

STATE OF WISCONSIN COUNTY OF IRON

ORDINANCE NO: 15-_____

An Ordinance to Amend Section 9.4.12, Establish Fees for Mining and Industrial Planned Unit Development Districts, and 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 Land Use Ordinance is hereby retitled as follows:

“SECTION 9.4.12 Residential PUD Planned Development District.”

SECTION 2: Section 9.4.12(A) of the Land Use Ordinance 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: The following fees are hereby established in the Iron County Zoning Administrative Fee Schedule:

M-PUD or I-PUD Prepetition	\$ 5,000.00
M-PUD or I-PUD Petition	\$100,000.00

SECTION 4: Section 9.4.19 of the Land Use Ordinance is hereby created to read as follows:

“SECTION 9.4.19: Metallic Mining or Industrial PUD Planned Unit Development District.”

(A) Intent and Purpose/Establishment of Mining Impact Committee/Establishment of Mining and Industrial Planned Unit Development Districts or Metallic Mining Local Agreements

1. Intent.

- a.** It is the intent of this Ordinance, as authorized for counties in s. 59.69(3)(d), Wis. Stats., to allow flexibility in dealing with large-scale industrial and metallic mineral mining developments while ensuring such development conforms with the intent of the County’s Comprehensive Plan. “Metallic Mining” shall include both non-ferrous (under ch. 293, Wis. Stats.) and ferrous (under ch. 295, Wis. Stats.) mining and for purposes of this Ordinance shall include all ancillary mining related activities conducted on contiguous property.
- b.** In instances where larger areas and unique uses are involved, the most appropriate method for addressing these uses often includes the imposition of site-specific and use-specific requirements by rezoning to establish a Planned Unit Development

(“PUD”). The PUD is intended to permit Metallic Mining or industrial development, subject to requirements under this Section, specific to the proposed use, that will protect human health and the environment while fostering and maintaining economic growth, employment, property values, and the general welfare of the residents of the County.

2. There is hereby established as a permanent Committee of Iron County, a Mining Impact Committee.

- a.** The Mining Impact Committee shall serve at the pleasure of the County Board with respect to mining related matters affecting either the County or the County and any other municipality or municipalities within the County.
- b.** The Mining Impact Committee shall consist of no fewer than five (5) voting members, which shall include at least three (3) County Board members and two (2) members at-large. Members at large shall be chosen for their skills, knowledge, or interest relative to mining.
- c.** The appointment of members shall be made by the County Board Chair subject to approval by the County Board. Members shall serve three (3) year staggered terms. The Mining Impact Committee shall elect a Chairperson who shall be automatically renewed or brought to a vote for election effective annually each January 1st.
- d.** In carrying out the purposes specified in chs. 293 and 295, Wis. Stats., the Mining Impact Committee shall also:
 - (i)** Act as liaison between the County Board, other Metallic Mining local impact committees, other units of government, and non-governmental entities with respect to all matters involving exploration, prospecting, bulk sampling, and mining for metallic minerals including preliminary stages and post-operational stages of the same;
 - (ii)** Act as the lead committee in the formulation of plans and requests for funding of County activities and for addressing the impacts of exploration, prospecting, bulk sampling, and Metallic Mining upon the people, lands, and natural resources of the County(subject to the final review and approval of the County Board);
 - (iii)** Recommend contracts for professional services to the County Board; and
 - (iv)** Pursue the establishment of a Joint Impact Committee to include other affected municipalities, pursuant to chs. 293 and 295, Wis. Stats.
- e.** Members of the Mining Impact Committee shall be subject to the Iron County Code of Ethics adopted by the County Board in 2002 (as amended) and the Wisconsin Code of Ethics for Public Officials ch. 19 Wis. Stats.

3. This Ordinance authorizes the establishment of Metallic Mining or Industrial Planned Unit Development Districts. In addition, it authorizes the establishment of Metallic

Mining Local Agreements (“Local Agreement”) pursuant to ss. 293.4 or 295.443 Wis. Stats which Agreements can authorize Metallic Mining in the County without the establishment of a Planned Unit Development District or requirements applicable thereto. Metallic Mining is prohibited in the County except pursuant to a Planned Unit Development District or a Metallic Mining Local Agreement.

(B) Requirements for All Metallic Mining or Industrial Planned Unit Development

An applicant (“Applicant”) may file a petition for a Metallic Mining or Industrial PUD (“Petition”) only as set forth in this Ordinance and in accordance with s. 59.69 Wis. Stats.. The County Board may, at its discretion, upon Petition, approve a Metallic Mining or Industrial PUD by approving an overlay district upon finding, after a public hearing, that all of the following facts exist:

1. The area proposed for the Metallic Mining or Industrial PUD is a minimum of ten (10) acres in size;

2. The location and nature of the stormwater and wastewater treatment systems that 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 that would contribute to health hazards, taste, odor, turbidity, or impair the aesthetic or environmental viability of navigable waters;

3. The PUD 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 and design of facilities and the dedication of any part of the land for use by the public will prevent erosion, and preserve the ground cover and scenic beauty of shorelands and navigable waters;

5. Lands to be dedicated to the public have been accepted (or approval may be conditioned upon acceptance 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 that was required by a public body or that names a public body as grantee, recipient, or beneficiary has vested or will vest 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 PUD terms are subject to the issuance of all necessary state and federal approvals and permits;

8. All state and federal approvals and permits have been issued or applied for (and all such applications are legitimate);

9. A Local Agreement (for Metallic Mining PUDs) pursuant to s. 293.41 or 295.443, Wis. Stats., has been considered and discussed between the County and the Applicant, but has not been entered into; and

10. The PUD is in the best interest of the residents of the County.

11. The Town(s) in which the proposed PUD is located has not adopted a Metallic Mining or Industrial PUD Ordinance or specific zoning code provisions (pursuant to Village

powers under ss. 60.10 and 61.35 Wis. Stats.) addressing Metallic Mining or Industrial uses as set forth in this Ordinance and which Town zoning code provisions were specifically approved by the County Board under s. 60.62 Wis. Stats.

(C) Types and Locations of Planned Unit Development

Metallic Mining PUD (“M-PUD”) or Industrial PUD (“I-PUD”) shall be permitted only 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, RR-1, W-1, W-2

(D) Ownership

A Petition for approval and establishment of an M-PUD or I-PUD may be filed by an Applicant having an interest in the property to be included in the PUD. 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 that is sufficient to ensure that the Applicant will be able to carry out the proposed project and use and assume all liability for the project and use that would normally be assumed under full land ownership.

(E) Filing

1. A Prepetition for an M-PUD or I-PUD shall first be filed with the County Clerk who shall immediately forward the Prepetition to the Zoning Administrator for forwarding to the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD). The Applicant shall file twelve (12) paper copies and one electronic copy via a format specified by the County Clerk (email or hand-delivered). A Prepetition shall include a description of the proposed development and uses sufficient for the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) to make its Prepetition decision based on the Prepetition. A “Preapplication Description” filed with the Wisconsin Department of Natural Resources (“DNR”) under s. 295.46, Wis. Stats., may be accepted by the Mining Impact Committee in satisfaction of all or portions of requirements for the Prepetition. At a minimum, the Prepetition shall include:

- (a) A fee in an amount set forth by the Zoning Committee with County Board approval in the Iron County Zoning Administration Fee Schedule, which fee may be reduced on a finding of hardship by the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) and may be partially refunded by the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) by up to 50% in the event of 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 and a general description of anticipated facilities, operations, estimated timelines for and total cost of construction, development, operation, and decommissioning of proposed facilities and uses;
- (e) The Applicant's name, mailing address, phone number, email address, and current occupation and businesses; and
- (f) A list of all previous Prepetitions for an M-PUD or I-PUD filed in the last ten (10) years on the property in question or by the Applicant or any of its employees, agents, officers, owners, predecessors, subsidiaries, or affiliates.

2. A Petition for an M-PUD or I-PUD shall be filed with the County Clerk (who shall immediately forward it to the Zoning Administrator) and shall include the following:

- (a) A fee in the amount as set forth by the Zoning Committee with County Board approval in the Iron County Zoning Administration Fee Schedule, 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 mailing address of the Applicant;
 - (ii) A summary describing the nature and scope of the project and use;
 - (iii) A legal description of all land proposed to be included in the PUD;
 - (iv) A description of the Applicant's ownership interests in the property with respect to Section 9.4.19(D);
 - (v) Estimated dates construction is anticipated to begin, be completed, and use commenced;
 - (vi) The Applicant's best estimate and explanation of the life expectancy of the project and use;
 - (vii) Evidence of the Applicant's ability to carry out the project and use. Evidence 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 and uses, letters of reference, or other material;
 - (viii) Date of the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) Prepetition Conference and approval and general description of any requests or conditions made by the Mining Impact Committee and how such requests or conditions are addressed in the Petition; 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 Land Surveyor in the State of Wisconsin showing the proposed PUD as it currently exists. The map shall show the following at an appropriate scale:
 - (i) Boundaries of the project and PUD and location of survey monuments;
 - (ii) Contour lines at five (5) foot intervals as provided by aerial survey or other method reasonably relied upon by the Registered Land Surveyor;
 - (iii) Drainage and surface waters, which may be shown on maps provided to the DNR for purposes of its consideration of an application for a mining permit under chs. 293 or 295, Wis. Stats.;
 - (iv) Adjacent roadways and distances to public roads to which access is proposed;
 - (v) Existing structures or other man-made features;
 - (vi) Scale and north arrow;
 - (vii) Public and private water supplies located within the PUD; and
 - (viii) Any other feature of major importance or other information necessary to accurately represent the area of the PUD.
- (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. Any Environmental Assessment ("EA") or Environmental Impact Statement ("EIS") developed pursuant to the National Environmental Policy Act (as amended), or the Wisconsin Environmental Policy Act (as amended) may be submitted with the Petition to satisfy all or part of the submittal requirements of this section. The description shall include, at a minimum, the following:
 - (i) A description of the estimated timing and phasing of the project and use, including maps of all major phases;
 - (ii) A map of the completed development and PUD;
 - (iii) A description of any related development taking place or planned to take place in the County;
 - (iv) A statement of known physical, environmental, economic, employment, or developmental impacts on other property in the County;

- (v) A description of any entities that will be responsible for maintenance of facilities, security, hygiene, and implementation of the project and use;
 - (vi) Any other information which might help the Zoning Committee assess probable long and short term physical, developmental, economic, employment, or environmental impacts of the project and use;
 - (vii) Sewer and water lines, streets, parking, septic systems, refuse, utilities, fuel supplies, wells, and lighting;
 - (viii) A statement of the socioeconomic baseline conditions in the County at the time of the Petition addressing, without limitation, population, demographics, employment, income, net worth, public health issues, crime, education, and property value;
 - (ix) A description and map of any known historical or archeological sites located within the proposed PUD; and
 - (x) Any other documents or information reasonably requested by the Mining Impact Committee, Zoning Committee (County Economic Development & Legislative Committee for an I-PUD), or County Board for the Petition.
- (F) Procedure for Establishing a Metallic Mining or Industrial Planned Unit Development District

The procedure for rezoning in the form of an M-PUD or I-PUD District shall be as set forth in this Ordinance. The following procedures, as well as s. 9.10.1-.3 and s. 59.69, Wis. Stats., shall apply a to the establishment of all M-PUDs and I-PUDs:

1. Prepetition and Prepetition Conference.
 - (a) A Prepetition shall be filed with the County Clerk who shall immediately forward it to the Zoning Administrator. The Zoning Administrator shall within ten (10) business days of receipt, forward the Prepetition to the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) with his or her comments and recommendations.
 - (b) After the Prepetition has been filed and forwarded but prior to any decision on the Prepetition or official submittal of a Petition for consideration of a PUD District, the Applicant shall meet with the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) and its technical advisory staff for a Prepetition Conference, the purpose of which is to engage in 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) At the Prepetition Conference or a separate public meeting of the appropriate Committee, the Mining Impact Committee (County Economic Development &

Legislative Committee for an I-PUD) may, by majority vote, approve, deny, or approve with requests or conditions the submittal of a Petition based on the Prepetition.

- (d)** Failure to secure approval of the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) in a Prepetition Conference or a separate public meeting of the appropriate Committee, within ninety (90) days of receipt of the Prepetition by the Committee shall constitute a denial of the Prepetition and preclude further consideration of the proposed development except as provided for in this Ordinance.

2. If the Mining Impact Committee (County Economic Development & Legislative Committee for an I-PUD) approves the Prepetition, the Applicant may within two (2) years of approval of the Prepetition submit a Petition setting forth all of the materials required in Section 9.4.19(E). Failure to submit a Petition within two (2) years of Prepetition approval shall result in a withdrawal of approval and require a new Prepetition and approval before any Petition may be submitted. If a Prepetition is denied, the Applicant may appeal the denial or lack of response to the County Board for a final determination on the Prepetition by filing an appeal with the County Clerk within thirty (30) days of denial.

3. A Petition must be filed with the County Clerk who shall immediately forward it to the Zoning Administrator. The Applicant shall file a Petition by presenting twelve (12) paper copies of all materials listed, one electronic copy via a format specified by the County Clerk (email or hand delivered), and the filing fee listed in the County Zoning Administrative Fee Schedule. The Zoning Administrator shall immediately initial and date one copy of the Petition and issue a receipt to the Applicant for the Petition and all materials delivered. The Petition and materials initialed and dated 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, and one copy shall be available to each of the members of the Zoning Committee. The remaining copies shall be made publicly available in the following locations:

- (a)** Town halls of Towns in which the planned development is proposed;
- (b)** The office of the Northwestern Regional Planning Commission;
- (c)** The Hurley and Mercer Public Libraries;
- (d)** Electronically on the County website; and
- (e)** Any remaining copies may be circulated or distributed at the discretion of the Chair of the Zoning Committee.

(G) Zoning Committee and Town Actions and Public Hearings

1. Within fifteen (15) days of his or her receipt of the Petition, the Zoning Administrator shall place notice of the Petition on the next or second to next meeting agenda of the Zoning Committee. The Zoning Administrator shall give notification of the Zoning Committee meeting by personal service or registered letter to the Town Chairs of the Towns in the County in which the M-PUD or I-PUD would be located. All filing and notices shall conform to s. 59.69(5)(e) Wis. Stats., including the provisions of s. 59.69(9)(a) Wis. Stats. with regard to rezoning of County-owned lands. The notification shall invite the participation in the Zoning Committee process of the affected Towns and request the Town Boards' recommendations on the Petition to be delivered to the Zoning Committee no later than forty-five (45) days after the Informational Public Hearing referenced in Section 9.4.9(G)2. Any Town recommendation received thereafter need not be considered by the Zoning Committee and is not required for the Zoning Committee to proceed. A Town's recommendation to approve a Petition may be conditioned upon certain changes to or conditions on the M-PUD or I-PUD.

2. At the meeting referred to in Section 9.4.19(G)1, the Zoning Committee shall set a date for an Informational Public Hearing on the Petition. The Informational Public Hearing shall be scheduled to commence no sooner than fifteen (15) days and no later than forty-five (45) days after the meeting in Section 9.4.19(G)1, except that with respect to an M-PUD, the Zoning Committee may decide, if held sooner than the time period set forth herein, that the hearing held pursuant to s. 293.43 or 295.57(5), 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 the Zoning Committee may designate.

3. No later than sixty (60) days after the Informational Public Hearing, the Zoning Committee shall hold a meeting at which it will receive any recommendations from the Town Boards involved and consider recommendations on the Petition. When the Informational Public Hearing is held on an M-PUD according to s. 293.43 or 295.57(5), Wis. Stats., the Zoning Committee shall meet and consider recommendations no later than sixty (60) days after the close of the record of the Informational Public Hearing or acceptance by the Zoning Committee of hearings under s. 293.43 or 295.57(5), Wis. Stats. The Zoning Administrator shall give notification of the Zoning Committee meeting by personal service or registered letter to the Town Chair of the Towns in which the M-PUD or I-PUD would be located.

4. A public hearing ("Public Hearing") shall be held on the recommendations no later than the later of: (a) one hundred and twenty (120) days after the Informational Public Hearing; or (b) with respect to an M-PUD, after close of the record of the hearing held pursuant to s. 293.43 or 295.57(5), Wis. Stats., or after acceptance of the record by the Zoning Committee.

5. 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 conducted during the time period set forth herein or at the first regularly scheduled County Board meeting thereafter.

6. Following the Public Hearing, the Zoning Administrator shall, within fifteen (15) days, deliver to the County Clerk any Committee recommendation, a summary of the comments

at the Public Hearing, and any recommendations of the affected Towns. The County Clerk shall place the recommendation on the next County Board agenda.

7. 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 9.4.19(G)(4), the County Board shall either disapprove or approve the Petition. Failure to approve or disapprove the Petition within seventy-five (75) days (or longer if by agreement with the Applicant), will cause the Petition to expire, and no M-PUD or I-PUD may be issued pursuant to the Petition.

8. If: (a) the County Board approves the Petition; (b) the Applicant's ownership is established in accordance with Section 9.4.19(D); (c) all necessary state and federal permits have been issued; and (d) the affected Towns have not disapproved of the rezoning pursuant to s. 59.69(5)(e) Wis. Stats., or (e) (in the alternative) a Local Agreement under s. 293.41 or 295.443, Wis. Stats., is in effect between the Applicant and the County; the Applicant may engage Metallic Mining or industrial uses as set forth in the County Board approval of the PUD or Local Agreement. Any disapproval by an affected Town under s. 59.69(5)(e) Wis. Stats. shall only apply in that Town and shall not affect Metallic Mining or industrial uses otherwise permitted under this Ordinance.

9. If the Petition (or a Prepetition) expires or is rejected, the Applicant may submit a new Prepetition provided that if the new Prepetition is submitted within one (1) year of denial or expiration Section 9.10.2 (D) must be satisfied by changed conditions or newly discovered evidence. If a new Prepetition is substantially the same as the original Prepetition except for changes recommended on the original Prepetition or Petition by the Town Boards involved the Zoning Committee, or the County Board ("Amended Prepetition"), the Applicant may reapply within one (1) year of denial or expiration and the Zoning Committee may in such a case elect to proceed with a submittal of an Amended Prepetition and without a new Prepetition.

10. An Applicant may submit multiple Petitions for M-PUDs or I-PUDs.

(a) Petitions for more than one M-PUD or I-PUD may be submitted simultaneously, provided all districts are related and relationships of the Planned Unit Developments are clearly explained in the project and use description in Section 9.4.19(E)2(d). All Petitions filed simultaneously may be combined for purposes of the Informational Public Hearing and Public Hearing, but the Zoning Committee shall make separate recommendations on each Petition, the County Board shall take separate action on each Petition, and a separate PUD shall be established for each Petition.

(b) The Applicant may request cancellation of further consideration of a Petition at any time by notifying the Zoning Administrator in writing.

11. The time periods for various actions in this Ordinance may be extended by agreement of the Applicant and the Administrator, Committee, or Board subject to the time period for the action in question.

(H) Planned Unit Development Terms

- 1.** A separate M-PUD or I-PUD shall be established for each planned development.
- 2.** The M-PUD or I-PUD shall become effective at the latest of the following:
 - (a)** Ten (10) days after the M-PUD or I-PUD is published by the County Clerk;
 - (b)** The starting date identified by the Applicant in Section 9.4.19(E)(2);
 - (c)** The issuance of all necessary state and federal permits; or
 - (d)** The payment of all current fees, costs, payments, and taxes due to the County from the Applicant.
- 3.** The M-PUD or I-PUD may be terminated or suspended by the County Board under any of the following conditions:
 - (a)** Construction is not carried out diligently to completion following as closely as possible the description of timing and phasing of the project and use submitted in the Petition, except to the extent affected by force majeure (including, without limitation, labor dispute, war, insurrection, terrorism, extreme weather, earthquake, natural disaster, material or service shortage, government order, or delay in permitting);
 - (b)** A determination of abandonment of mining by the DNR under s. 293.61 or 295.67, Wis. Stats.;
 - (c)** Actual project development fails to comply with the description provided in the Petition or any recommendations adopted by the County Board;
 - (d)** The occurrence or imminent danger of a major adverse or catastrophic environmental, human health, or economic impact not accurately described in the Petition submitted under Section 9.4.19(E);
 - (e)** A mining permit has been suspended or cancelled, or mining activities have been enjoined, under s. 293.83, 293.85 or 293.87 and 295.78 or 295.79, Wis. Stats. or the common law; or
 - (f)** Applicant's (including successor's) default in payment to the County for fees, costs, payments, or taxes due (pursuant to this Ordinance or any other law, regulation, or contract) for thirty (30) days after written notice.

(I) General Requirements

An M-PUD or I-PUD shall be composed of a single contiguous area enclosed by a single continuous boundary line. Wherever possible, the area for inclusion should be reasonably compact

and should not rely on narrow land bridges to join otherwise non-contiguous areas. The M-PUD or I-PUD shall not enclose or substantially surround any land that is not included in the M-PUD or I-PUD. 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 an M-PUD or I-PUD may not be included in any other PUD except by overlay.

1. The Applicant shall demonstrate that the proposed M-PUD or I-PUD will not result in a net adverse economic impact in any Town in which the M-PUD or I-PUD will be located, or in the County as a whole, 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. In addition, the Applicant shall demonstrate that the Proposed M-PUD or I-PUD will not have a net adverse impact on total equalized property value in any Town or the County as a whole.

2. The appropriate district regulations or other portions of this Ordinance shall continue to apply unless altered by the M-PUD or I-PUD, in which case the M-PUD or I-PUD shall control.

3. The provisions of the Land Use Ordinance with regard to shoreland and floodplain zoning shall continue to apply in any I-PUD and any M-PUD (for Ferrous Metallic Mining to the extent permitted by s. 295.607, Wis. Stats.).

4. Nothing in this Ordinance shall be construed to mean that the County Board is required to approve a Petition for any M-PUD or I-PUD.

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

6. Any material deviation from the original designs submitted in the Petition described in Section 9.4.19(E) must be approved by the County Board prior to construction or modification.

(J) Industrial Planned Unit Development Uses and Requirements

1. Any permitted use allowed in any Industrial District shall be permitted in an I-PUD subject to conditions imposed in the I-PUD.

2. At least one and one-half (1½) acres of an I-PUD shall be buildable commercial land, excluding public right-of-ways, water bodies, wetlands, steep slopes, or other impediments 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 9.4.19(J)(2). 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 identified future structure sites. Future structure sites shall be identified in the Petition and as much information as possible shall be provided 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 without amending the I-PUD or obtaining County Board approval, provided that neither the description of the project and use included in the Petition, nor any restriction recommended by the Zoning Committee and adopted by the County Board, is violated. Structures for uses permitted in an I-PUD may be constructed after acquiring a structure permit as described in Section 9.2.2.

5. As a part of the Petition in Section 9.4.19(E), the following shall be included:

(a) Layout and infrastructure of all present and future structure sites;

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

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

6. Traffic and parking shall be given special consideration, both within the I-PUD and off the premises, except as specifically provided otherwise in this Ordinance.

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

8. Each I-PUD shall have a minimum of two (2) accesses to public roads. Notwithstanding this requirement, the number of driveways should be minimized. Individual businesses shall not have separate driveways to existing public roads. To the greatest extent possible, access driveways shall adhere to the standards in Section 9.5.4 of the County Land Use Ordinance.

9. Performance standards in Section 9.4.19(Q) shall apply in an I-PUD.

10. The following requirements apply to structures in an I-PUD:

(a) Firefighting equipment of a size and type appropriate under Occupational Safety & Health Act (OSHA”) and National Fire Prevention Association (“NEPA”) standards for each structure proposed must be available and upon request the Applicant shall provide to the County, the affected Towns, and the nearest five (5) fire departments, the floor plans for all buildings as well as a list (including the specific location) of all hazardous materials within I-PUD structures;

(b) At least two (2) fire exits shall be supplied to upper portions of any structure regularly used by humans;

(c) Structures 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 the County;

- (d) Structures shall not pose a hazard to surrounding properties due to falling objects or potential falling of the structure itself; and
- (e) Structures shall be accessible by emergency vehicles of all types.
- (f) Structures shall not interfere with any residential character of the surrounding area.

11. Facilities and procedures shall be developed to comply with state (s. 323.60 Wis. Stat.) and federal (Superfund Amendment and Reauthorization Act Title III) Emergency Planning and Community Right to Know laws and regulations unless exempt by law.

(K) Metallic Mining Planned Unit Development Uses and Requirements

Metallic Mining shall be permitted only in an M-PUD or pursuant to a Local Agreement under s. 293.43 or 295.443, Wis. Stats. An M-PUD or Local Agreement established under this Ordinance shall be contingent upon the issuance of all necessary state and federal permits and approvals including the DNR granting a mining permit under s. 293.49 or 295.58 Wis. Stats., and shall not take effect until all such permits and approvals take effect.

1. No person shall establish, build, construct, operate, or maintain the use of property for any metallic mine including without limitation, mill-related buildings, enclosed structures, headframes, tailings ponds, waste treatment facilities, tailings transport systems, emergency spill areas, mills tailings control areas, waste disposal sites, equipment yards, storage facilities, stockpiles, byproducts, roads, rail sidings, refuse or waste stockpiles, smelting forges, or other mining construction (collectively, “Facilities”), within any of the following areas (as determined at the time of the Petition):

- (a) In any area prohibited in applicable state statutes or DNR regulations, including, but not limited to, s. NR 132.18, Wis. Admin. Code, and ch. 293 or 295, Wis. Stats.;
- (b) Within one thousand (1,000) feet of any navigable lake, pond or flowage unless otherwise allowed under s. 295.60, 295.605, or 295.61, Wis. Stats., for ferrous mining;
- (c) Within three hundred (300) feet of a navigable river or stream unless otherwise allowed under s. 295.60, 295.605, or 295.61, Wis. Stats., for ferrous mining;
- (d) Within a floodplain to the extent the provisions of the Land Use Ordinance regarding shoreland and floodplain regulations are enforceable under s. 295.607(3), Wis. Stats.;
- (e) Within one thousand (1,000) feet of the nearest edge of 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, scenic overlook designated by the DNR by rule, or a bike or hiking trail designated by the United States Congress or the State Legislature. The County Board may waive this prohibition or reduce the distance limit from these areas if it makes a finding that

the site is not visually obtrusive due to proposed screening, compatible natural plantings, earth berms, or other appropriate means, or existing or proposed topography, elevations, and natural landscapes; or

- (f) Within wetlands unless otherwise allowed under s. 295.60, 295.605, or 295.61, Wis. Stats., for ferrous mining.

2. The following requirements shall apply in the M-PUD:

- (a) A buffer zone between mining uses and adjoining property uses of not less than two hundred (200) feet nor more than one thousand two hundred (1,200) feet along the property line shall be required. 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 within the appropriate range to preserve the use of all adjacent lands. The M-PUD shall state with specificity the activities that are allowable within the buffer zone; for example, monitoring wells, access corridors, ancillary facilities, or other facilities or activities approved by the County Board. In determining the final width of the buffer zone, the County Board shall take into consideration the use of the land adjacent to the property line at any point on said line and set the buffer zone accordingly to comply with this Ordinance, to control dust, noise, odors, and light trespass.
- (b) Utilities, roads, drainage, traffic plans, and public services required in and solely by virtue of an M-PUD shall be provided by the Applicant at its cost and expense.
- (c) An M-PUD shall be located, designed, constructed, and operated to protect surface and groundwater quantity and quality in accordance with the applicable provisions of chs. 160, 281, 283, 293, and 295 Wis. Stats. as well as any applicable administrative code provisions adopted thereunder, as determined by the DNR under ss. 293.49, 293.55, 295.58 and 295.63, Wis. Stats.
 - (i) The Applicant shall monitor private and public wells in the M-PUD and vicinity 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 track 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 satisfy DNR requirements under ss. 293.65, 295.61, 295.64, 295.643, and 295.645, Wis. Stats. In addition, private wells within 2,500 feet of any projected or actual cone of groundwater depression, will be tested two times per year by the Applicant unless the owner of the well refuses to provide access. Each calendar year tests will occur once during a period of typically high groundwater and another time during a period when groundwater is seasonally at its lowest point. The results of the testing will be provided within ten (10) business days of receipt to the County Zoning Department, the Clerks of the Towns affected, and the owners of the wells.

- (ii) In the event that a town is obligated to provide a private water supply to a property owner under s. 295.61(8) Wis. Stats., the Applicant will be responsible to pay to the Town the reasonable cost of providing such water until such time as a final determination of liability is made. This shall not entitle any Town to multiple reimbursements in the event that the cost is otherwise reimbursable pursuant to 295.61(9) Wis. Stats. or covered from some other source.
- (d) Structures shall be designed and firefighting equipment available of a size and type appropriate for each structure proposed sufficient to satisfy Mine Safety and Health Administration (“MSHA”), OSHA, and NFPA requirements. Upon request from the County, the Applicant shall provide to the County, the affected Towns, and the nearest five (5) fire departments, the floor plans for all buildings as well as all filings made under Section 9.4.19(K)2(e) below;
- (e) Facilities and procedures shall be developed to comply with State (s. 323.60 Wis. Stat.) and Federal (Superfund Amendment and Reauthorization Act Title III, as amended) Emergency Planning and Community Right to Know laws and regulations unless exempt by law.
- (f) An 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 s. 281.15, Wis. Stats.;
 - (ii) Prevent any surface or subsurface discharge from the facility into navigable waters that would cause a violation of s. 283.21(1), Wis. Stats., unless the DNR issues a permit authorizing the disposal or discharge pursuant to s. 283.31(3), Wis. Stats.;
 - (iii) Comply with any standards for point source and non point source water pollution control in any applicable DNR regulation. This provision may be satisfied by a showing that the Applicant has complied with the standards and procedures under ch. 293 or s. 295.40 *et seq.*, Wis. Stats., and has obtained a mining permit under ss. 293.49 or 295.58, Wis. Stats., 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 s. 283.21(2), Wis. Stats.;
 - (v) Divert surface water only in accordance with s. 293.65 or 295.61, Wis. Stats.; and
 - (vi) Control surface water runoff emanating from portions of the Facilities containing ore, product, mining, 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 ch. 283, Wis. Stats., Wisconsin public and private nuisance law and any other applicable Wisconsin Statutes and regulations promulgated thereunder.

- 3.** The following additional requirements shall apply to an M-PUD:
 - (a)** The Applicant shall conduct inspections pursuant to a schedule approved by the County Board and pursuant to s. NR 182.12, Wis. Admin. Code, for nonferrous Metallic Mining or pursuant to ss. 295.62 and 295.63, Wis. Stats., for ferrous mining and, if requested, shall submit to the County Board copies of all reports developed thereunder, including copies of all reports submitted to the DNR within five (5) days of their submittal to the DNR. In addition, the Applicant shall inspect any tailings ponds, impoundments, tanks, or dikes immediately after any unusual natural or man-made calamitous occurrence, including, but not limited to, tornado, flood, earthquake, fire, explosion, landslide or any other occurrence that could affect the integrity of any tailings pond, waste pile, impoundment, vessel, tank, or dike and report the findings of the inspection to the Zoning Administrator within forty-eight (48) hours of the occurrence;
 - (b)** In addition to inspections by the Applicant, the County Zoning Department, or their authorized representative, shall have the right, subject to MSHA and OSHA safety regulations, to inspect all areas of the M-PUD on twenty-four (24) hours notice to determine if County ordinances and the conditions of the M-PUD are being complied with;
 - (c)** Facilities shall be constructed, operated, maintained, and reclaimed in conformity with all applicable state laws and regulations;
 - (d)** To the extent permitted under MSHA and OSHA, M-PUD facilities and active mining, processing, and storage areas, and ancillary structures, parking lots, yards, and roadways shall have shielded lighting to prevent light trespass beyond the M-PUD boundary; and
 - (e)** The Applicant may, at its discretion, reimburse the County's reasonable expenses directly related to the Prepetition and Petition and land use under the Petition, including without limitation, legal, accounting, planning, engineering, environmental, scientific, and economic development, consultant fees and costs, road repair and maintenance, law enforcement, fire and public safety and public health expenses.
 - (f)** Solution mining of any sort shall be prohibited unless specifically permitted by the terms of an M-PUD or Local Agreement.
 - (g)** Any withdrawal of groundwater or dewatering of mines shall only be done in accordance with applicable state law, including, but not limited to, ss. 293.65, 295.60, 295.605, and 295.61, Wis. Stats. No withdrawal of groundwater or dewatering of mines which cannot otherwise be mitigated by the program submitted by the Applicant pursuant to Section 9.4.19(K)2(c)(i) may be made to the detriment

of public or private water supplies. Issuance of a mining permit by the DNR under ss. 293.49 and 295.48, Wis. Stats., may satisfy this requirement.

- (h)** 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 s. 281.34, Wis. Stats., and any permit required under ch. 283, Wis. Stats.
- (i)** An Applicant who fails to comply with any order issued by the DNR or by the County under this Section 9.4.19(K)4 is subject to the suspension or revocation of the M-PUD.
- (j)** An 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 ch. 285, Wis. Stats. Issuance of a mining permit by the DNR under s. 293.49 or 295.58, Wis. Stats., and compliance with all monitoring and air pollution control requirements of applicable permits may satisfy this requirement.
- (k)** 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 mining waste, solid waste, or toxic substances control regulations, or otherwise disposed of in an environmentally sound manner pursuant to the applicable provisions of such laws.
- (l)** All tunnels, shafts, pits, trenches, or other underground openings shall be sealed or secured by the completion of activities in the M-PUD, and erosion subsidence, or seepage in amounts that 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 can be implemented that do not threaten public health and safety and conform to applicable environmental protection laws and rules.
- (m)** All underground or surface runoff waters from open pits or underground mines or facilities or bulk sampling, prospecting, or mining sites shall be managed, impounded, or treated so as to prevent Environmental Pollution as defined in ch. 293 and 295 Wis. Stats., soil erosion, or damage to surface waters, forests, wetlands, prairies, agricultural lands or livestock.
- (n)** All surface structures constructed as part of bulk sampling, prospecting, or mining operations shall be removed upon termination of such operations, on a schedule approved by the County Board, unless they are converted to an acceptable alternate use approved by the Board.

- (o) Adequate measures shall be taken to prevent surface subsidence, but if such subsidence does occur, provisions for mitigation or reclamation of the affected areas shall be undertaken pursuant to a County Board approved plan.
- (p) Topsoil shall be preserved and accounted for purposes of future use in reclamation.
- (q) 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, bulk sampling or mining, unless such reestablishment is inconsistent with the Reclamation Plan approved by the DNR.
- (r) Disturbance to wetlands shall be minimized or mitigated in accordance with provisions of ss. 293.13 and 295.60, Wis. Stats., and applicable administrative rules.
- (s) No alteration, dredging, or filling of a navigable stream or lake bed shall occur except pursuant to authority granted under s. 295.605, Wis. Stats..
- (t) All blasting shall be pursuant to a County Board or Sheriff approved blasting plan addressing scheduling, notification, emergency response, and coordination of activities.
- (u) Nothing in this subsection nor in any other part of this Ordinance shall be interpreted to exempt the Applicant from enforcement of any ordinances of any Town related to the operation of the M-PUD. A Local Agreement with a Town may provide for such exemption.
- (v) Bonds or other financial assurance shall be provided for the purposes in Section 9.4.19(L)2(i) to the extent that the County Board determines that those required by the DNR do not adequately cover the projected cost of all reclamation activities in the County. Should the County require additional bonds or financial assurances, the Applicant shall have the right to seek a judicial determination in Iron County Circuit Court as to whether the Applicant has demonstrated that additional bonds or financial assurances are not required.
- (w) The County Board may require financial assurance against foreseeable long-term liability after closure in a form and an amount reasonably calculated to provide for repair, remediation, replacement of facilities, or damages to cover natural resource or property damage occurring after reclamation and attributable to reclaimed or former facilities of any M-PUD.

4. A Petition may be denied if any of the following situations may reasonably be expected to occur during or subsequent to prospecting or mining:

- (a) Landslides or material levels of deposition from the proposed operation in stream or lake beds;
- (b) Surface subsidence that cannot be reclaimed;

- (c) Material levels of physical or property value damage to any of the following, which cannot be avoided or mitigated by removal from the area of damage, by purchase, by subsidy, or by consent of the owner:
 - (i) Dwelling houses;
 - (ii) Public structures;
 - (iii) Schools;
 - (iv) Churches;
 - (v) Cemeteries;
 - (vi) Commercial or institutional structures;
 - (vii) Public roads;
 - (viii) 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;
 - (ix) Public drinking water supplies;
 - (x) Unique features of land, as designated at s. NR 132.18, Wis. Admin. Code, and ss. 293.01(28)(b) and 295.41(46)(b), Wis. Stats., that cannot have their unique characteristic preserved by relocation or replacement elsewhere;
 - (xi) Private drinking water supplies; or
 - (xii) Private real or personal property rights and values.
- (d) The mining operation is projected to result in a net adverse economic impact to the County over the combined life of the proposed operation (construction, operation, decommissioning, reclamation); or
- (e) Withdrawal of groundwater or dewatering of mines as proposed will harm public or private property or water supplies without adequate mitigation as set forth above.

(L) Submittal Requirements: Metallic Mining Planned Unit Development

1. The information required by Section 9.4.19(E)2(d), in addition to the information described below, shall be prepared and presented at the time of Petition. To the extent that any information provided to the DNR by the Applicant pursuant to s. 23.11(5), Wis. Stats., or other appropriate statutory provision satisfies the submittal requirements of this Ordinance, 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 with copies provided to the County, originals shall be provided directly to the County:

- (a) A Community Impact Report setting forth a description of baseline conditions within the proposed M-PUD, and within the areas of the County expected to be impacted by the project and use, including an estimate of such baseline conditions for the project life of the proposed operation and use if the proposed operation were not established. Such baseline conditions shall include, but not be limited to, the following:
 - (i) Employment;
 - (ii) Economic activity;

- (iii) Groundwater and surface water levels and quality;
 - (iv) Air quality;
 - (v) Noise levels;
 - (vi) Major land uses;
 - (vii) Visual appearance;
 - (viii) Housing;
 - (ix) Traffic;
 - (x) Utilities, schools, police and fire protection, sewage treatment and other public services, unique cultures and lifestyle, wildlife, and vegetation;
 - (xi) Wildlife;
 - (xii) Vegetation;
 - (xiii) Radiation;
 - (xiv) Tourism; and
 - (xv) Property values.
- (b) A description 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, pits, trenches, mine shafts, openings, head frames, mills, smelters, forges, or other processing facilities, tailings disposal systems, other waste disposal areas, sediment ponds, conveyors offices, other structures, roads, railroad lines, and utilities;
 - (iii) All other 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 depths of underground workings;

- (vi) The Reclamation Plan for all shafts, pits, trenches, waste or spoil, and excavations or 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 prevention of 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 in which 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) A general description of the Applicant's recruitment and training programs;
- (xv) An estimate of anticipated utility and other public service and facility requirements;
- (xvi) An inventory and map of all known private or public water supply or sewer/septic facilities in the M-PUD or located within the County and within one mile of the M-PUD;
- (xvii) An inventory of all private property located within one mile of the M-PUD and located in the County, and the most recent assessed and estimated fair market (from tax rolls) 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 policies (if any) with respect to local hiring and retention;
- (xx) 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 or near (within twenty (20) miles of) the County during any phase of Metallic Mining, bulk sampling or prospecting. If an Applicant's intention to engage in the process of smelting in or near the County is not disclosed as provided in this Section, or if the Applicant declares that it has no intention to engage in the process of smelting in or near the County, but later does engage in the process of smelting

in or near the County, any M-PUD shall be revoked if, after an opportunity for a hearing, it is determined that the Applicant violated this Section;

- (xxi) A statement regarding any known or anticipated radiation levels in ore, overburden, tailings or waste rock; and
- (xxii) A detailed analysis of short term and long term socioeconomic impacts of the proposed mining operation in 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 greater than sixty (60) days or permanent closure of the mine.

2. A Reclamation Plan shall be prepared and submitted with the Petition . If the following information is provided to the DNR pursuant to either s. 293.35(1), 293.37(2) or 295.49, Wis. Stats., the requirement in this Ordinance to provide the same shall be waived and a copy of such information shall be provided to the County. To the extent any of the following information is not provided to DNR with copies to the County, originals 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 anticipated sequence of reclamation activity to be conducted;
- (b) A description of the utility and capacity of the reclaimed land to support the proposed final use;
- (c) A description of the measures to be taken to protect top soils prior to and during prospecting or mining;
- (d) A description of 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, roads, access roads, surface structures, and related Facilities;
- (f) A description of 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 operations and upon completion of site reclamation;
- (h) A plan for adequate covering, management, and disposal of known or anticipated pollutant-bearing materials (including without limitation any asbestiform or otherwise amphibole or sulfide or otherwise pyritic materials);

- (i) The estimated cost of reclamation on a per acre of total project basis and proof that bonds or other financial assurance sufficient to provide for such cost have been, or will be, provided to the DNR pursuant to state law;
- (j) A description of plans for preventing pollution as defined in s. 281.01(10), Wis. Stats., resulting from the leaching of waste materials; and
- (k) A description of plans for preventing air pollution as defined in 285.01(3) Wis. Stats. by utilizing the “best available control technology” as defined in s. 285.01(12), Wis. Stats.

3. A Petition for an M-PUD for Metallic Mining shall include maps as required by Section 9.4.19(E), in addition to maps or plans showing the proposed sequence of the proposed operation, the direction and depth of the proposed excavation, and expansion of waste areas, tailings ponds, and other materials movement or placement, which may be provided in the form of any maps or plans submitted to the DNR for purposes of its consideration of an application for a mining permit under chs. 293 or 295, Wis. Stats.

(M) Metallic Mining Local Agreement

1. The Mining Impact Committee, acting alone or as part of a joint committee, shall be responsible for the review and negotiation of Local Agreements pursuant to ss. 293.41 or 295.443, Wis. Stats., with regard to Metallic Mining in the County.

2. Metallic Mining may be permitted in the County 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 s. 293.41(4), Wis. Stats.

5. The Mining Impact Committee or County Board may hold public hearings with regard to a Local Agreement for ferrous mining under ch. 295 Wis. stats.

6. 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 the legal and equitable owners of the property;
- (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 health, safety, or welfare of its residents;

- (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) Other provisions determined to be reasonable and necessary by the parties to the Agreement; and
 - (i) The applicability of the agreement to any Towns and whether any (and which) Towns have entered into the agreement or any other Local Agreement.
7. A valid Local Agreement under this Ordinance may include, without limitation:
- (a) Mining impact payments to the County;
 - (b) Education or job training assistance to residents of the County;
 - (c) Financial assurance as necessary to secure the performance of all obligations under the Local Agreement and County zoning and permits;
 - (d) A statement of owner, Applicant and operator local hiring policies, if any;
 - (e) Provisions to ensure against negative impacts on County property tax revenues;
 - (f) Provisions to protect against negative impacts on private property values;
 - (g) Operational, environmental, and operating reporting requirements;
 - (h) County sampling and inspection rights;
 - (i) Restrictions on assignment of the Applicant's, owner's or operator's rights under the Local Agreement;
 - (j) Requirements for ground water and surface water protection and restoration;
 - (k) Requirements for the protection and restoration of County public infrastructure;
 - (l) Requirements regarding contingency planning for emergencies;
 - (m) Establishment of a Citizens Advisory Committee;
 - (n) Provisions regarding dispute resolution;
 - (o) Parameters for the construction, operation, and reclamation of the development;
 - (p) Provisions regarding the legal defense of the County and the Local Agreement; and
 - (q) Provisions regarding impact fees, royalties, franchise fees, or payments in lieu of taxes.

(N) Termination of Use

- 1.** To the extent the notice requirements set forth below do not violate state or federal law, termination or temporary cessation of use shall be subject to the following County requirements:
 - (a)** Applicant shall provide written notice of intent to permanently terminate the I-PUD or M-PUD use no later than one year before the use is to terminate.
 - (b)** Applicant shall likewise provide notice by the end of each calendar year of any material changes in anticipated timing of each major phase of the project as originally reported pursuant to Section 9.4.19(E)2. Failure to engage in the uses set forth in the I-PUD or M-PUD for one year shall constitute a waiver of the Applicant's right to the uses set forth in the I-PUD or M-PUD and, unless an extension is provided by the County Board, shall result in the termination of the I-PUD or M-PUD and reversion of the land to its prior zoning.
 - (c)** Applicant shall provide notice of its intent to effect a temporary cessation of operations as defined under the Wisconsin Business Closing and Mass Layoff Law thirty (30) days prior to such temporary cessation of operations.
 - (d)** In the event of a notice of permanent termination of an M-PUD, Applicant shall, prior to termination, post such reasonable additional financial assurance for closure, reclamation or long-term liability as may be required by the County Board under Section 9.4.19K(3)(v) and (w).
- 2.** Termination or Temporary Cessation of use shall be subject to the following state and federal requirements:
 - (a)** The Wisconsin Business Closing and Mass Layoff Law, as amended.
 - (b)** The Federal Worker Adjustment and Retraining Notification Act, as amended.

(O) Metallic Mining Ownership Transfer

No Applicant shall assign, will, gift, lease, or transfer any rights (including controlling interest in any entity) granted under an I-PUD or M-PUD, until the County Board determines that the succeeding person(s) or entity(ies) has complied, and is capable of complying, with all requirements of this Ordinance. Upon such showing, the County Board may release the initial Applicant from its requirements and transfer the I-PUD or M-PUD rights and obligations to the successor. In all other material respects, the terms of the I-PUD or M-PUD, shall create rights of the County that shall run with the land for so long as the I-PUD or M-PUD is in effect.

(P) Structures in an M-Pud

- 1.** Structures permitted in an M-PUD shall meet the following requirements:

- (a) Appropriate firefighting equipment for a structure of the proposed size and type as required by the MSHA, OSHA, and NFPA, must be available to fire departments in the County;
- (b) At least two (2) fire exits shall be supplied to upper portions of any structure regularly used by humans, as required by the MSHA, OSHA, and NFPA;
- (c) Structures 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;
- (d) Structures shall not pose a hazard to surrounding properties due to falling objects or potential falling of the structure itself;
- (e) Structures shall be accessible by emergency vehicles, as required by the MSHA, OSHA, and NFPA; and
- (f) Structures shall not interfere with any 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 municipal, tribal, 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 regulations for the following conditions:

- (a) Air pollution, including but not limited to odors, fumes, smoke, vapors, gases, ash, dust and other particulates;
- (b) Surface water pollution, including but not limited to nonpoint and point source discharges and impacts;
- (c) Groundwater pollution or drawdown materially impacting public or private property use or value without mitigation or the consent of the property owner;
- (d) Solid or liquid waste disposal;
- (e) Radioactivity or electrical disturbances;
- (f) Fire safety and management;
- (g) Noise;
- (h) Acid drainage from pyritic or otherwise sulfide tailings, waste, or other exposures;

(i) Release of asbestiform or otherwise amphibolic tailings, waste, or other regulated hazardous exposures or releases; and

(j) Care and use of explosives.

(R) Additional Considerations

No M-PUD or I-PUD shall permit land to be used or occupied in any manner so as to create glare, vibration, noise, dust, odors, runoff, or heat that affects the human health, safety, comfort, convenience, prosperity, aesthetics, property rights or other aspects of the welfare of the residents of the County to the extent that it causes a public or private nuisance.

(S) Economic Balancing Test

In considering a Prepetition or Petition for a proposed M-PUD or I-PUD development or project, the Mining Impact Committee (Economic Development and Legislative Committee for an I-PUD), Zoning Committee and County Board shall consider the positive effects of the Prepetition or Petition on health, general welfare, safety, business, employment, property values, income, and economic prosperity of the County and the immediate area in which such use would be permitted and balance those positive effects against anticipated negative effects. The Mining Impact Committee (Economic Development and Legislative Committee for an I-PUD) may deny a Prepetition, and the Zoning Committee may recommend denial of a Petition, and the County Board may deny a Petition, if the proposed development or project results in a net economic, safety, or welfare detriment to the County under this balancing test.

(T) Enforcement

1. The County, by its Zoning Administrator, is authorized to issue orders for compliance by the Applicant in the event that Applicant or its agents or contractors are in violation of County ordinances, any Local Agreement, or the conditions of an M-PUD or I-PUD.

2. The Zoning Administrator, or his or her designee, shall have rights of access and inspection of M-PUD or I-PUD land and structures as set forth in the terms of the M-PUD or I-PUD as set by the County Board and as set for in Section 9.2.1(c) and 9.4.19(K)3.(b).

3. The County's reasonable cost of monitoring and enforcement of an M-PUD, I-PUD or Local Agreement, including without limitation, professional fees for engineering, scientific, planning, environmental, economic development, accounting, and legal services, shall be reimbursed to the County by the Applicant within thirty (30) days of receipt of a written request from the County for such payment. If payment on such a request is not received within thirty (30) days of receipt, the County may place the full amount of the request on the property tax bill(s) for all or portions of the M-PUD or I-PUD as a special charge for current services under s. 66.0627 Wis. Stats. Applicant may submit a Demand for Arbitration to the County within thirty (30) days of receipt of the written request for payment, regarding the amount and propriety of such request for payment. In such case, the matter shall be subject to binding arbitration pursuant to the rules of the American Arbitration Association. The prevailing party in such arbitration shall be entitled

to its costs and fees of the arbitration. Any amounts due the County after Arbitration and award may be placed on the M-PUD or I-PUD property bill(s) as set forth above.

4. In addition to the penalties provided in Section 9.2.3 , any person who violates the terms of an M-PUD or I-PUD shall be subject to an additional surcharge penalty of up to five thousand dollars (\$5,000.00) per violation per day, together with such equitable relief (including but not limited to injunctive relief) as may be granted upon petition by the County to a court of competent jurisdiction.

(U) County Code Compliance

The County Board, by entering into a local agreement or granting an M-PUD or I-PUD, requires compliance with all applicable County ordinances unless specifically exempted by a PUD or Local Agreement. The County Board may also condition a Local Agreement or the issuance of an M-PUD or I-PUD on such other terms as it deems necessary to further the purpose of this Ordinance.

(V) Legislative Discretion

Nothing in this Ordinance shall be construed to mean that the County Board, Mining Impact Committee, Economic Development and Legislative Committee, or Zoning Committee is required to approve any Prepetition or Petition for an M-PUD or I-PUD. The actions of these bodies on a Prepetition or Petition for an M-PUD or I-PUD are discretionary and legislative, and in no event administrative.

(W) Severability

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid by a court or forum of competent jurisdiction, the invalidity shall be limited to the greatest extent possible and the invalidity shall not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.

Section 5. Any ordinances or resolutions or portions thereof of that conflict with this Ordinance are hereby and to such extent repealed.

Section 6. This Ordinance shall take effect upon its passage and publication.

PASSED AND ADOPTED by the Board of Supervisors of the County of Iron this 2nd day of July, 2015.

COUNTY OF IRON

Joseph Pinardi, County Board Chair

Michael J. Saari, County Clerk