to the Local Impact Committee with his or her comments and recommendations within ten (10) business days of his or her determination that the Prepetition is complete and complies with this Ordinance;

- (b) Prepetition Conference (“Pre Petition Conference”). Prior to official submittal of a Petition for consideration of a Planned Development District, the Applicant (owner, operator, agent, or proponent) shall meet with the Local Impact Committee and its technical advisory staff, for a preliminary discussion as to the scope and nature of the proposed development and to consider alternate solutions to the development of a given area;
- (c) The Local Impact Committee may by majority vote, approve the submittal of a Petition based on the Prepetition; and
- (d) Failure to secure approval of the Local Impact Committee in and Pre Petition Conference shall preclude further consideration of the proposed development.

2. If the Local Impact Committee approves the Prepetition, the Applicant may submit a Petition setting forth all of the facts required in Section E above.

An application may be filed with the Zoning Administrator. The Applicant shall present ten (10) copies of all material listed in E above, plus the filing fee listed in E(1). The Zoning Administrator shall immediately initial and date one copy of each of the materials listed in E above, and issue a receipt to the Applicant for all materials delivered. The copy of materials initialed by the Zoning Administrator shall be delivered to the County Clerk to be preserved with county records. One copy may be retained by the Zoning Administrator for office use. The remaining copies shall be publicly available in the following locations:

- 3. Town halls of towns in which the planned development is proposed.
- 4. The office of the Northwestern Wisconsin Regional Planning Commission.
- 5. One copy to be available to members of the Zoning Committee. Any remaining copies may be circulated or distributed at the discretion of the chairman of the Zoning Committee.

G. ZONING COMMITTEE ACTIONS AND PUBLIC HEARINGS

1. The Zoning Administrator shall place notice of the Petition on the next meeting agenda of the Zoning Committee. The Zoning Administrator shall give notification of the Zoning Committee meeting by registered letter to the Town Chairmen of the Towns in which the M or I-PUD would be located.

2. At the meeting referred to in (1) above, the Zoning Committee shall set a date for an Informational Public Hearing on the Petition. The Informational Public Hearing shall be scheduled no sooner than fifteen (15) days and no later than forty-five (45) days after the meeting, except that with respect to an M or I-PUD, the Zoning Committee may decide that the hearing held pursuant to Section _____, *Wis. Stats.*, shall constitute the Informational Public Hearing. The Informational Public Hearing shall be held at the County Court House, or such other location as may be designated by the Zoning Committee.

3. No later than thirty (30) days after the Informational Public Hearing, the Zoning Committee shall hold a meeting and adopt recommendations on the application, except that when the Informational Hearing is held on a M or I-PUD, according to Section _____, *Wis. Stats.*, the Zoning Committee shall meet and adopt recommendations no later than thirty (30) days after the close of the record of the Informational Public Hearing. The Zoning Administrator shall give notification of the Zoning Committee meeting by registered letter to the Town Chairmen of towns in which the M or I-PUD would be located.

4. A public hearing (“Public Hearing”) shall be held on the recommendations no later than sixty (60) days after the Informational Public Hearing or, with respect to a M-PUD, after close of the record of hearing held pursuant to Section _____, *Wis. Stats.* The Public Hearing shall be held at the County Court House or such other location as the Zoning Committee may designate. The Zoning Committee may, if directed by the County Board, schedule the hearing to coincide with a County Board meeting.

5. Following the Public Hearing, the Zoning Administrator shall within fifteen (15) days deliver to the County Clerk the Committee recommendation and a summary of the comments at the Public Hearing. The County Clerk shall place the recommendation on the next County Board agenda.

6. No more than seventy-five (75) days after the County Clerk receives the Committee recommendations, and summary of contents of the Public Hearing described in Section 4 above, the County Board shall either disapprove or approve the recommendation of the Zoning Committee.

7. If (a) the County Board approves the Petition; (b) the Applicant’s ownership is established in accordance with Section D above; (c) all necessary state and federal permits have been issued; and (d) a Local Agreement under Section 293.41 or 295.443 *Wis. Stats.* is in effect between the Applicant and the County, the Zoning Administrator shall issue the permit as described in Section H below.

8. If the Petition is rejected by the County Board, the Applicant may reapply at any time. If a second application is substantially the same as the original application except for changes recommended by the Zoning Committee or County Board, the Zoning Committee may eliminate the Informational Public Hearing described in Section (2) above.

9. An Applicant may submit simultaneous application for metallic mining or industrial planned unit developments, conditional-use permits and land-use permits.

(a) Petitions for more than one Metallic Mining or Industrial Planned Unit Development may be submitted simultaneously, provided all districts are related and relationships of the planned unit developments are clearly explained in the project description in Section E2(d) above. All Petitions filed simultaneously may be combined for public hearing purposes, but the Zoning Committee shall make separate recommendations on each Petition, the County Board of Supervisors shall take separate action on each Petition, and a separate permit shall be issued for each Petition.

- (b) Applications for conditional-use permits or land-use permits may be filed simultaneously with a Petition for designation of a Metallic Mining or Industrial Planned Unit Development provided all the proposed conditional uses are within the proposed planned development. In the case a simultaneous submission of conditional use applications and Planned Unit Development Petitions, the deadlines described in Section 9.8 of the Zoning Code for conditional uses shall not apply; and instead, the deadlines and procedures established in this section for Planned Unit Developments shall apply. The Zoning Committee shall make recommendations to the County Board on each conditional-use permit and the County Board shall act on these recommendations as part of the planned development Petition. Material required under Section 9.8 for conditional uses shall be incorporated into the Planned Unit Development application whenever possible.
- (c) Each conditional use permit application shall require the submittal of the forms and fees required under Section 9.8 of the Zoning Code.
- (d) The Applicant may request cancellation of all further consideration of the application or Petition at any time by notifying the Zoning Administrator in writing.

H. PUD PERMIT

1. A separate M or I-PUD permit shall be issued for each planned development. A single M or I-PUD permit shall include any conditional-use permits which were identified as needed in the application. Individual land-use permits shall also be included as a portion of the planned unit development permit. Any land use or conditional-use permit within the Metallic Mining or Industrial Planned Unit Development District which is obtained after the Metallic Mining or Industrial Planned Unit Development permit is applied for shall be considered a part of the Mining or Industrial Planned Unit Development permit.

2. The M or I-PUD permit shall become effective at the later of the following dates:
- (a) Ten (10) calendar days after the permit is issued by the Zoning Administrator;
 - (b) The starting date identified by the Applicant in Section E(2)(e) above;
 - (c) The effective date of any Local Agreement pursuant to Section 293.41 or 295.443 Wis. Stats.;
 - (d) The issuance of all necessary state and federal permits; and
 - (e) The payment of all fees, costs, payments, and taxes due to the County from the Applicant.

3. The permit shall be terminated or suspended by the County Board under any of the following conditions:

- (a) Construction is not carried on diligently to completion following as closely as possible the description of timing and phasing of the project submitted in the application unless caused by reasons beyond the control of the Applicant;
- (b) Actual project development is significantly different from stated in the original application;
- (c) Actual project development violates the description provided in the application or any recommendations adopted by the County Board;
- (d) The occurrence or imminent danger of a major adverse or catastrophic environmental or economic impact not accurately described in the application material submitted under Section E above; or
- (e) Applicant's (including successor's) default in payment to the County for fees, costs, payments, or taxes due for thirty (30) days after written notice.

I. GENERAL REQUIREMENTS

A metallic mining or industrial planned unit development shall be composed of a single contiguous area enclosed by a single continuous boundary line. The area for inclusion shall be reasonably compact and not rely on narrow land bridges or necks of land to join otherwise non-contiguous areas. The Metallic Mining or Industrial Planned Unit Development shall not enclose or substantially surround any land that is not included in the Metallic Mining or Industrial Planned Unit Development. Exceptions to these requirements may be permitted in order to accommodate essential pipelines, utilities, conveyor, rail, or truck routes or other facilities. The land included in a Metallic Mining or Industrial Planned Unit Development may not be included in any other planned unit development.

1. The Applicant shall demonstrate that the M or I-PUD (after consideration from Applicant) will not result in a substantial net adverse economic impact in any town in which the M or I-PUD will be located including the ability of each town, and the school districts, law enforcement, fire departments; highway departments, and sanitary districts with which it is associated, to provide necessary governmental facilities and services taking into account all financial resources projected to be reasonably available for providing the facilities and services.

2. The appropriate district regulations or other portions of this Zoning Ordinance shall apply within planned unit developments unless specifically exempted or altered under the provisions of this Section. Shoreland regulations apply within all areas defined in the County Code regardless of any provisions of this section.

3. Nothing in this Ordinance shall be construed to mean that the County Board of Supervisors is required to approve any Petition for a planned development. Any such approval of any Petition for a planned unit development must be supported by substantial credible evidence.

4. Traffic. The design of the PUD shall provide for safe and efficient internal traffic flow on public roads and not create unnecessary safety or congestion problems outside the PUD.

5. Any significant deviation from the original designs submitted in the application described in Section E above must be approved by the County Board of Supervisors.

J. INDUSTRIAL PLANNED UNIT DEVELOPMENT (I-PUD) USES AND REQUIREMENTS

1. Any permitted use allowed in any Industrial District shall be permitted in an I-PUD. Any conditional use in the Industrial District shall be a conditional use in the I-PUD.

2. At least one and one-half (1½) acres of a I-PUD shall be buildable commercial land excluding public right-of-ways, water bodies, wetland, steep slopes, or other impediment to development.

3. Except for access points, a permanent open space at least forty (40) feet wide shall be maintained around the perimeter of the I-PUD. No structure may be permitted in this open space, and the area shall not be counted as buildable area under Section _____. Vegetative or other screening must be provided adjacent to residential or recreational uses.

4. The I-PUD, at time of Petition, may have one or more vacant structure sites. Unused sites shall be identified in the application and as much information as possible about how these sites will be served by utilities, parking, and other services. Structures not specifically identified in the I-PUD Petition may be built provided the description of the project included in the Petition, or restriction recommended by the Zoning Committee and the County Board are not violated. Structures for uses listed permitted in the Industrial District (I-PUD) in Section _____ may be constructed after acquiring a structure permit as described in Section _____. Uses listed as conditional uses in an Industrial District in Section _____ may be constructed after acquiring a conditional-use permit as described in Section _____.

5. As a part of the Petition in Section E above, the following shall be included:

(a) Layout and infrastructure of all structure sites;

(b) Industries to occupy sites, if known; and

(c) Any site or structure which will not immediately be used or which is included as a speculative holding.

6. Traffic and parking shall be given special consideration, both within the I-PUD and off the premises. Except as specifically provided otherwise Section _____ shall apply.

7. Whenever possible, the layout of I-PUD shall encourage walking rather than driving between commercial establishments in the I-PUD.

8. Each I-PUD shall have a minimum of two (2) accesses to public roads, beyond this the number of driveways should be minimized. Individual businesses shall not have separate driveways to existing public roads.

9. Performance standards in Section _____ shall apply in I-PUD.
10. Exceptions to height limitations:
 - (a) Appropriate firefighting equipment for a structure of the proposed size and type must be available;
 - (b) At least two fire exits shall be supplied to upper portions of the structure regularly used by humans;
 - (c) The structure shall be engineered and constructed to withstand stresses due to wind, vibration from traffic, settling, freeze-thaw cycles, and other stresses imposed by the natural or human environment of Iron County;
 - (d) The structure shall not pose a hazard to surrounding properties due to falling objects or potential falling of the structure itself; and
 - (e) The structure shall be accessible by emergency vehicles of all types.
 - (f) Unless the proposed activity is in a Planned Development, the structure shall not interfere with the surrounding residential character of the area.

K. METALLIC MINERAL MINING PLANNED UNIT DEVELOPMENT USES AND REQUIREMENTS (“M-PUD”)

Metallic mineral mining shall be permitted only in M-PUD. Any permitted use allowed in (_____) or (_____) shall be permitted in a M-PUD. Any conditional use in a (_____) or (_____) shall be a conditional use in a M-PUD. Metallic Mineral Mining may not be conducted in any district unless a Local Agreement with the County is in effect pursuant to Section 293.41 Wis. Stats.

1. No person shall establish, build, construct, operate, or maintain the use of property for any metallic mineral mine mill-related buildings, enclosed structures such as headframes, tailings ponds, waste treatment facilities, tailings transport systems, emergency spill areas or mill tailings control areas, waste disposal sites, equipment yards, storage facilities, stockpiles, byproducts, roads, or rail sidings, refuse or waste rock stockpiles, or other construction (hereinafter collectively referred to in this chapter as “Facilities”), within any of the following areas:

- (a) In any area prohibited in applicable state statutes or regulations of the DNR, including, but not limited to, N.R. §132.18, and Wis. Stat. §293 or 295;
- (b) Within one thousand (1,000) feet of any navigable lake, pond or flowage;
- (c) Within three hundred (300) feet of a navigable river or stream;
- (d) Within a floodplain;

- (e) Within one thousand (1,000) feet of the nearest edge of the right-of-way of any of the following: Any state trunk highway, interstate or federal primary highway; the boundary of a state public park; the boundary of a scenic easement purchased by the DNR or Department of Transportation; the boundary of a designated scenic or wild river; a scenic overlook designated by the DNR by rule; or a bike or hiking trail designated by the United States Congress or the State Legislature; unless, regardless of season, the site is visually inconspicuous due to screening or being visually absorbed due to natural objects, compatible natural plantings, earth berm, or other appropriate means, unless, regardless of season, the site is screened so as to be aesthetically pleasing and inconspicuous as is feasible; and
- (f) Within wetlands, except pursuant to the criteria established in Section N.R. 132.06(4) of the Wisconsin Administrative Code.

2. The following Conditional Use Permit Requirements shall apply in the M-PUD:

- (a) A buffer zone of not less than two hundred (200) feet nor more than one thousand two hundred (1,200) feet along the property line may be required. Additionally, the Applicant must consider the use of the land adjacent to the boundary at all points on the property line, and provide for a greater buffer zone as may be required to preserve the use of all adjacent lands. The conditional use permit shall state with some specificity the activities which are allowable within the buffer zone, e.g. monitoring wells, access corridors, ancillary facilities, and any other facilities or activities approved by the issuing authority. In determining the size of the buffer zone, the issuing authority shall take into consideration the use of the land adjacent to the property line at any point on said line and adjust the buffer zone accordingly to comply with this Ordinance, to control dust, and to be aesthetically pleasing pursuant to this Ordinance.
- (b) Utilities, roads, drainage, traffic plans, and public services required in a M-PUD shall be provided by the Applicant at its cost and expense.
- (c) A M-PUD shall be located, designed, constructed, and operated to protect groundwater quality in accordance with Wis. Stats. Chapter _____, other applicable Wisconsin statutes, and administrative rules adopted pursuant to Wis. Stat. § _____ and this Ordinance.

The Applicant shall be required to monitor private or public wells that the County Board requires to be monitored in order to gather base line data concerning quantity and quality, and which shall be adequate for all purposes. Monitoring shall be performed to assess and monitor the impact of permitted operations on public or private wells. The specific requirements of the program, including, but not limited to, time, duration, distance, frequency, scope, sampling techniques and reporting frequency, and a program to mitigate any detriments to the groundwater shall be negotiated at the time of the permit application.

- (d) A M-PUD shall be located, designed, constructed, and operated to:

- (i) Prevent any surface or subsurface discharge from the facility into navigable waters that would cause a violation of water quality standards issued pursuant to Wis. Stat. _____;
 - (ii) Prevent any surface or subsurface discharge from the facility into navigable waters that would cause a violation of Wis. Stat. §_____, unless the DNR issues a permit authorizing the disposal or discharge pursuant to Wis. Stat. §_____;
 - (iii) Comply with the standards of point source pollution control, and any applicable DNR regulations. This provision may be met by a showing that the Applicant has complied with the standards and procedures under Wis. Stat. §_____ and has obtained a prospecting or mining permit from the DNR for the project proposed on the land affected;
 - (iv) Meet pretreatment standards for discharges to publicly-owned treatment works issued pursuant to Wis. Stat. §_____;
 - (v) Divert surface water runoff from a twenty-four (24), one hundred (100) year storm around portions of the facilities containing ore, product, mine or prospecting waste. Diversion structures to accomplish the same do not need to be constructed if it can be demonstrated that surface water runoff will not come into contact with such materials;
 - (vi) Divert surface water only in accordance with Wis. Stat §_____; and
 - (vii) Control surface water runoff from portions of the facilities containing ore, product, mine, bulk sampling, or prospecting waste up to the quantity anticipated from a twenty-four (24) hour, one hundred (100) year storm by collecting, confining, treating, or discharging it as may be required by regulations promulgated under Wis. Stats. Chapter _____ and any other applicable Wisconsin Statutes and regulations promulgated thereunder.
- (e) Conditional use permits for metallic mineral mining may be made conditional upon the Applicant's obtaining a mining permit from the Wisconsin DNR for the project proposed on the land affected. The conditional use permit may be cancelled by the Zoning Committee pursuant to the provisions of §_____.

3. The following additional requirements shall apply to a M-PUD:

- (a) The operator or owner shall conduct inspections pursuant to N.R. 182.12 and shall submit to the County Board copies of all reports provided thereunder to the DNR at the same time these reports are submitted to the DNR. In addition, the Applicant shall inspect the tailings pond or dike after any unusual natural occurrence, including, but not limited to, the following: tornado, flood, or any other natural event which the Applicant should expect could affect the integrity of the tailings pond or dike; and

- (b) Facilities shall be constructed, operated, maintained, and reclaimed in conformity with all applicable state laws and regulations.

4. Reduction of Quality and Quantity of Groundwater. Any withdrawal of groundwater or dewatering of mines shall be done only in accordance with applicable state law, including, but not limited to, Wis. Stat. §____. No withdrawal of groundwater or dewatering of mines may be made to the detriment of public or private water supplies, which cannot otherwise be mitigated by the program submitted by the Applicant pursuant to §____ and approved by the County Board.

- (a) No person, owner, or operator shall construct, install, or operate any well to withdraw groundwater or to dewater mines, for any purpose where the rate and capacity of withdrawal exceeds one hundred thousand (100,000) gallons per day, unless the Applicant first obtains a high capacity well permit from the DNR in accordance with Wis. Stat. _____, and any permit required under Wisconsin Statutes Chapter _____.
- (b) An Applicant who fails to comply with an order issued by the DNR or the County under Section _____ is subject to the suspension or revocation of the conditional use permit for metallic mineral mining or prospecting possessed by such person, owner, or operator.
- (c) Adequate utilities, roads, drainage, traffic plans, and public service required in a M-PUD shall be provided by Applicant.
- (d) A M-PUD shall be located, designed, constructed, and operated in such a manner so as to protect groundwater quality in accordance with *Wis. Stats.* Chapter _____ and administrative rules adopted pursuant thereto.
- (e) A M-PUD shall be located, designed, constructed, and operated in such a manner so as to prevent air emissions from such facilities causing a violation of standards or regulations promulgated pursuant to *Wis. Stats.* Chapter _____.
- (f) The development shall also comply with the following provisions:
 - (i) All toxic and hazardous substances, wastes, refuse, tailings, and other solid or special waste shall be disposed of in solid or hazardous waste land disposal facilities licensed under applicable Wisconsin or federal metallic mining waste, other solid waste, or toxic substances control regulations, or otherwise disposed of in an environmentally sound manner pursuant to applicable provisions of such laws.
 - (ii) All tunnels, shafts, pits, trenches, or other underground openings shall be sealed by the completion of activities in the M-PUD, and seepage in amounts which may be expected to create a safety, health, or environmental hazard shall be prevented, unless it can be demonstrated that alternative uses of tunnels, shafts, pits, trenches, or other openings exist which do not threaten

public health and safety, and which conform to applicable environmental protection laws and rules.

- (iii) All underground or surface runoff waters from open pits or underground, or bulk sampling, prospecting, or mining sites shall be managed, impounded, or treated so as to prevent soil erosion or damage to surface waters, forests, wetlands, prairies, agricultural lands or livestock.
 - (iv) All surface structures constructed as part of bulk sampling, prospecting, or mining operations shall be removed upon termination of such operations, unless they are converted to an acceptable alternate use.
 - (v) Adequate measures shall be taken to prevent significant surface subsidence, but if such subsidence does occur, provision for reclamation of the affected areas shall be taken.
 - (vi) Topsoil shall be preserved for purposes of future use in reclamation.
 - (vii) Disturbed soils shall be vegetated for stabilization and reclamation, with the objective of reestablishing a variety of populations of plants and animals indigenous to the area immediately prior to prospecting or mining, unless such reestablishment is inconsistent with reclamation as defined herein.
 - (viii) Disturbance to wetlands shall be minimized in accordance with provisions of *Wis. Stats.* _____ and administrative rules.
 - (ix) No destruction, irreparable damage, or filling in of a stream or lake bed shall occur.
 - (x) All blasting shall be pursuant to a County or Sheriff approved blasting plan.
 - (xi) Bonds shall be provided for the purposes in Section _____ below to the extent that those provided to the Wisconsin Department of Natural Resources (DNR) are not deemed sufficient.
- (g) A permit may be denied (among other reasons) if any of the following situations may reasonably be expected to occur during or subsequent to prospecting or mining:
- (i) Significant landslides or substantial deposition from the proposed operation in stream or lake beds;
 - (ii) Significant surface subsidence which cannot be reclaimed; or
 - (iii) Hazards resulting in irreparable damage to any of the following, which cannot be avoided by removal from the area of hazard, or mitigated by purchase or subsidy, or by obtaining the consent of the owner;
 - Dwelling houses.

- Public structures.
- Schools.
- Churches.
- Cemeteries.
- Commercial or institutional structures.
- Public roads.
- Habitat required for survival of vegetation or wildlife designated as endangered through prior inclusion in rules adopted by the DNR if such endangered species cannot be firmly reestablished elsewhere.
- Public drinking water supplies.
- Unique features of land, as designated at Section N.R. 132.18 of the Wisconsin Administrative Code and Wis. Stat. §144.81(18)(d), which cannot have their unique characteristic preserved by relocation or replacement elsewhere.
- Any other occurrences which the County Board finds injurious to the County.

(h) A M-PUD shall not be granted hereunder unless a corresponding mining permit application has been submitted to the DNR.

(i) The proposed development M-PUD shall be denied if the mining operation is projected to result in a net substantial adverse economic impact to the County over the life of the proposed operation.

(j) No withdrawal of groundwater or de-watering of mines may be made to the detriment of public or private water supplies.

L. SUBMITTAL REQUIREMENTS: M-PUD

1. The information required by Section _____ in addition to the information described below shall be prepared and presented at the time of Petition. To the extent that any information is provided to the DNR by the Applicant pursuant to *Wis. Stats.* _____ or other appropriate statutory provisions, the need to repeat the same shall be waived and a copy of all such information shall be provided to the County. To the extent that any of the following information is not so provided to the DNR, it shall be provided directly to the County.

(a) A Community Impact Report setting forth a description of all significant baseline conditions within the proposed permit area, and within the areas of the County reasonably expected to be significantly impacted by the activity shall be provided, including an estimate of such baseline conditions for the project life of the proposed operation if the proposed operation were not permitted. Such baseline conditions shall include, but not be limited to the following:

- (i) Economic activity;
- (ii) Groundwater, surface water;
- (iii) Air quality;

- (iv) Noise levels;
 - (v) Major land uses;
 - (vi) Visual appearance;
 - (vii) Housing;
 - (viii) Traffic;
 - (vii) Utilities, schools, police, and fire protection, sewage treatment, and other public services unique cultures, and lifestyle, wildlife, and vegetation;
 - (viii) Wildlife;
 - (ix) Vegetation; and
 - (x) Radiation.
- (b) A description of all significant aspects of the proposed development shall be provided including, but not limited to the following:
- (i) Anticipated timing of each major phase from construction through reclamation;
 - (ii) All major facilities, mine shaft, opening, head frame, mill, or other processing facility, tailings disposal system, other waste disposal areas, sediment ponds, offices, other structures, roads, railroad lines, and utilities;
 - (iii) All other major land uses within the M-PUD area;
 - (iv) Expected ranges of volumes or tonnages and composition of all mine products, including, all mine tailings and other wastes;
 - (v) Maximum lateral extent, and minimum and maximum depth of underground workings;
 - (vi) Methods for sealing all shafts, pits, trenches, and other entries;
 - (vii) Principal types of mining and processing equipment used;
 - (viii) Reagents to be used in processing;
 - (ix) Noise and vibration levels expected from the operation;
 - (x) Plans for visual screening (including light pollution and light trespass);

- (xi) Measures to be taken to assure compliance with applicable air and water-quality standards;
- (xii) Anticipated hours of operation, months during the year the activity will occur, and number of years the operation will be active;
- (xiii) An estimate of the number of employees directly employed by the operation, by phase, including construction, as well as an estimated breakdown of the number of employees by job classification;
- (xiv) An estimate of the number of employees expected to be recruited from the County including a general description of the Applicant's recruitment and training program;
- (xv) An estimate of anticipated utility and other public service and facility requirements;
- (xvi) An inventory and map of all private or public water supply or sewer/septic facilities within and within two miles of the M-PUD;
- (xvii) An inventory of all private property located within one mile of the M-PUD and the most recent assessed and estimated fair market value of each such property;
- (xviii) Proposed or existing job training programs related to the M-PUD use;
- (xix) A statement of the Applicant's employment policy with respect to local hiring and retention;
- (xx) An estimate of anticipated utility and other public service and facility requirements;
- (xxi) A statement of whether or not the Applicant intends to engage in the process of smelting (other than small scale laboratory testing or analysis) in the County during any phase of the metallic mineral mining or prospecting project. If an Applicant's intention to engage in the process of smelting in the County is not disclosed as provided In this section, or if the Applicant discloses no intention to engage in the process of smelting in the County, but afterwards does engage in the process of smelting in the County, any metallic mineral or prospecting permit shall be denied the Applicant or, if already granted, shall be revoked if, after an opportunity for a hearing, it is determined that the Applicant violated this section;
- (xxii) A report for measuring and documenting radiation levels in waste rock shall be provided; and

- (xxiii) An analysis of all significant socio economic impacts of the proposed mining operation on the County. Such analysis of impacts shall include, but not be limited to, impacts on all baseline conditions identified above, as well as impacts from temporary shutdowns of substantial duration and permanent closure of the mine; and

2. A Reclamation Plan shall be prepared and submitted with an application for mining. The following information is provided to the DNR pursuant to either *Wis. Stats.* _____, or _____, the need to repeat the same shall be waived and a copy of such information shall be provided to the county. To the extent that any of the following information is not so provided to DNR, it shall be provided directly to the county. The plan shall include the following:

- (a) A description of the proposed reclamation including final land use, final land shape, estimated final topography, and the annual sequence of reclamation activity to be conducted;
- (b) A description of the utility and capacity of the reclaimed land to support the proposed sequential use;
- (c) A description of the measures to be taken to protect top soils prior to prospecting or mining;
- (d) A description of the grading and backfilling sequences, final slope angles, high wall reduction, benching, and terracing of slopes, slope stabilization, and erosion control;
- (e) A description of reclamation of waste areas, tailings ponds, sediment ponds, haulage roads, access roads, surface structures, and related facilities;
- (f) A description of the final surface drainage, water impoundments, and natural or artificial lakes on the affected property;
- (g) 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;
- (h) A plan for the adequate covering or disposal of all pollutant-bearing minerals or materials;
- (i) 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;
- (j) A description of the manner of preventing pollution as defined in *Wis. Stats.* _____ resulting from the leaching of waste materials; and
- (k) A description of the manner of preventing significant environmental pollution as defined in *Wis. Stats.* _____.

3. A Petition for a M-PUD for metallic mineral mining shall include maps as required by Section E above and in addition, to a series of maps or plans showing the proposed sequence of the proposed operation, direction and depth of the proposed operation, expansion of waste dumps, tailings ponds, and other materials movement or placement.

M. METALLIC MINERAL MINING LOCAL AGREEMENT

1. The Local Impact Committee, acting alone or as part of a Joint Committee pursuant to Section 293.41 or 293.443 Wis. Stats. Shall be responsible for the review and negotiation of Local Agreements pursuant to Section 293.443 and 295.41 Wis. Stats. with regard to all metallic mineral mining in the County.

2. No metallic mining shall be permitted in the County pursuant to this Ordinance except pursuant to a Local Agreement adopted under this Ordinance.

3. Local Agreements under this Ordinance require final adoption and ratification by majority vote of the County Board.

4. Local Agreements for non-ferrous metallic mining shall be subject to a Public Hearing pursuant to 293.41(4) Wis. Stats.

5. A valid Local Agreement under this Ordinance shall include the following:

- (a)** A legal description of the property subject to the agreement and the names of its legal and equitable owners;
- (b)** The duration of the Agreement;
- (c)** The uses permitted on the land;
- (d)** Any conditions, terms, restrictions or other requirements determined to be necessary by the County for the public health, safety, or welfare of its residences;
- (e)** Any obligation undertaken by the County to enable the development to proceed;
- (f)** The applicability or non-applicability of County ordinances, approvals, or resolutions;
- (g)** Provisions for the amendment of the Agreement;
- (h)** Mining impact payments to the County;
- (i)** Education or job training assistance to residents of the County;
- (j)** Financial assurance as necessary to secure the performance of all obligations under the Local Agreement and County zoning and permits;
- (k)** A statement of owner, Applicant and operator local hiring policies, if any;
- (l)** Provisions to ensure against negative impacts on County property tax revenues;

- (m) Provisions to protect against negative impact on private property values;
- (n) Operational, environmental, and operating reporting requirements;
- (o) County sampling and inspection rights;
- (p) Restrictions on assignment of the Applicant, owner or operator's rights under the Local Agreement;
- (q) Requirements for ground water and surface water protection and restoration;
- (r) Requirements for the protection and restoration of County public infrastructure;
- (s) Requirements regarding contingency planning for emergencies;
- (t) Establishment of a Citizens Advisory Committee;
- (u) Provisions regarding dispute resolution;
- (v) Parameters for the construction, operation, and reclamation of the development;
- (w) Provisions regarding the legal defense of the Local Agreement; and
- (x) Other provisions determined to be reasonable and necessary by the parties to the Agreement.

N. TERMINATION OF METALLIC MINING

Each Applicant shall provide notice of intent to permanently terminate all activity at a M-PUD project site no later than one (1) year before development is to terminate. Each Applicant shall likewise provide notice by the end of each calendar year of any significant changes in anticipated timing of each major phase of the project as originally reported pursuant to Section _____. Each permittee shall provide notice of its intent to effect a temporary closure of the project site as soon as reasonably possible after the decision is made to effect the temporary closure, provided that such notice does not constitute a violation of any federal or state law. In the event of a notice of permanent termination, the Owner and Operator of the mining use shall post such reasonable additional financial assurance for closure and reclamation as may be required by the County Board.

O. METALLIC MINING OWNERSHIP TRANSFER

No Applicant shall assign, will, gift, lease, or transfer any rights granted under an M-PUD, Local Agreement, or permit until the succeeding person has complied with all requirements of this section and any Local Agreement. Upon such showing, the County Board may release the initial Applicant from its requirements and transfer the permit to the successor. In all other material respects, the terms of the M-PUD, M-PUD Permit, Conditional Use Permits and Local Agreement shall create rights of the County which shall run with the land, a memorandum of which may be recorded with the County Register of Deeds.

P. EXCEPTIONS TO HEIGHT LIMITATIONS IN M-PUD

1. Any structure height limit exceptions granted under an M-PUD shall meet the following requirements:

- (a) Appropriate firefighting equipment for a structure of the proposed size and type must be available;
- (b) At least two fire exits shall be supplied to upper portions of the structure regularly used by humans;
- (c) The structure shall be engineered and constructed to withstand stresses due to wind, vibration from traffic, settling, freeze-thaw cycles, and other stresses imposed by the natural or human environment of Iron County;
- (d) The structure shall not pose a hazard to surrounding properties due to falling objects or potential falling of the structure itself;
- (e) The structure shall be accessible by emergency vehicles of all types; and
- (f) the structure shall not interfere with the surrounding residential character of the area.

Q. METALLIC MINING AND INDUSTRIAL PLANNED UNIT DEVELOPMENT PERFORMANCE STANDARDS

1. No land shall be used or occupied in any manner so as to violate any applicable County, State of Wisconsin or Federal environmental or safety statute, regulation, or standard.

2. Particular attention shall be given to assuring strict compliance with laws and standards for the following conditions:

- (a) Air pollution, including but not limited to fly ash, dust, odors, fumes, smoke, vapors, gases, and other particulates;
- (b) Surface water pollution, including but not limited to, nonpoint and point source discharges;
- (c) Groundwater pollution;
- (d) Solid or liquid waste disposal;
- (e) Radioactivity, and electrical disturbances;
- (f) Fire and explosives; and
- (g) Noise.

R. ADDITIONAL CONSIDERATIONS M-PUD OR I-PUD

No M-PUD or I-PUD shall permit land to be used or occupied in any manner so as to create glare, vibration, or heat, which significantly affects the public health, safety, comfort, convenience, prosperity, aesthetics, and other aspects of the general welfare of the residents of Iron County.

S. ECONOMIC BALANCING TEST M-PUD OR I-PUD

In considering an application for a planned development permit and any conditional use or land use permits for a proposed M-PUD or I-PUD development or project, the Zoning Committee and County Board shall consider the effect of the grant on health, general welfare, safety, and economic prosperity of the County and the immediate area in which such use would be permitted. The Zoning Committee shall recommend denial of an application for a planned development permit and any conditional use permits for a proposed development or project, and the County Board shall deny such permits, if the proposed development or project results in a net economic detriment to the County.

T. COUNTY CODE COMPLIANCE M-PUD OR I-PUD

The County Board, by granting of a M-PUD or I-PUD permit, requires compliance with all applicable County ordinances unless specifically exempted by PUD, PUD Permit, Conditional Use Permit, or Local Agreement. The County Board may also condition the issuance of a PUD permit on such other terms as it deems necessary to further the purpose of this ordinance.

U. COUNTY BOARD LEGISLATIVE OR QUASI JUDICIAL DISCRETION

Nothing in this Ordinance shall be construed to mean that the County Board or Zoning Committee is required to approve any application for a M-PUD or I-PUD. County Board approval of a M-PUD or I-PUD or permits thereunder, or a Local Agreement is a discretionary and legislative or quasi judicial act but in no event an administrative act and to the extent quasi judicial must be supported by credible evidence and not arbitrary and capricious.

Section ____. Any ordinances or resolutions or portions thereof of which conflict further with this ordinance are hereby and to such extent repealed.

Section ____. This ordinance shall take effect upon its passage and publication.

PASSED AND ADOPTED by the Board of Supervisors of the County of Iron this _____ day of _____, 2014.

COUNTY OF IRON

Joseph Pinardi, County Board Chair

Michael J. Saari, County Clerk

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