

Bayfield County Clerk



Scott S. Fibert, County Clerk

Kim Mattson, *Accountant*
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Draft Minutes of the:
Bayfield County Board of Supervisors' Meeting
May 28th, 2019 4:30 p.m.

Bayfield County Board Room, Bayfield County Courthouse, Washburn, WI

The Bayfield County Board of Supervisors was called to order at 4:33 p.m. by Bayfield County *Chairman*, Dennis Pocernich. A roll call was taken by *County Clerk*, Scott Fibert, as follows: George Newago- present; Thomas Gordon- absent; Larry Fickbohm- present; Harold Maki- absent; Jeremy Oswald- present; Jeffrey Silbert- present; Dennis Pocernich- present; Fred Strand- present; Thomas Snilsberg- absent; Marty Milanowski- present; David Zepczyk- absent; James Crandall- present; Brett Rondeau- present. Total: 9 present, 4 absent. A quorum was present to conduct business.

The following were also present for today's meeting: *County Administrator*- Mark Abeles-Allison; *County Clerk*- Scott Fibert; *Clerk III*- Allison Radke; *Director of Human Services*- Elizabeth Skulan; *Human Services Financial Manager*- Nikki Revak; *Reporter* from The Daily Press- Michelle Jensen.

BAYFIELD COUNTY BOARD BUDGET PLANNING MEETING 4:30 p.m.

3. **Pledge of Allegiance;** The Pledge of Allegiance was recited by all in attendance.

4. **Welcome and Opening Remarks; Dennis Pocernich, County Board Chair;**

County Board Chair Pocernich welcomed all in attendance. He has served as *County Board Chair* for 5 years. According to *Chair* Pocernich, the budget is one of the most important tasks that the County Board has. It is the responsibility of County Board Supervisors to work together to accomplish great things for Bayfield County.

5. **Budget Planning and Priority Setting Overview; Mark Abeles-Allison, Bayfield County Administrator;**

UW-Extension Area Director Mary Pardee was not present for the meeting. *Bayfield County Administrator* Mark Abeles-Allison posed four budget questions/topics to consider. They included: maximum levy, additional highway reconstruction in 2019, highway debt, major expenditures, and other. Information will be discussed from various sources: survey information, financial information, information from Departments Heads on major expenses, and answer some questions. Abeles-Allison explained financial trends referring to a spreadsheet from the years 1985-2019. Budgetary timelines were discussed, including that budgets are due to the County Administrator's Office on August 23rd.

6. Bayfield County Finance Overview; Mark Abeles-Allison;

County Administrator Abeles-Allison gave a financial overview, including topics such as the annual levy and fund balances. Bayfield County Taxes increased about 1% per year. Bayfield County has very little debt. The current focus is the Highway budget. This is due in part to the severe flood damage. Additionally, wages and healthcare costs have increased. Markets are down for timber sales which impacts revenue. *County Administrator Abeles-Allison* reviewed a document entitled Draft 2018 General Fund Balance from the auditors. The document gives information about non-spendable, committed, assigned, and un-assigned balances. Bayfield County is currently finishing a five-year Highway road repair project, initiated by the *Bayfield County Board*. There was a discussion about future Highway repairs and how that fits into the 2020 budget.

County Board Supervisor Harold Maki arrived at 4:47 p.m.

County Board Supervisor David Zepczyk arrived at 4:50 p.m.

7. County Budget Survey Results and Discussion; Mark Abeles-Allison;

County Administrator Abeles-Allison gave an overview of the County Budget Survey Results. Figures were discussed. It was the 6th year of doing a survey. Survey responses were up by about 50%. There were articles in all local newspapers, as well as advertisements. Responses were categorized by municipalities. The new/key question was regarding debt service for County Highways. See the table below for response information:

Debt Service for County Highways: 64% Support 6 miles or more			
	I support a 6-Mile Bayfield County Highway reconstruction plan at a cost of \$1 million in debt service paid through taxes in 2020.	I support an 8.6-Mile Bayfield County Highway reconstruction plan at a cost of \$1.65 million in debt service paid through taxes in 2020.	I support a Bayfield County Highway reconstruction plan using existing resources and no new taxes in 2020.
Residents/ Property Owners 296 Responses	78 26.35%	111 37.5%	107 36.14%
County Supervisors 11 Responses	4 36.6%	7 63.64%	0 0%

Suggestions and ideas were submitted from *County Board Supervisors* and Bayfield County citizens. UW-Extension, especially Theresa LaChappelle, was instrumental in helping put this survey and results together.

8. Budget 2020 Projects; Mark Abeles-Allison;

County Administrator Abeles-Allison explained numerous 2020 Budget Projects including a preliminary summary of major expenses in the 2020 budget. The figures for some projects are

estimates at this point. A multiple page document was compiled with different proposed budget projects. An additional .5 FTE employee was a trend in several Departments.

9. Setting Budget Priorities and County Comparisons; Mark Abeles-Allison;

County Administrator Abeles-Allison outlined the process of budget priorities and gave County comparisons between Ashland, Bayfield, and Barron Counties. A representative from the Wisconsin Counties Association aided in comparisons with 11 local counties. This model also provided an average for the various counties. This information can help inform decisions and help make comparisons.

10. 2020 Levy Discussion; Mark Abeles-Allison;

County Administrator Abeles-Allison led a discussion about the 2020 Levy. *County Board Supervisors* agreed to levy the maximum amount allowed.

11. Budget Calendar, Wrap-Up, Discussion and Possible Action Regarding 2020 Budget; Dennis Pocernich and Mark Abeles-Allison;

County Board Chair Pocernich and *County Administrator* Abeles-Allison concluded the Budget Planning meeting with a discussion regarding the four main budget questions/topics to consider. There was a discussion regarding short vs long-term borrowing. The preference was short-term borrowing. The general consensus was to reconstruct 8.6 miles for County Highways, until all roads are built to standards. Comments were received regarding short-term borrowing including: addressing the road issues now to stay ahead of the game, rather than falling behind. Major expenditures were discussed. The Highway Department is proposing 2 parking lots: in Iron River and in Mason. Additional staff is being requested in multiple departments. The *County Board* would like specifics on the costs of additional employees. Land Records is proposing a \$125,000 cost for orthophotography. There was discussion about the need of doing this project in 2020. There were questions regarding the \$400,000 jail cell renovation figure. Many of the additional issues and costs at the Bayfield County Jail are related to the increasing meth and opioid epidemics. The Ashland/Bayfield County Housing study and transportation needs were also discussed.

12. Adjourn, approximately 5:50pm.

There being no further business to come before the Bayfield County Board of Supervisors', *Chairman* Pocernich adjourned the Budget Planning portion of the meeting at 5:55 p.m.

County Board Supervisor Rondeau departed at 5:56 p.m.

REGULAR MONTHLY MEETING OF THE BAYFIELD COUNTY BOARD OF SUPERVISORS

BAYFIELD COUNTY BOARD MEETING: Approximately 6:00 p.m. Start

The Bayfield County Board of Supervisors was called to order at 6:04 p.m. by Bayfield County *Chairman*, Dennis Pocernich. A roll call was taken by *County Clerk*, Scott Fibert, as follows: George Newago- present; Thomas Gordon- absent; Larry Fickbohm- present; Harold Maki- present; Jeremy Oswald- present; Jeffrey Silbert- present; Dennis Pocernich- present; Fred Strand- present; Thomas Snilsberg- absent; Marty Milanowski- present; David Zepczyk- present; James Crandall- present; Brett Rondeau- absent. Total: 10 present, 3 absent. A quorum was present to conduct business.

The following were also present for today's meeting: *County Administrator*- Mark Abeles- Allison; *County Clerk*- Scott Fibert; *Clerk III*- Allison Radke; *Planning and Zoning Director*- Rob Schierman; *Northern Lights Director*- Pauline Darling; *National Park Service Apostle Islands Superintendent*- Lynne Dominy; *Director of Tourism and Fair*- Mary Motiff.

1. **Public Comment**; None received.

2. **Motion Regarding the Minutes of the April 23rd, 2019 Bayfield County Board of Supervisors' Meeting**;

Motion by Newago, Milanowski to approve the minutes of the April 23rd, 2019 Bayfield County Board of Supervisors' meeting. No additions or corrections. Motion carried.

3. **Introduction of New National Park Service Apostle Islands Superintendent, Lynne Dominy**;

*County Administrator Abeles-Allison introduced the new National Park Service Apostle Islands Superintendent, Lynne Dominy. Dominy also gave a brief self-introduction. She has worked with the National Parks Service for 33 years. Dominy looks forward to working with local communities and the two tribal nations. 2020 will be the 50th Anniversary of the Apostle Islands. Her last position was at Acadia National Park in Maine. She has been working in the Apostle Islands for about a month and has visited nearly every island. There were questions about the current conditions of the Apostle Islands National Park. Dominy reported that there has been significant damage from winter and erosion damage from high water. Little Sand Bay is under construction. Multiple *County Board Supervisors* thanked Dominy for her presence and her work.*

4. **Economic Impact of Tourism; Mary Motiff, Director of Tourism and Fair**;

Director of Tourism and Fair Mary Motiff explained some of the benefits of tourism, including the economic benefit. Leisure & Hospitality account for 27% of jobs in Bayfield County. Visitor spending has been up 11.58% this year. Bayfield County had the 5th highest percentage increase in Wisconsin. Motiff also highlighted Tourism's Facebook page and the monthly Bayfield County Wild podcast.

5. **Discussion and Possible Action regarding Northern Lights Line of Credit increase by \$50,000**;

This agenda item was moved up due to a visit from Northern Lights' Director, Pauline Darling. She introduced herself explaining some of her background. She is working to right-size the organization. Darling thanked Bayfield County for all they have done for Northern Lights. She hopes for Northern Lights-Bayfield County relationship to be a supportive partnership. She has worked with USDA funding in Waupaca. She is currently working to get the books straight and for Northern Lights' to become self-sufficient. Since Darling started on March 16th, there have been many changes. The Northern Lights Board authorized a market study. They are working to clean up contracts and looking for bids at market pricing to result in savings. *Director* Darling concluded that quality care is the most important concern.

There was a discussion regarding the possible increase for emergency purposes in the Northern Lights Line of Credit. The increase will be from \$200,000 to \$250,000.

Motion by Silbert, Maki to increase Northern Lights Line of Credit by \$50,000. A roll call was taken as follows: Newago-yes, Gordon-absent, Fickbohm- yes, Oswald-yes, Silbert-yes, Pocernich-yes, Strand-yes, Snilsberg-absent, Milanowski-yes, Zepczyk-yes, Crandall-yes, Rondeau-absent, Maki-yes. (10-yes, 0-no, 3 absent) Motion carried.

6. **Criminal Justice Annual Report; Barb Flynn, Criminal Justice Coordinator;**

This agenda item will be forwarded to June.

7. **Bayfield County Resolution No. 2019-26; Grant in the Jail setting for a Non-Narcotic, Non-Addictive, Injectable Medication; Medication-Assisted Treatment Service; Barb Flynn, Criminal Justice Coordinator;**

County Administrator Abeles-Allison gave an overview of this grant that would impact the jail setting with funding for this medication. It is a voluntary shot that helps with drug and alcohol addictions. These shots have been given with positive results. The medication is given monthly and helps decrease relapse.

WHEREAS, the Bayfield County Criminal Justice Department has received grant funding in the amount of \$17,400.00 from Wisconsin Department of Health Services, Division of Care and Treatment Services to assist in addressing the ongoing opioid and alcohol addictions in northern Wisconsin. Total award to be expended by June 30, 2019, and

WHEREAS, the 2019 Budget does not contain any projections to account for any revenue or expenditures for said grant, and

WHEREAS, it is the desire of the Bayfield County Criminal Justice Council to accept and expend said grant,

NOW, THEREFORE, BE IT RESOLVED, that the Bayfield County Board of Supervisors assembled this the 28th day of May 2019 hereby approve the following budget amendment for the Nonnarcotic, Non-addictive Injectable Medication Medication-Assisted Treatment Service within the Jail Setting Grant:

Increase Revenue:
 100-04-43553 Nonnarcotic, Non-Addictive Injectable Medication;
 Medication-Assisted Treatment Service within the Jail Setting \$17,400.00

Increase Expenses:
 100-04-54509-50290 Contractual \$2,400.00
 100-04-54509-50391 Medical Supplies \$15,000.00

IT IS FURTHER RESOLVED that the Bayfield County Board of Supervisors hereby amends the 2019 budget by \$17,400.00 for grant revenue/expenses.

Motion by Crandall, Fickbohm to approve Resolution No. 2019-26, grant in the jail setting for a non-narcotic, non-addictive, injectable medication; Medication-Assisted Treatment Service, with 1 change to an account number. A roll call was taken as follows: Newago-yes, Gordon-absent, Fickbohm- yes, Oswald-yes, Silbert-yes, Pocernich-yes, Strand-yes, Snilsberg-absent, Milanowski-yes, Zepczyk-yes, Crandall-yes, Rondeau-absent, Maki-yes. (10-yes, 0-no, 3 absent) Motion carried.

8. **Reports of the Bayfield County Planning and Zoning Committee No. 2019-07 and No. 2019-08; Petitions to amend the Bayfield County Zoning Ordinance regarding the Zoning of: (Please receive and place on file as one item.); Rob Schierman, Planning and Zoning Director;**

Rob Schierman, *Planning and Zoning Director*, summarized the two reports from the Planning and Zoning Committee.

Full copies of resolutions, ordinances, and reports can be found at: www.bayfieldcounty.org or the Bayfield County Clerk’s Office: 715-373-6100, 117 East 5th Street Washburn, WI 54891.

a) **Creating MM Zoning District and Eliminating Special Exceptions;**

Planning and Zoning Director Schierman gave information about the Amendment Creating Metallic Mining Zoning District and Eliminating Special Exception. He explained that this Amendment will give more control to the municipalities that have a large part in the re-zoning process. The *Board of Adjustment* and *Corporation Counsel* asked that this Amendment be included in the Ordinance.

b) **Creating Section 13-1-25A Metallic Mineral Exploration, Prospecting, Bulk Sampling, Mining and Reclamation;**

This is a new Ordinance for Metallic Mineral Exploration, Prospecting, Bulk Sampling, Mining and Reclamation. This Ordinance was recommended by *Bayfield County Corporation Counsel* to clarify the language. Schierman reported that the new language would prepare Bayfield County in addressing any applications should they be received.

Motion by Silbert, Milanowski to receive and place on file Reports No. 2019-07 and No. 2019-08. Motion carried.

9. **Bayfield County Ordinance No. 2019-07; Amendment Creating MM Zoning District and Eliminating Special Exceptions; Bayfield County Code of Ordinances, Wisconsin;**

Planning and Zoning Director Schierman gave more information regarding Ordinance No. 2019-07. It has been a long process for Zoning Director, Corporation Counsel, and County Board Supervisors to work on this Ordinance.

**The Bayfield County Board of Supervisors ordains as follows:
That the Bayfield County Zoning Ordinance, adopted June 1, 1976, be and the same, is
hereby amended as follows:**

WHEREAS, Wisconsin Statutes §59.69 (5) authorizes the County Board to adopt a zoning ordinance; and

WHEREAS, Wisconsin Statutes §59.69(5)(e) authorizes the County Board to amend an ordinance; and

WHEREAS, Section 13-1-104 Code of Ordinances, Bayfield County, Wisconsin authorizes the County Board to make amendments to Title 13, Chapter 1 of the Code of Ordinances, Bayfield County, Wisconsin pursuant to Wisconsin Statutes §59.69; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-21(e) Code of Ordinances, Bayfield County, Wisconsin *by deleting* reference to a special exception fee; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-22(j) Code of Ordinances, Bayfield County, Wisconsin *by deleting* language allowing minimum side and rear yard setbacks and road setbacks to be reduced or eliminated by obtaining a special exception; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-25 Code of Ordinances, Bayfield County, Wisconsin *by deleting* the word “metallic”; and make a correction of typo; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-41(b)(1a) Code of Ordinances, Bayfield County, Wisconsin *by deleting* all references to special exceptions; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-60(a) Code of Ordinances, Bayfield County, Wisconsin *by adding* the “M-M” to Zoning District Dimensional Requirements; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to create language in Section 13-1-61(o) Code of Ordinances, Bayfield County, Wisconsin *by adding* “M-M Metallic Mining” to Zoning District; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-62 Code of Ordinances, Bayfield County, Wisconsin *by adding* Non-ferrous metallic mining as a conditional use in the I, A-1, F-1, F-2 and M-M zoning districts and *by deleting* conditional uses Bulk Sampling, Equipment, Storage, Prospecting and similar activities in non-ferrous metallic mining or quarrying in the I, A-1, F-1 and F-2 zoning districts; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-63(g)(5) Code of Ordinances, Bayfield County, Wisconsin *by deleting* All references to special exceptions; and

WHEREAS, it is deemed in the best interest of the County of Bayfield to amend language in Section 13-1-102(e)(2)e.; (3) & (4) Code of Ordinances, Bayfield County, Wisconsin *by deleting* all references to special exceptions; and

WHEREAS, it is deemed in the best interest of the County of Bayfield that the Code of Ordinances, Bayfield County, Wisconsin be further modified and amended in the manner hereinafter set forth;

NOW, THEREFORE, the Bayfield County Board of Supervisors does hereby ordain as follows:

SECTION 1. *Subsection (e) [Fees] of Section (13-1-21); [General Land Use Requirements] of Article B [General Provisions] of Chapter 1 [Zoning] of Title 13 [Zoning Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with deletions highlighted by the double strike out feature (~~deletions~~):*

13-1-21(e) Fees

aa. Board of Adjustment Hearing		
Special Exception	\$	550.00
Variance or Appeal.....	\$	800.00
Refiling & Reopening*	\$	800.00
Reopening & Reconsideration.....	\$	250.00

SECTION 2. *Subsection (j) [Special Exceptions] of Section (13-1-22), [Setbacks and Height Restrictions] of Article B [General Provisions] of Chapter 1 [Zoning] of Title 13 [Zoning Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with deletions highlighted by the double strike out feature (~~deletions~~):*

~~**13-1-22(j) Special Exceptions**~~

~~(j) **Special Exceptions.** Minimum side and rear yard setbacks (other than shoreline and public road setbacks) and minimum private road setbacks may be reduced, and side and rear yard setbacks (other than shoreline and public road setbacks) in commercial districts may be eliminated, by special exception granted by the Board of Adjustment pursuant to Section 13-1-102 (e)(4).~~

SECTION 3. *Section (13-1-25) [Metallic and Nonmetallic Mines] of Article B [General Provisions] of Chapter 1 [Zoning] of Title 13 [Zoning Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with correction highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):*

Sec. 13-1-25 ~~Metallic and~~ Nonmetallic Mines.

(a) **General Requirements.** The purpose of this Section is to ~~insure~~ ensure that all ~~metallic and~~ nonmetallic mining operations, including the removal of sand and gravel, are conducted at locations and in such a manner so as to be compatible with the uses of neighboring lands and to minimize environmental degradation.

(b) **Permit.** A conditional use permit shall be required before the commencement of any excavation or exploratory drilling, and an additional conditional use permit shall be required prior to any active mining or drilling operation in Bayfield County. Expressly allowed without a conditional use permit shall be nonmetallic mining sites that affect less than one (1) acre of total area over the life of the mine and preliminary exploration of potential sand and gravel sites when exploratory excavation is minimal, provided that there shall be immediate site restoration following such exploration. Applications for the post-exploration phase of mining of mineral deposits other than aggregates such as stone, sand and gravel, shall be accompanied with an Environmental Impact Analysis in accordance with Section 13-1-42.

(c) **Basis of Approval.** In passing upon a conditional use permit, the Planning and Zoning Committee shall consider the four (4) stages of a mining operation: exploration, prospecting, ongoing commercial operation (extraction and processing), and reclamation, their effects upon the factors listed under Section 13-1-41, and whether or not they are consistent with the purpose of this Section, In order to facilitate such considerations, the following information *shall* be required by the Planning and Zoning Committee:

(1) A legal description of the proposed site.

(2) A detailed description of the topography and vegetative cover of the area to be mined.

(3) The proposed setbacks that are to be observed and a description of the access to the area.

(4) A description of all phases of the contemplated operation, including types of equipment that may be used, the extent of vegetation removal, proposed dispositions of spoils, planned precautions against various types of pollution and plans for ongoing reclamation and erosion prevention where the operation is to include sand and gravel washing, the estimated daily quantity of water to be used, its source, and its disposition.

(5) A site restoration plan, which shall include detailed grading and re-vegetation plans, and a written statement indicating the timetable for such restoration; in accordance with ABDI Land Conservation Department recommended approval and Title 16 Bayfield County Nonmetallic Mining Reclamation Ordinance.

(d) **Conditions of Approval.**

(1) The Planning and Zoning Committee shall require as conditions of the permit.

(a) A boundary survey or accurate identification of exterior boundaries.

(b) That appropriate setbacks and other dimensional requirements as set forth by the Planning and Zoning Committee be met.

(c) That appropriate measures be taken to avoid nuisance affecting surrounding uses, pollution of any sort, and erosion.

(d) That no more than a forty (40) acre parcel shall be permitted at any one time.

(2) The Planning and Zoning Committee may require as conditions of the permit, as well as other conditions it determines to be necessary and appropriate pursuant to Section 13-1-41:

(a) That suitable landscaping, screening, and fencing be required.

(b) That a surety bond be posted to assure compliance with the provisions of the conditional use permit and to assure proper restoration or cleanup.

(c) That the applicant provide the Planning and Zoning Committee with all test methods and results as well as company interpretations of the test data including that obtained by drilling, coring and excavating.

(d) Designated hours and days of operation.

(e) An expiration date.

(e) **Duration of Conditional Grant.** The initial grant to carry on a mining operation shall be effective for a period of time to be specified by the Planning and Zoning Committee. To extend the operation beyond the initial time period, a new conditional grant must be applied for and all new conditions must be met.

(f) **Existing Quarry Operations.** The owners of quarry, mining, and/or drilling sites shall submit to the Bayfield County Planning and Zoning Committee the names of the quarry, mining, and/or drilling owners and operators, including all parties to farm out contracts.

(g) **Prohibited Areas.** Nonmetallic mining, and/or drilling for oil or gas shall not be allowed in the following areas:

(1) Under lakes, rivers, creeks, or streams.

(2) Within one (1) mile of Lake Superior or connected wetlands.

(3) Within one (1) mile of any lake, river, creek, or stream.

NOTE: Nonmetallic mine sites may be permitted within one (1) mile of Lake Superior and connected wetlands and within one (1) mile of any lake, river, creek or stream, but shall be excluded from under lakes, rivers, creeks, or streams.

SECTION 4. *Subsection (b)(1a) of Section (13-1-41); [Conditional Uses] of Article B [General Provisions] of Chapter 1 [Zoning] of Title 13 [Zoning Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with deletions highlighted by the double strike out feature (~~deletions~~):*

13-1-41(b)(1a) Conditional Uses.

(1a) **In the Shoreland.** The Planning and Zoning Agency shall send written notice to the appropriate office of the Department of Natural Resources at least 10 days prior to any hearing on a proposed variance, ~~special exception~~ or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review and shall also send the same office copies of any decision on a variance, ~~special exception~~ or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

SECTION 5. *Subsection (a) of Section 13-1-60 [Zoning District Dimensional Requirements] of Article D [Zoning District] of Chapter 1 [Zoning Code] of Title 13 [Zoning Code of Ordinances], Bayfield County Wisconsin is hereby amended to read, in part, as follows with additions highlighted by the double underline feature (additions):*

Zoning District	Minimum Area	Minimum Average Width	Principal Building	Accessory Building
F-2, A-2, <u>M-M</u>	35 acres	1,200'	75'	30'

SECTION 6. *Section 13-1-61 [Zoning Districts] of Article D of Chapter 1 [Zoning Code] of Title 13 [Zoning Code or Ordinances], Bayfield County, Wisconsin is hereby created to read, in part, as follows with additions highlighted by the double underline feature (additions):*

(o) **M-M Metallic Mining.** This district is to provide for large contiguous tracts that may be used for metallic mining operations; no residential structures allowed.

SECTION 7. *Subsection (a) of Section 13-1-62 [Classification of Uses] of Article D [Zoning District] of Chapter 1 [Zoning Code] of Title 13 [Zoning Code of Ordinances], Bayfield County, Wisconsin is hereby amended to read, in part, as follows with deletions highlighted by the double strike out feature (~~deletions~~) and additions highlighted by the double underlined feature (additions):*

PERMISSIBLE USES	R-4	R-3	R-2	R-RB	C	I	M	A-1	A-2	F-1	F-2	W	M-M
<u>Non-Ferrous Metallic Mining, Quarry, (*EIA required)</u> (Bulk Sampling, Equipment, Storage, Prospecting, etc.)						C		C		C	C		<u>C</u>
<u>Non-Ferrous Metallic Mining Exploration</u>						<u>C</u>		<u>C</u>		<u>C</u>	<u>C</u>		<u>C</u>

SECTION 8. *Subsection (g)(5) of Section (13-1-63); [Town of Russell Overlay] of Article B [General Provisions] of Chapter 1 [Zoning] of Title 13 [Zoning Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with deletions highlighted by the double strike out feature (~~deletions~~):*

13-1-63(g)(5) Town of Russell Overlay District

(5) **Permitted Uses** – All uses permitted within the underlying zoning district, by right ~~or by special exception~~, shall be permitted unless specifically prohibited below. In all cases, the more restrictive requirement(s) shall apply.

SECTION 9. *Subsections (e)(2)e; (3) & (4) [Board Powers] of Section (13-1-102); [Board of Adjustment] of Article B [General Provisions] of Chapter 1 [Zoning] of Title 13 [Zoning Code] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with deletions highlighted by the double strike out feature (~~deletions~~):*

13-1-102(e)(2)e; (3) & (4) Board Powers

e. The basis of review in granting a variance ~~or special exception~~ shall include those items listed in Section 13-1-41(b)(4)a and, in granting a variance, the Board may attach conditions listed in Section 13-1-41(b)(4)b and/or other conditions, if such conditions as are reasonably related to the purpose of the zoning restriction in question or to environmental problems that may be caused or aggravated by the variance ~~or special exception~~ if the condition were not imposed.

(3) Whenever a variance ~~or special exception~~ is granted, the Bayfield County Planning and Zoning Agency, shall record the decision granting it, setting forth the terms and conditions of the variance ~~or special exception~~ and a legal description of the property to which it pertains, with the Bayfield County Register of Deeds. The terms and conditions of the variance ~~or special exception~~ shall be binding upon and inure to the benefit of all current and future owners of such property. The recording fee shall be paid by the applicant to the Department within ninety (90) days after notice thereof has been sent to the applicant by the Department. If the applicant fails to do so, the variance ~~or special exception~~ shall be null and void, and no permit shall be issued pursuant thereto.

~~(4) The Board may grant special exemptions for the reduction of minimum side and rear yard setbacks (other than shoreline and public road setbacks) and minimum private road setbacks as provided in Section 13-1-22(j). The provisions of Section 13-1-41 shall govern such special exceptions in the same manner as they govern conditional uses, except that the granting authority shall be the Board of Adjustment rather than the Planning and Zoning Committee.~~

SECTION 10. Except as specifically modified and amended by this ordinance, the Bayfield County Code of Ordinance shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

SECTION 11. SEVERABILITY. If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

SECTION 12. EFFECTIVE DATE. This ordinance shall take effect and be in full force from and after its passage.

Motion by Silbert, Fickbohm to adopt Amendatory Ordinance No. 2019-07. Motion carried.

10. Bayfield County Ordinance No. 2019-08; Zoning Ordinance Creating Section 13-1-25A Metallic Mineral Exploration, Prospecting, Bulk Sampling, Mining and Reclamation;

Planning and Zoning Director Schierman gave further information about Ordinance No. 2019-08 to the County Board.

**The Bayfield County Board of Supervisors ordains as follows:
That the Bayfield County Zoning Ordinance, adopted June 1, 1976, be and the same, is hereby amended as follows:**

**BAYFIELD COUNTY ZONING ORDINANCE CREATING SECTION 13-1-25A
METALLIC MINERAL EXPLORATION, PROSPECTING, BULK
SAMPLING, MINING AND RECLAMATION**

WHEREAS, zoning is an essential function performed by local government since it allows a municipality to protect its citizens' quality of life, welfare and safety; and

WHEREAS, metallic mineral mining is a permitted activity under State law and may provide beneficial impacts for County residents, including employment opportunities and improvement of local economies; and

WHEREAS, metallic mineral mines and metallic mineral mining operations pose special challenges since:

- Metallic mineral mining, unlike many other activities, may only be developed at a specific location at which a mineral deposit exists; and
- Metallic mineral mining may create substantial impacts which adversely affect public health, safety, convenience and welfare; and
- Metallic mineral mining may harm and cause serious damage to not only the immediate surrounding areas of the mining operation, but also to areas and resources beyond the immediate surroundings such as waterways, wells and other water supplies, air, and other environmental resources; and
- The adverse effects of metallic mineral mining may not be limited to the years a mine is in operation but may substantially impact future generations; and

WHEREAS, Chapter 293 of the Wisconsin Statutes recognizes the County's authority to participate in the local regulation of metallic mineral mining and grants an express authority for the County to negotiate and enter into a local agreement and require an operator to obtain an approval or permit under a zoning or land use ordinance; and

WHEREAS, conditional uses enjoy acceptance as valid and successful tools of municipal planning to cope with situations where a use may create unique problems or

hazards if allowed to develop as a matter of right; and

WHEREAS, the purpose of this Ordinance is to provide alternate methods by which an operator may obtain a mining permit, both of which recognize the need for reasonable regulation of mining.

NOW, THEREFORE, the County Board of Supervisors for Bayfield County does ordain as follows:

Section 1. Section 13-1-25A [Metallic Mineral Mining.] of Article B [General Provisions] of Chapter 1 [Zoning Code] of Title 13 [Zoning of the Code of Ordinances], Bayfield County, Wisconsin is hereby created to read as follows, with the creations highlighted by the double underline feature (additions).

Sec. 13-1-25A. Metallic Mineral Mining.

(a) **Definitions.**

Capitalized terms used in this Ordinance, unless otherwise specifically defined, are defined as follows:

- (1) **Any term not expressly defined in this Ordinance.** Shall have the meaning set forth in Wis. Stat. Chapter 293, and if not defined therein then as defined in Wis. Admin. Code Ch. NR 132, and if not defined therein then as defined in Wis. Admin. Code Ch. NR 182.
- (2) **Affiliate.** Means any Person that, directly or indirectly, controls, or is controlled by, or is under common control with a Person. “Control” (and the correlative meanings of the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person.
- (3) **Applicable Laws and Regulations.** Means any federal, State, municipal, regulatory or other governmental entity law, regulation, requirement, condition, restriction, or binding agreement applicable to Exploration, an Exploration Site, Prospecting, a Prospecting Site, Bulk Sampling, a Bulk Sampling Site, a Mining Site, Mining, a Mining Operation, or other provision contained within an Exploration Permit, Prospecting Permit, Bulk Sampling Permit or Mining Permit issued pursuant to this Ordinance.
- (4) **Applicant.** Means any Person that has or intends to submit an Application for a Mining Permit to Bayfield County pursuant to this Ordinance.
- (5) **Application.** Means an application filed or to be filed with Bayfield County by which the Applicant applies for a Mining Permit pursuant to this Ordinance and shall contain all the information required by the Ordinance, including, but not limited to, the information required pursuant to Section 13-1-25A(1) of this Ordinance or as may otherwise be reasonably required by the County.

- (6) **Buffer Area.** Means an undisturbed vegetated area measured from the property line of the Mining Site into the Mining Site, in which no Mining Operations, structures or roads can occur or be constructed except for the construction and maintenance of a vegetated berm or a berm constructed of materials acceptable to the County.
- (7) **Bulk Sampling.** Means the same definition as set forth in Wis. Stat. § 293.01(2m), as may be amended.
- (8) **Bulk Sampling Permit.** Means a permit issued pursuant to Section 13-1-25A(f) of this Ordinance.
- (9) **Bulk Sampling Site.** Means the entire area of land upon which Bulk Sampling will occur.
- (10) **Conditional Use Permit.** Means a permit issued pursuant to Section 13-1-25A(n) of this Ordinance.
- (11) **Conditional Use Permit/Mining Permit.** Means a Mining Permit issued by virtue of an approved and issued Conditional Use Permit.
- (12) **County.** Means the County of Bayfield.
- (13) **County Board.** Means the Bayfield County Board of Supervisors.
- (14) **County Board of Adjustments.** Means the Board of Adjustment of Bayfield County pursuant to Wis. Stat. § 59.694.
- (15) **County Zoning Ordinance.** Means the zoning and land use ordinance adopted by Bayfield County pursuant to Wis. Stat. § 59.69.
- (16) **County Planning and Zoning Committee.** Means the Bayfield County Planning and Zoning Committee of the Bayfield County Board of Supervisors, and the designated county zoning agency of Bayfield County pursuant to Wis. Stat. § 59.69(2).
- (17) **Exploration.** Means exploration as defined in Wis. Admin. Code Ch. NR 130, as may be amended.
- (18) **Exploration Permit.** Means the permit required pursuant to Section as a condition of engaging in Exploration.
- (19) **Exploration Site.** Means the entire area of land upon which Exploration will occur.
- (20) **Government Body or Agency.** Means any State, federal, municipal entity, department, agency, regulatory authority, or other government unit having jurisdiction or maintaining any other authority to regulate Exploration, an Exploration Site, Prospecting, a Prospecting Site, Bulk Sampling, a Bulk Sampling Site, Mining, a Mining Site, or Mining Operations.

- (21) **Local Agreement.** Means an agreement entered into pursuant to Wis. Stat. § 293.41 and approved pursuant to Section 13-1-25A(o) of this Ordinance.
- (22) **Local Agreement/Mining Permit.** Means a Mining Permit issued by virtue of an approved Local Agreement.
- (23) **Local Committee.** Is a committee created pursuant to Wis. Stat. § 293.33 and Section 13-1-25A(h) of this Ordinance.
- (24) **Mining or Mining Operation.** Means all or part of the process involved in the mining of nonferrous metallic minerals, on or as part of the Mining Site, other than for Exploration, Bulk Sampling, or Prospecting, including, but not limited to:
- a. Extraction from the earth of mineral aggregates or minerals for off-site use or sale, including drilling and blasting, as well as associated activities such as excavation, grading and dredging of such materials.
 - b. Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation or blending of the mineral aggregates or metallic minerals obtained by extraction from the mining site or with materials transferred from off-site.
 - c. Manufacturing processes aimed at producing metallic or nonmetallic products for sale or use by the operator.
 - d. Stockpiling or storage of metallic or nonmetallic products for sale or use off-site and stockpiling of waste materials.
 - e. Transport of the extracted metallic or nonmetallic materials, finished products or waste materials to or from the extraction site.
 - f. Disposal of waste materials.
 - g. Reclamation of extraction site.
 - h. Prospecting or Exploration for metallic minerals is not mining under the terms of this Ordinance.
 - i. Commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden and the production of refuse.
- (25) **Mining Permit.** Means either a Conditional Use Permit issued pursuant to Section of this Ordinance, or a Local Agreement negotiated, approved and issued pursuant to Wis. Stat. § 293.41 and Section 13-1-25A(o) of this Ordinance.
- (26) **Mining Site.** Means the entire area of land upon which Mining Operations will occur, and shall include, but not be limited to, the surface area disturbed by a Mining Operation, the surface area from which the nonferrous metallic minerals or refuse or both have been removed, the surface area covered by the refuse, all lands disturbed by the Mining Operation or associated activities, the surface area covered

by construction or improvement of haulage ways, and any surface areas in which processing facilities, structures, equipment, materials and any other activities associated with the Mining Operation are situated, operated, conducted or otherwise utilized.

- (27) **Operator.** Means any Person who is engaged in, or who has applied for and been granted a Mining Permit to conduct Mining, Mining Operations, or other activities associated with Mining on a Mining Site or as part of a Mining Operation, whether individually, jointly or through subsidiaries, agents, employees or contractors.
- (28) **Ordinance.** Means this metallic mining ordinance adopted by Bayfield County and included in the County Zoning Ordinances as a use in the M-M District.
- (29) **Permittee.** Means any Person granted a Mining Permit pursuant to this Ordinance.
- (30) **Person.** Means any person, individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, State agency or federal agency.
- (31) **Prospecting.** Means the same definition as set forth in Wis. Stat. § 293.01(18) and Wis. Admin. Code Ch. NR 131, as each may be amended.
- (32) **Prospecting Permit.** Means a permit issued pursuant to Section 13-1-25A(e) of this Ordinance.
- (33) **Prospecting Site.** Means the entire area of land upon which Prospecting will occur.
- (34) **Retained Expert.** Means professional consultants, including, but not limited to, engineers, attorneys, planners, environmental specialists, and other consultants with skills relevant to reviewing, processing and acting upon applications for a Mining Permit or to issues associated with the inspection, monitoring and enforcing of approvals and requirements of a Mining Permit.
- (35) **Section.** Means a specific section of this Ordinance.
- (36) **State.** Means the State of Wisconsin.
- (37) **WI DNR.** Means the Wisconsin Department of Natural Resources.
- (38) **WI DNR Exploration License.** Means an exploration license issued by WI DNR pursuant to Wis. Stat. § 293.21(2).
- (39) Zoning Administrator. Means the administrator of the Bayfield County Zoning and Conservation Department.
- (b) **Findings, Purpose and Authority.**
- (1) **Findings.**

- a. Metallic mining is a permitted activity under State law and has the potential to both beneficially and adversely impact County residents, environments and economies. Metallic mining may provide employment opportunities, needed industrial materials and significant economic benefits to local communities. Metallic mining operations, however, have the potential to create nuisance conditions, negatively impact property values and present health and safety impacts to County residents if not properly designed and operated.
- b. Exploration, Prospecting and Bulk Sampling are regulated by the State, yet it is appropriate for the County to reasonably regulate these uses and operations to the extent that such regulation generally falls within the County's jurisdiction, such as regulation of hours of operation, traffic and noise levels.
- c. Many aspects of Mining Operations are subject to State and/or federal regulation. WI DNR is the unit of State government responsible for regulating any adverse impact of metallic mining and reclamation on the air, lands, water, plants, fish and wildlife in the State. The County is also authorized to regulate metallic mining so long as its regulation is not preempted by other Applicable Laws and Regulations. Accordingly, the County enacts this Ordinance to further the purposes stated above, which include, but are not limited to, the protection of people on neighboring properties to a Mining Site in the County, their domestic animals, structures, businesses and human endeavors and activities situated thereon, as well as the protection of County resident health, safety, convenience and general welfare from the potential adverse effects from metallic mineral mining, including, but not limited to:
1. Sounds, noise, earth movement, shock, vibrations, cracks in structures and interference with the peace, quiet and enjoyment of life on neighboring properties resulting from mining activities.
 2. Smells, odors, dust and particulates entering upon neighboring properties and impacting County residents. The County is not, by this Ordinance, regulating air or air quality, but seeks to protect neighboring properties, people and the County and activities therein from the adverse effects of smells, odors, dust and particles due to Mining Operations, whether transported or moved by gravity, vehicles, people, wind, weather, climatic condition or other forces.
 3. Light and light pollution entering upon neighboring properties from a Mining Site or as a result of Mining Operations.
 4. Damage to the County's property tax base.
 5. Damage to or destruction of public roads, public highways and bridges from vehicles and equipment used in or at the Mining Site or as part of Mining Operations.

6. Adverse effects on educational, recreational and business facilities in the County.
 7. Adverse effects on agricultural, forestry, industry and business future growth in the County.
 8. Adverse effects on uses of land in the County in accordance with their character and adaptability.
 9. Adverse effects on the beauty and amenities of the neighboring landscape and the County's physical features.
 10. Adverse effects on healthy surroundings for citizens', residents' and visitors' quality of life.
- d. Given the potential effects of Mining Operations noted above and given the complexity and uniqueness of each proposed Mining Operation, the County requires a mechanism by which to control the local impacts of Mining Operations, without duplicating or conflicting with Applicable Laws and Regulations.
 - e. A Conditional Use Permit is a flexible planning and land use regulatory device designed to cope with situations, problems and hazards which may result from the specific metallic mineral mining project under consideration.
 - f. A Local Committee, created pursuant to Wis. Stat. § 293.33, presents an opportunity for the County, the Applicant, other units of government and other stakeholders to discuss and plan for the County's concerns associated with a proposed Mining Operation, and to develop solutions to address those concerns. The findings of a Local Committee may be a useful tool in negotiating a Local Agreement.
 - g. A Local Agreement, as statutorily permitted pursuant to Wis. Stat. § 293.41, provides the County flexibility in the approval process by allowing an Applicant and the County to negotiate terms prior to commencement of the actual approval process. Also, a Local Agreement acts as a specific exception to general zoning requirements, and therefore allows the County to set forth its approvals in one binding agreement with an Applicant.
 - h. There exist two separate and independent procedures by which an Applicant may obtain a Mining Permit under this Ordinance: (1) the Applicant may apply for and the County may approve the issuance of a Conditional Use Permit pursuant to Section 13-1-25A(n) or (2) the Applicant and the County may enter into a Local Agreement pursuant to the terms of Wis. Stat. § 293.41 and Section 13-1-25A(o). A Local Agreement may include terms, conditions and provisions that the County may deem necessary to protect the health, welfare, safety and convenience of the County and its residents. The benefits of a Local Agreement include, but are not limited to, addressing the County's, Applicant's and Operator's concerns regarding the Mining Operation, the ability to modify or waive certain provisions of this Ordinance

and any other County regulation, the inclusion of other parties or units of government in the Local Agreement, memorialize the findings of a Local Committee created pursuant to Wis. Stat. § 293.33, and memorialize the overall understanding of the parties in a binding agreement. A Conditional Use Permit shall be approved pursuant to Section 13-1-25A(n) and suspended, modified, amended or revoked pursuant to Section 13-1-25A(s) of this Ordinance. A Local Agreement shall be entered into and approved pursuant to Wis. Stat. § 293.41 and Section 13-1-25A(o), and may be suspended, modified, amended or revoked pursuant to its terms and Section 13-1-25A(s).

i. This Ordinance is not intended to conflict with, defeat the purpose of, or violate the spirit of State or federal law. This Ordinance shall be interpreted and applied in a manner that complements, and does not conflict with, State law as set forth in Wis. Stat. § 293.41 or other Applicable Laws or Regulations.

(2) **Purpose.** The purpose of this Ordinance is to accomplish the following:

a. To complement State law regulating Exploration, Prospecting and Bulk Sampling.

b. To establish local minimum standards for Mining Operations conducted within the County, and a process by which to systematically consider Mining Permit Applications and Mining Operations in a manner that promotes the health, safety, welfare and convenience of the County and its residents.

c. To minimize or prevent any adverse on- or off-site impacts resulting from Mining Operations, including, but not limited to, the potential impacts set forth in Section 13-1-25A(b)(1)(c).

d. To set forth rules and procedures to govern Mining and Mining Operations within the County, establish procedures for the administration and enforcement of this Ordinance, and provide penalties for its violation.

e. To specifically set forth the requirements for any Person desiring to engage in Mining or any Mining Operation in the County to first obtain a Mining Permit from the County and subsequently act and operate in accordance with the conditions on such Mining Permit so the County can, to the extent of the County's authority, promote the public health, safety, convenience and general welfare.

f. To encourage and ensure, to the greatest extent possible:

1. Planned and orderly land use development;

2. The protection of property values and the property tax base;

3. Careful planning and efficient maintenance of highway systems and other transportation infrastructure;

4. Adequate highway, utility, health, educational and recreational facilities;
 5. The needs of agriculture, forestry, industry and business in future growth;
 6. The use of land and other natural resources which are in accordance with their character and adaptability;
 7. The protection of surface and groundwater resources;
 8. The conservation of soil, water and forest resources;
 9. The protection of the beauty and amenities of the landscape and physical features within the County;
 10. Healthy surroundings for citizens' and visitors' enjoyment and lifestyles; and
 11. The efficient and economical use of public funds.
- g. To ensure that Mining Operations are permitted in Bayfield County only pursuant to a Mining Permit, issued by virtue of a Conditional Use Permit or a Local Agreement, and only after a Mining Permit is issued by the County in accordance with this Ordinance.
- h. To ensure that the County may utilize a Local Agreement, as permitted in Wis. Stat. § 293.41, as a Mining Permit separate and apart from any procedure set forth for a conditional use.
- i. To ensure that conditions placed on a Mining Permit granted as a Conditional Use Permit are crafted and tailored to address existing and anticipated conditions and circumstances pertinent to the Mining Operation and impacts on the Mining Site and other areas that may be impacted by the Mining Operations throughout the County.
- j. To ensure that all conditions placed on a Mining Permit that is issued as a Conditional Use Permit are:
1. Consistent with the purposes of this Ordinance;
 2. Within the jurisdiction of the County;
 3. Not arbitrary or unreasonable;
 4. Have a substantial relation to public health, safety, convenience and/or general welfare;
 5. Supported by substantial evidence; and

6. To the extent practicable, measurable.

k. To ensure coordination with WI DNR and all other State and federal regulatory bodies of a Mining Operation in the County.

l. To ensure consistency with Bayfield County Comprehensive Plan and/or Town Comprehensive Plans, as may be amended.

(3) **Authority.** This Ordinance is adopted under the authority of the powers set forth in Wis. Stat. Chapter 59, Wis. Stat. Chapter 66, Wis. Stat. Chapter 293, and any other authority granted to the County under State or federal law.

(c) **Applicability, Exemptions, Interpretation, and Effective Date**

(1) **Applicability.** This Ordinance shall apply to the use and proposed use of land within the unincorporated areas of the County that are subject to the County Zoning Ordinance, for the purpose of any proposed Mining Operation regardless of when such use is commenced and regardless of where such use is proposed within the County.

(2) **Exemptions.** This Ordinance does not apply to:

a. Except as set forth in Sections 13-1-25A(i)(2) and 13-1-25A(o)(5) below, any Mining Operations made specifically exempt from any requirement in this Ordinance pursuant to a Local Agreement with the Operator under Wis. Stat. § 293.41.

b. Except as set forth in Sections 13-1-25A(i)(2) and 13-1-25A(o)(5) below, any other requirements of the County Zoning Ordinance that may be modified or waived in a Local Agreement.

(3) **Interpretation.** Except as set forth in Section 13-1-25A(t) of this Ordinance, this Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing laws, regulations, ordinances, rules, standards or permits that are not specific to metallic mining previously adopted pursuant to other Wisconsin law.

(4) **Severability.** Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional, invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, including, but not limited to, all applicable appeals, the remainder of this Ordinance shall remain in full force and effect.

(5) **Effective Date of Ordinance.** Subject to Section 13-1-25A(t), this Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. § 59.14.

(6) **Modification, Amendment, Suspension or Elimination of this Ordinance.** Any modification, amendment, suspension or elimination of this Ordinance, whether in part or in full, shall require a majority affirmative vote by the County Board.

(7) **Impact on Existing County Zoning Ordinances.** This Ordinance shall amend the existing County Zoning Ordinances as set forth in Section 13-1-25A(t). In the event of any conflict between this Ordinance and any other County Zoning Ordinances or any other general County codes, regulations or ordinances, this Ordinance shall control.

(d) **Exploration Permit.**

(1) **Permit Required.** No person may commence any Exploration except in conformance with a valid Exploration Permit issued by the County pursuant to this Section 13-1-25A(d). Exploration may only be conducted as a permitted use within the M-M zoned district as set forth in the County Zoning Ordinance. The Exploration Permit issued by the County is a separate permit from the WI DNR Exploration License.

(2) **Conditions on Exploration Permit.** The County shall grant an Exploration Permit if the applicant for the Exploration Permit can demonstrate satisfaction of the following conditions:

a. Compliance with all terms and conditions of the WI DNR Exploration License for the duration of the WI DNR Exploration License.

b. Compliance with all applicable County ordinances.

c. Demonstrate to the satisfaction of the County that all other applicable and required federal, State and local permits and approvals required for the Exploration have been or will be obtained prior to commencement of any Exploration.

d. Submit a copy of all permits, approvals or waivers of permits to the County, both at the time of application for the Exploration Permit and during the term of the Exploration Permit.

e. Comply with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Exploration.

f. Provide proof that any financial assurances required by a Government Body or Agency, if any, have been obtained as required by any Applicable Laws and Regulations.

(3) **The County shall impose conditions on the Exploration Permit related to the following:**

a. Provide a Buffer Area or screening from the Exploration sites if the Exploration activities would cause undue noise, dust, lighting, odors or other adverse impacts on neighboring properties.

b. Establish a setback of at least 1,200 feet between any Exploration Site and any existing occupied structure.

- c. Conduct Exploration only on Monday through Friday, not earlier than 6:00 a.m. and not later than 9:00 p.m., and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.
- d. Limit night lighting if Exploration occurs during hours of darkness to that which is minimally necessary for security and workers safety.
- e. Control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners.
- f. All hazardous chemicals or substances kept on the Exploration Site or related to the Exploration shall be stored in State-approved storage containers and storage areas.
- g. Take necessary measures to control fugitive dust.
- h. Maintain compliance with all State and federal permits related to the Exploration, the suspension or revocation of which shall cause the automatic termination of the County Exploration Permit.
- i. Any other conditions that the County deems reasonable and necessary and that are:
 - 1. Within the jurisdiction of the County;
 - 2. Not arbitrary or unreasonable;
 - 3. Have a substantial relation to public health, safety, convenience and/or general welfare;
 - 4. Supported by substantial evidence; and
 - 5. To the extent practicable, are measurable.

(4) **Compliance.** Must be met at all times or the Exploration Permit may be revoked or subject to enforcement, fines and penalties as provided in Section 13-1-25A(s).

(5) **Duration of Exploration Permit.** The Exploration Permit shall be of the same duration as the WI DNR Exploration License, so long as the Exploration Permit holder complies with all required applicable laws and regulations, all permits, orders, conditions or other requirements set forth by any government body or agency, and suspension or revocation of the Exploration Permit does not occur pursuant to this Ordinance.

(e) **Prospecting Permit.**

(1) **Permit Required.** No person may commence any Prospecting except in conformance with a valid Prospecting Permit issued by the County pursuant to this

Ordinance. Prospecting may only be conducted as a conditional use within the M-M zoned district as set forth in the County Zoning Ordinance.

(2) **Conditions on Prospecting.** The County shall grant a Prospecting Permit if the Applicant can demonstrate satisfaction of the following conditions:

- a. Compliance with all applicable County Ordinances.
- b. Demonstrate, to the sole satisfaction of the County, that all Applicable Laws and Regulations promulgated by any Government Body or Agency, including, but not limited to, a WI DNR permit for the same Prospecting activity, have been or will be obtained prior to commencement of any Prospecting.
- c. Submit a copy of all permits, approvals or waivers of permits to the County, both at the time of application for the Prospecting Permit and during the term of the Prospecting Permit.
- d. Compliance with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Prospecting.
- e. Provide proof that any financial assurances required by a Government Body or Agency, if any, have been obtained as required by any Applicable Laws and Regulations.

(3) **The County shall impose conditions** on the Prospecting Permit related to the following:

- a. Provide a Buffer Area or screening from the Prospecting sites if the Prospecting activities would cause undue noise, dust, lighting, odors or other adverse impacts on neighboring properties.
- b. Establish a setback of at least 1,250 feet between any Prospecting Site and any existing occupied structure.
- c. All hazardous chemicals or substances kept on the Prospecting Site or related to the Prospecting shall be stored in State-approved storage containers and storage areas.
- d. Conduct Prospecting only on Monday through Friday, not earlier than 6:00 a.m. and not later than 9:00 p.m., and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.
- e. Limit night lighting if Prospecting occurs during hours of darkness to that which is minimally necessary for security and worker safety.
- f. Control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners.

- g. Take necessary measures to control fugitive dust.
- h. Maintain compliance with all State and federal permits related to the Prospecting, the suspension or revocation of which shall cause the automatic termination of the Prospecting Permit.
- i. Any other conditions, including but not limited to additional buffers and screening, that the County deems reasonable and necessary and that are:
 - 1. Within the jurisdiction of the County;
 - 2. Not arbitrary or unreasonable;
 - 3. Have a substantial relation to public health, safety, convenience and/or general welfare;
 - 4. Supported by substantial evidence; and
 - 5. To the extent practicable, are measurable.

(4) **Compliance.** Conditions established pursuant to the Prospecting Permit must be met at all times or the Prospecting Permit may be revoked or subject to enforcement, fines or penalties as provided in Section 13-1-25A(s).

(5) **Duration of Prospecting Permit.** The Prospecting Permit shall be of the same duration as the Prospecting Permit issued by WI DNR for the same Prospecting activities, so long as all the Prospecting Permit holder complies with all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements set forth by any Government Body or Agency, and suspension or revocation of the Prospecting Permit does not occur pursuant to this Ordinance.

(f) **Bulk Sampling Permit.**

(1) **Permit Required.** No person may commence any Bulk Sampling except in conformance with a valid Bulk Sampling Permit issued by the County pursuant to this Ordinance. Bulk Sampling may only be conducted as a conditional use within the M-M zoned district as set forth in the County Zoning Ordinance.

(2) **Conditions on Bulk Sampling.** The County may set the following conditions on a Bulk Sampling Permit to ensure that any party engaging in Bulk Sampling shall:

- a. Comply with all applicable County Ordinances.
- b. Demonstrate, to the sole satisfaction of the County, that all Applicable Laws and Regulations promulgated by any Government Body or Agency, including, but not limited to, a WI DNR permit for the same Bulk Sampling activity, have been or will be obtained prior to commencement of any Bulk Sampling.

- c. Submit a copy of all permits, approvals or waivers of permits to the County, both at the time of application for the Bulk Sampling Permit and during the term of the Bulk Sampling Permit.
- d. Comply with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Bulk Sampling.
- e. Provide proof that any financial assurances required by a Government Body or Agency, if any, have been obtained as required by any Applicable Laws and Regulations.

(3) The County shall impose conditions on the Bulk Sampling Permit related to the following:

- a. Provide a Buffer Area or screening from the Bulk Sampling sites if the Bulk Sampling Permit activities would cause undue noise, dust, lighting, odors or other adverse impacts on neighboring properties.
- b. Establish a setback of at least 1,250 feet between any Bulk Sampling Site and any existing occupied structure.
- c. All hazardous chemicals or substances kept on the Bulk Sampling Site or related to the Bulk Sampling shall be stored in State-approved storage containers and storage areas.
- d. Conduct Bulk Sampling only on Monday through Friday, not earlier than 6:00 a.m. and not later than 9:00 p.m., and on Saturday not earlier than 6:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents.
- e. Limit night lighting if Bulk Sampling occurs during hours of darkness to that which is minimally necessary for security and worker safety.
- f. Control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners.
- g. Take necessary measures to control fugitive dust.
- h. Maintain compliance with all State and federal permits related to the Bulk Sampling, the suspension or revocation of which shall cause the automatic termination of the Bulk Sampling Permit.
- i. Any other conditions, including but not limited to additional buffers and screening, that the County deems reasonable and necessary and that are:
 - 1. Within the jurisdiction of the County;
 - 2. Not arbitrary or unreasonable;

3. Have a substantial relation to public health, safety, convenience and/or general welfare;
4. Supported by substantial evidence; and
5. To the extent practicable, are measurable.

(4) **Compliance.** Conditions established pursuant to the Bulk Sampling Permit must be met at all times or the Bulk Sampling Permit may be revoked or subject to enforcement, fines and penalties as provided in Section 13-1-25A(s).

(5) **Duration of Bulk Sampling Permit.** The Bulk Sampling Permit shall be of the same duration as the Bulk Sampling permit issued by WI DNR so long as all the Bulk Sampling Permit holder complies with all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements set forth by any Government Body or Agency, and suspension or revocation of the Bulk Sampling Permit does not occur pursuant to this Ordinance.

(g) **Mining Permit Required.**

(1) **Zoning Designation.** Mining Operations may only be conducted within the M-M zoned district and only after issuance of a Mining Permit, as required in this Ordinance.

(2) **Mining Permit Requirement.** No person may commence construction of a Mining Site or engage in any Mining Operations in the County except in conformance with a valid Mining Permit issued by the County pursuant to this Ordinance and within an M-M zoned district. A Mining Permit shall be issued as a result of a Conditional Use Permit approved pursuant to Section 13-1-25A(n) or as a result of the approval and adoption of a Local Agreement pursuant to Section 13-1-25A(o).

(3) **Duration of Mining Permit.** The Mining Permit shall last through all Mining Operations and reclamation of the Mining Site so long as the Operator complies with all provisions of this Ordinance, any condition imposed by a Conditional Use Permit/Mining Permit, the terms of a Local Agreement in a Local Agreement/Mining Permit, all required Applicable Laws and Regulations, all permits, orders, conditions or other requirements set forth by any Government Body or Agency, and suspension or revocation of the Mining Permit does not occur pursuant to this Ordinance.

(h) **Local Committee.**

(1) **Formation.** A Local Committee may be formed or convened pursuant to Wis. Stat. § 293.33.

(2) **Powers of a Local Committee.** A Local Committee may:

a. Facilitate communications between an Applicant, Operators and the County.

b. Analyze implications of the Mining Operations.

- c. Review and comment on reclamation plans.
- d. Develop solutions to growth-induced issues caused by Mining Operations.
- e. Take other steps permitted by the County Planning and Zoning Committee.
- f. Take any other steps permitted to Wis. Stat. § 293.33.

(3) Parties Included in a Local Committee. The County Planning and Zoning Committee shall determine the size of the Local Committee and the parties that make up the Local Committee, in the County Planning and Zoning Committee's sole discretion, which may include:

- a. Representatives of any town, village, city or tribal government representative that may be affected by the Mining Operations.
- b. Representatives of other industries or affected units of government that may be affected by Mining Operations, such as school districts, police/fire emergency responders, business and industry, economic development, and environmental and other interest groups or other interested parties.
- c. Other interested persons, including, without limitation, a representative of the Applicant and the Operator, which may be the same person if the Applicant shall be the Operator pursuant to the Mining Permit.

(4) Parties Required in a Local Committee. The following parties shall be included in a Local Committee:

- a. At least one representative of the County Planning and Zoning Committee.
- b. At least one member of the County Board.
- c. The County Planning and Zoning Administrator or his or her designee.

(5) Local Committee Findings and Recommendations. A Local Committee's findings, recommendations or reports shall not be binding upon the County Planning and Zoning Committee in negotiating a Local Agreement, nor upon the County Board when reviewing and deciding upon an Application for Local Agreement/Mining Permit.

(i) Local Agreement

(1) Local Agreement as Mining Permit. A Local Agreement may be used as the basis to obtain a Mining Permit and shall be approved pursuant the terms of Wis. Stat. § 293.41 and as set forth in Section 13-1-25A(o).

(2) Required Information. A Local Agreement shall include the following information pursuant to Wis. Stat. § 293.41(2):

- a. A legal description of the land subject to the Local Agreement and the names of its legal and equitable owners.
- b. The duration of the Local Agreement.
- c. The uses permitted on the Mining Site.
- d. A description of any conditions, terms, restrictions or other requirements determined to be necessary by the County or by any town, village, city or tribal government for the public health, safety and welfare of its residents.
- e. town, village, city or tribal government to enable the development to proceed.
- f. The applicability or nonapplicability of any County, town, village, city or tribal government ordinances, approvals or resolutions.
- g. A provision for the amendment of the Local Agreement.
- h. Other provisions deemed reasonable and necessary by the parties to the Local Agreement.
- i. Any other terms set forth in this Ordinance that require inclusion in the Local Agreement, including the terms set forth in Section 13-1-25A(o)(5).

(3) **Modification of Zoning Requirements.** Except for the requirements set forth in Sections 13-1-25A(i)(2), 13-1-25A(o)(5) and 13-1-25A(s)(6)(b), and except for a requirement that mining activity may take place only within the M-M zoned district, a Local Agreement may modify, waive or alter the provisions of this Ordinance, the County Zoning Ordinance, and any other County regulations. Any Local Agreement/Mining Permit shall address the subjects of Sections 13-1-25A(p), 13-1-25A(q) and 13-1-25A(s); provided, however, the terms set forth in these Sections may be amended in a Local Agreement/Mining Permit if agreed to by the parties to the Local Agreement. In the event the terms of this Ordinance require specific votes or actions for such waiver, or amendment, waiver or amendment cannot occur absent such votes or specific action.

(4) **Application.** An Applicant desiring to obtain a Local Agreement/Mining Permit shall follow the application requirements in Section 13-1-25A(k) and Section 13-1-25A(l).

(5) **Negotiation.** The County Planning and Zoning Committee shall be the designated body to negotiate a Local Agreement on behalf of the County. The County Planning and Zoning Committee may consider input from any Local Committee convened pursuant to Wis. Stat. § 293.33 and Section 13-1-25A(h); however, the County Planning and Zoning Committee shall not be bound by any recommendations of the Local Committee or other local units of government when negotiating a Local Agreement. but should take local governments comments into consideration.

(6) **Effective Date.** A Local Agreement/Mining Permit may not take effect until approved by the County Board as required in Wis. Stat. § 293.41(4) and Section 13-1-25A(o).

(7) **Review and Decision Process.** An Application for a Local Agreement/Mining Permit shall follow the process set forth in Section 13-1-25A(o).

(8) **Suspension or Revocation.** A Local Agreement/Mining Permit may be suspended or revoked as provided in the Local Agreement/Mining Permit.

(j) **Conditional Use Permit.**

(1) **Conditional Use Permit as Mining Permit.** A Conditional Use Permit may be used as the basis to obtain a Mining Permit and shall be approved pursuant the terms set forth in Section 13-1-25A(n).

(2) **Application.** An Applicant desiring to obtain a Conditional Use Permit/Mining Permit shall follow the Application requirements in Section 13-1-25A(k) and Section 13-1-25A(l).

(3) **Review and Decision Process.** A Conditional Use Permit/Mining Permit Application shall follow the review and decision process set forth in Section 13-1-25A(n).

(4) **Suspension or Revocation.** A Conditional Use Permit/Mining Permit may be suspended or revoked as provided in the Conditional Use Permit/Mining Permit and pursuant to Section 13-1-25A(s).

(5) **Requirements in a Conditional Use Permit.** A Conditional Use Permit/Mining Permit shall include the information required in Section 13-1-25A(n) and any other conditions warranted within the County Planning and Zoning Committee's discretion, subject only to Section 13-1-25A(j)(6).

(6) **Conditions.** A Conditional Use Permit/Mining Permit may contain any terms and conditions that the County Planning and Zoning Committee deems necessary, and as described in Section 13-1-25A(n)(5), in light of the Mining Operations and in response to the specific issues presented by the proposed Mining Operations, and that are:

a. Within the jurisdiction of the County;

b. Not arbitrary or unreasonable;

c. Have a substantial relation to public health, safety, convenience and/or general welfare;

d. Supported by substantial evidence; and

e. To the extent practicable, are measurable.

(k) **Procedures For Applying For a Mining Permit.**

(1) **Application.** An Application for a Mining Permit shall be filed with the County Planning and Zoning Administrator and shall include an electronic copy and 20 paper copies of the Application, including the required components set forth in this Section 13-1-25A(k) and Section 13-1-25A(l). The Application shall not be deemed complete until the Applicant has submitted, and the Zoning Administrator has accepted, all required portions of the Application as set forth in this Section 13-1-25A(k) and Section 13-1-25A(l), and as otherwise required by the County.

(2) **Statement of Application for Conditional Use Permit/Mining Permit or Local Agreement/Mining Permit.** The Application shall specifically state whether the Applicant seeks a Mining Permit by virtue of approval as a Conditional Use Permit pursuant to Section 13-1-25A(n) of this Ordinance, or by virtue of approval of a Local Agreement pursuant to Section 13-1-25A(o).

(3) **Review and Determination.** If the Applicant seeks a Conditional Use Permit/Mining Permit, review and decision on the Application shall occur pursuant to Section 13-1-25A(n). If the Applicant seeks a Local Agreement/Mining Permit, review and decision shall occur pursuant to Section 13-1-25A(o).

(l) **Mining Permit Application Requirements.**

(1) **General Requirements.**

a. Any Applicant for a Mining Permit shall submit the information and Application fee required by this Section 13-1-25A(l) and the fees required in Section 13-1-25A(m) in order for the County to properly review the Application.

b. The Applicant may provide the required Application information by reference to other documents submitted to another Government Body or Agency, including any information or documents submitted to a Local Committee as permitted pursuant to Wis. Stat. § 293.33. In cases of documentation by reference, the Applicant shall provide a copy of the referenced document and a specific cross-reference identifying where the information required by this Section 13-1-25A(l) is located in any referenced material.

c. A non-refundable Application fee in the amount of \$5,000.00 for costs and expenses to commence the Application review process. The application fee may be increased to cover the amount of any additional costs, expenses, fees or other amounts which the County may incur to commence the Application review process if those amounts are reasonably known to the County at the time the Application is submitted.

d. A Reimbursement Agreement and deposit, as described in Section 13-1-25A(m), including an acknowledgment that the Applicant shall be responsible for any costs or expenses incurred by the County in its review

and determination of the Application, regardless of whether a Mining Permit is actually issued to the Applicant or Operator for the Mining Operations.

e. If known at the time of Application, any applicable fees and any additional information that is provided to assist the Retained Experts with reviewing the Application on the County's behalf.

f. The Application shall contain a statement, signed and notarized by the Applicant that includes all of the following:

1. That the Applicant is duly authorized to bind itself, any Operator, and any Permittee to the conditions and provisions set forth in this Ordinance and in any Mining, Permit issued for the Mining Operations contemplated in the Application.

2. That all statements, representations, documents and information which are set forth in or accompany the Application are true, correct, accurate and complete.

3. That the Applicant, Operator and Permittee, while engaged in metallic mining activities and in reclamation activities, agree to abide by all of the provisions and requirements of its Mining Permit, this Ordinance, and all other Applicable Laws and Regulations.

4. That the Applicant's representations and statements made in the Application shall continue to exist and survive after a Mining Permit is issued to the Applicant by the County, and that the Applicant is duly authorized to bind itself, any Operator, and any Permittee for future compliance with the terms of the Mining Permit.

5. That the Applicant grants permission and consent to the County, its officers, employees, agents, consultants, contractors and representatives to enter the real property subject to the Application and the anticipated Mining Site for purposes of inspecting, measuring, observing and any other verification that the information contained in the Application is true and correct.

(2) Ownership Information and Operator Information.

a. The name, address, phone number, and email address of the Applicant.

b. The name, address, phone number and email address of the Operator.

c. The name, address, phone number, and email address of all owners or lessors of the land on which the Mining Operation will occur.

d. If the Applicant is not an individual but is a corporation, partnership, limited partnership, limited liability company or other entity:

1. The name and address of each director, partner or member of the Applicant.
 2. The name, address and position held by each officer or member of the Applicant.
 3. A list of the Applicant's, or any Affiliate of the Applicant, experience in mine projects, a list of current mine projects and the status of compliance at each project site.
- e. Proof that all local taxes, special charges, special assessments, fees, and forfeitures (and any interest or penalties thereon) owed by the landowner and/or Operator of the proposed Mining Site are current.
- f. If the Operator is not an individual but is a corporation, partnership, limited partnership, limited liability company or other entity:
1. The name and address of each director, partner, or member of the Operator.
 2. The name and address and position held by each officer or member of the Operator.
 3. A list of the Operator's, or any Affiliate of the Operator, experience in mine projects, a list of current mine projects and the status of compliance at each project site.

(3) Site Information and Maps.

- a. As to each parcel of real estate which is to be a part of the proposed Mining Site and included in the use of any Mining Operation:
1. The legal description of the parcel.
 2. The name, address and telephone number of each owner of an interest in the parcel along with a statement of the interest in that parcel held by that owner.
 3. The tax parcel identification number of the parcel.
 4. A statement as to what structures, improvements and roadways will be situated on such parcel.
 5. How such parcel will be used as part of the Mining Operation.
 6. If the parcel is subject to a lease, the parties to such lease should be identified and a summary of its terms should be stated.
 7. A description of any utilities (public or private) or transportation facilities on the parcel.

8. A description of any buildings or existing structures that will be removed to accommodate any Mining Operations.
- b. Any planned assemblage of parcels for any portion of the Mining Site or to be used as part of the Mining Operation.
- c. Any other anticipated County or other Government Body or Agency land use approvals necessary to commence Mining Operations.
- d. Approximate dates that Mine construction or other preliminary work on the Mining Site is expected to begin, when Mining Operations will commence, and when Mining Operations are anticipated to end.
- e. The Applicant's best estimate and explanation of the life expectancy of the Mine.
- f. A list of all minerals and materials to be extracted from the Mining Site. This should include, but not be limited to, amounts of non-metallic and metallic materials to be extracted.
- g. Survey maps and parcel identification numbers of all contiguous parcels owned by the same landowner/lessor on which the Mining Operation will be located and any additional contiguous parcels on which the landowner/lessor has secured a right of first refusal.
- h. An aerial photo of the proposed site at a scale of not less than 1-inch equals 660 feet.
- i. A topographic map of the Mining Site extending one mile beyond the Mining Site boundaries at contour intervals no wider than 10 feet showing the boundaries of the Mining Site, the location and total acreage of the Mining Site, and the name of all roads within one mile of the Mining Site.
- j. A site plan for the Mining Site showing the location of all existing and proposed buildings and other structures, equipment, stockpiles, storage and parking areas, road access points, driveways, and Buffer Areas along bordering properties and public roads.
- k. A plan for staking or marking the borders of the entire Mining Site and for securing the Mining Site by appropriate measures, which may include fencing or alternative measures consistent with Mine safety and security and in accordance with all Applicable Laws and Regulations.
- l. A map on which all residential, agricultural and municipal wells within one mile of the boundaries of the Mining Site in all directions are marked and given a numerical identification of the location.
- m. The location and name of all surface waters, including, but not limited to, lakes, private or public ponds, streams (including intermittent streams and

headwaters), drainage ditches, wetlands, drainage patterns, and other water features on the site and within one mile of the Mining Site.

n. A description of the distribution, depth and type of topsoil for the Mining Site. The description shall include the geological composition, depth and width of the metallic deposit, and the location of slopes greater than 20% and highly erodible soils.

o. A map identifying the location of all other non-contiguous sites within the County or adjacent towns, cities, or villages, if any, that will contribute material to the Mining Operation.

(4) **Operation Plan.** The Application shall include a written narrative description of the Mining Operation in sufficient detail to allow the County and the public to understand and assess the size and scope of the proposed Mining Operation and potential impacts of the Mining Operation on public health, safety, convenience and general well-being within the County. The operation plan is intended to provide the information necessary to determine what information and conditions shall be set forth in the Mining Permit. Each part of the operation plan shall be prepared and verified by an appropriate professional expert in the field described in the operation plan. The operation plan shall include a description of all significant aspects of the proposed Mining Operation, including, but not limited to, the following:

a. A summary of planned facilities for excavating, extracting, mining, milling, ore-processing, transportation, tailings disposal, other waste disposal, sedimentation, settling, retention and detention ponds, office buildings and other structures, roads, railroad lines and utilities and the proposed location of each.

b. Maps showing the maximum lateral extent and minimum and maximum depth of underground or open pit workings and the location of primary shafts, tunnels and other primary underground workings. Any map submitted to satisfy this requirement shall be updated on an annual basis.

c. An estimate of the maximum number of people directly employed at the mine site during each phase and an estimated breakdown by job classification of all such employees, where such employees will park their vehicles, eat, and what facilities are available for their use.

d. Types of Mining equipment to be used.

e. Plans for visual screening of mining activities around the perimeter of the Mining Site and on the sides of any public highway.

f. Plans for lighting on site and measures to limit light pollution, including a description and analysis of the ambient noise audible in half-mile increments within a five-mile radius of the proposed Mining Site.

g. Radiation levels anticipated in waste rock.

- h. A plan describing the methods for preventing access to all underground Mine workings after Mine closure.
- i. Dates of the planned commencement and cessation of the Mining Operation.
- j. Description of hours of any Mining Operation on any portion of the Mining Site, including all times when any vehicles will enter or leave any portion of the Mine Site.
- k. Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.
- l. Estimated volume of material to be extracted over the life of the Mine and for the next calendar year.
- m. Identification of all proposed off-site trucking routes, if any, together with the frequency of traffic and the common schedule of travel to be used for transporting extracted materials or products to or from the Mining Site; a description of the types of vehicles to be used on public roads and their respective weights, lengths, widths, axle numbers and spacing, and ESAL ratings both when empty and legally loaded; an assessment, which shall include core sampling, of the adequacy of roads within proposed off-site trucking routes and a description of any proposed alterations or improvements to such roads; and a description of any traffic control or other measures needed to protect public safety.
- n. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the Mining Site, including, but not limited to, methods used for infiltration and control of run-off.
- o. A listing of any hazardous materials, including, but not limited to, stored or operational fuel supplies that will be used or located on the Mining Site and a description of measures to be used for securing and storing these materials. The operation plan shall also include a written plan for the use of any hazardous materials at the Mining Site and procedures for responding to spills of these materials and fuels on the Mining Site and the frequency of regular drills for responding to spills on the Mining Site.
- p. An erosion control plan, which shall describe what the Operator will do to prevent material from the Mining Site from eroding, migrating or moving onto neighboring properties or into other areas off the Mining Site.
- q. A plan to control particles, which shall describe what the Operator will do to prevent/limit/minimize the volume of particles entering onto neighboring properties from the Mining Site and from vehicles and equipment engaged in the Mining Operation.

- r. A noise plan, which shall describe what the Operator will do to keep the noise from Mining Operations below the decibel limits set forth in Section 13-1-25A(p)(6).
- s. A blasting plan, which shall describe under what circumstances blasting will be used, what type and volume of explosives which will be used, with what frequency blasting will occur, between what hours blasting will occur, and what steps the Operator will undertake to minimize the effects of the noise and vibration from blasting on neighboring properties and the public.
- t. A tailings and waste products plan, which shall set forth what projected volume of tailings or other waste products or materials will be generated each year, an indication of on what parcels of land such tailings and waste materials will be situated, how the tailings and waste products will be moved, and what steps the Operator will undertake to minimize the amount of particulate matter entering on neighboring properties or other areas outside of the Mining Site. This plan shall address specifically what the Operator will do if the Mining Operations encounter radioactive materials, radon, or other hazardous substances or materials.
- u. A utilities plan, which shall describe the public utility and public service requirements for the Mining Operation and describe the manner in which all utility services will be provided at the Mining Site and the potential system upgrades which the Mining Operation may require.
- v. A roadway and traffic analysis of all reasonably foreseeable roadway needs arising in the County due to the Mining Operations and reasonably foreseeable secondary impacts of the Mining Operation which may result in the demand for additional roadway improvements. With respect to roads in the County, the analysis shall identify and describe the anticipated needs for roadway modifications resulting from the likely mine-related traffic impacts, including both primary and secondary impacts, and shall fully describe the existing reasonably foreseeable mine-related changes to traffic patterns, traffic volume, the class of roadways associated with those patterns, and any load-related needs and restrictions. Such analysis shall set forth in detail exactly what the Operator will do in the event of any damage or destruction to public roads, highways and bridges, or other infrastructure, as well as private roads, bridges and infrastructure, resulting from Mining Operations or activities affiliated with the Mining Operations, whether conducted on the Mining Site or off the Mining Site.
- w. A fencing plan with a diagram depicting and describing where perimeter fencing will be installed and maintained to prevent injury to persons and animals from entry onto the Mining Site.
- x. A County impact summary report, which shall include a thorough narrative description of the Mining Operations in sufficient detail to allow the County to assess probable physical, environmental and developmental impacts of the proposed Mining Operations, and assess and summarize the potential and estimated impacts on the human health, safety and welfare of

residents of the County, based on the potential environmental, socioeconomic and other impacts of the proposed Mining Operation. The report shall include, but shall not be limited to, the likely and potential impacts of the proposed Mining Operations with respect to each of the following baselines:

1. A life-of-mine analysis of impacts upon social and environmental baseline parameters through completion of reclamation, including any impact market conditions may have on Mining Operations.
2. A traffic impact analysis that discusses all reasonably foreseeable roadway construction and maintenance needs arising in the County from the proposed Mining Operation and reasonably foreseeable secondary impacts of the Mining Operation that may result in the demand for additional roadway or other infrastructure improvements, repairs or additional maintenance needed as a result of the Mining Operations, including a description of the anticipated needs for roadway modifications resulting from the Mining Operations, both primary and secondary, and shall fully describe the existing reasonably foreseeable changes to traffic patterns, traffic volume, the class of roadways associated with those patterns, and any load-related needs and restrictions.
3. The impacts of Mining Operations on employment, economic activity and tax base within the County.
4. The impacts of Mining Operations on the County's population and housing stock, including the availability of such housing stock.
5. The impacts of the Mining Operations on the need for additional government services, including, but not limited to, infrastructure, utilities, schools, fire protection, emergency medical services, and police.
6. The expected changes in land use within the County, including the percentage of lands devoted to each use currently and in the future environmental impacts resulting from Mining Operations.
7. A description of the current environmental characteristics of the Mining Site, including wildlife, vegetation and physical parameters of groundwater quality and quantity, and surface water quality and quantity, including wetlands as compared to the same environmental characteristics after the Mining Operations commence.
8. A description of the topographical and aesthetic features of the proposed Mining Site, including other geographical vegetative conditions.
9. A description of the cultural features of the proposed Mining Site, including, but not limited to, an inventory and analysis of all

historical and cultural sites and landmarks.

- y. Copies of other submittal or application documents for the Mining Operation to any other Government Body or Agency.
- z. Copies of Approvals from any Government Body or Agency for the Mining Operation.
- aa. Any other information deemed necessary by the County in order for the County to make an informed and educated decision on the Application and to determine any appropriate conditions or terms to be set forth in the Mining Permit.

(m) Reimbursement Agreement, Administration Deposit, Fees and Costs

- (1) **This Section 13-1-25A(m) is not intended to generate excess revenues for the County's use for purposes not related to an Application or any Mining Operation, but the County, and hence its taxpayers, shall not be required to bear the financial burden and obligations associated with the costs and expenses the County incurs in connection with an Application or any Mining Operations. To that end, this Section 13-1-25A(m) provides that the Applicant shall be responsible for reimbursement of all costs and expenses incurred by the County in connection with the Application.**
- (2) **At the time an Application is filed with the County Planning and Zoning Administrator, the Applicant shall execute for the benefit of the County a Reimbursement Agreement, which shall require the Applicant and any other Person associated with the proposed Mining Operation to pay any costs or expenses incurred by the County in its review and determination of the Application, and provide adequate security guaranteeing payment of the cost of the investigation, review and processing of the Application, including, but not limited to, Retained Expert fees, attorneys' fees, administrative costs, expenses of disseminating information to the public, expenses incurred to conduct required public hearings, and other matters compelled by the need to review and respond to the Application as provided by this Ordinance. The Reimbursement Agreement shall require the Applicant and any other Person associated with the Mining Operations to be responsible for payment of any costs or expenses incurred by the County in its review and determination of the Application, regardless of whether a Mining Permit is actually issued to the Applicant or Operator for the Mining Operations. The Reimbursement Agreement shall also detail the Operator and Permittee's ongoing obligation and responsibility for payment of any costs and expenses incurred by the County in connection with the Mining Permit, including, but not limited to, costs of Retained Experts to ensure ongoing compliance with the Mining Permit.**
- (3) **The Applicant shall initially deposit \$50,000.00 with the County to be deposited in an administrative fee account for Application and proposed Mining Operations so such funds are available to be withdrawn by the County and used to reimburse the County for the costs and expenses the County incurs in connection with Application review and Mining Operations. If the initial deposit of \$50,000.00 falls below \$25,000.00, the County will notify the Applicant or**

Operator and the Applicant or Operator will make an additional deposit into such administrative fee account within 15 days of receipt of such notice so that the remaining balance in the administrative fee account never remains below \$25,000.00 for more than 15 days.

- (4) **The Applicant shall be responsible for all costs and expenses incurred by the County as a result of the Application and request for a Mining Permit, whether such costs and expenses are incurred before or after the actual Application filing. Actual costs may include, but are not limited to, Retained Expert Fees, County staff time, travel expenses, professional fees, review fees, and equipment and material costs. Such costs shall not exceed those which are reasonably charged for the same or similar services by licensed professionals of the type retained.**
- (5) **The County shall use standard cost and time accounting practices to document its time and expenses in performing any work and purchasing any equipment and services that will be billed to the Applicant. The Applicant may review the accounting records upon written request at least five (5) business days in advance to the County Planning and Zoning Administrator or its designee.**
- (6) **Costs and expenses the County incurs under this Section 13-1-25A(m) shall be billed to the Applicant for reimbursement to the County on a monthly basis and shall be deducted from the initial deposit amount set forth in Section 13-1-25A(m)(3) within 30 days of such billing. The County may elect to have any costs and expenses billed directly to the Applicant by any Retained Expert or other party performing services on behalf of the County in reviewing the Application. Should the initial deposit fail to cover any costs and expenses, and the Applicant fails or refuses to pay costs within 30 days upon request or demand from the County, the County may stop processing the Application and deny any Mining Permit that has not been issued. A Mining Permit shall not be issued until any fees or actual costs incurred by the County prior to issuance have been paid in full.**
- (7) **If an Applicant withdraws its Application at any time after the Application is submitted to the County, all fees and charges assessed for work to that point in time by the County shall be paid by the Applicant. Any balance remaining of the deposit, after the payment of all fees and charges incurred by the County, shall be refunded to the Applicant.**

(n) **Review Process for Conditional Use Permit/Mining Permit Applications**

- (1) **Application for Conditional Use Permit/Mining Permit.** The process set forth in this Section 13-1-25A(n) shall apply to an Application that requests the grant of a Conditional Use Permit/Mining Permit.
- (2) **Initial Review.** Upon receipt of a Conditional Use Permit/Mining Permit Application, the County Planning and Zoning Administrator shall complete an initial review to determine if additional information or expertise is necessary to properly evaluate the Application. The County Planning and Zoning Administrator's acceptance of an Application does not render the Application complete. The County Planning and Zoning Administrator may retain the services of Retained Experts to assist in determining whether the Application is complete

and complies with the requirements of this Ordinance and other applicable County regulations and all other Applicable Laws and Regulations, as applicable and as determined by appropriate State and federal authorities on matters relating to State and federal law and regulation.

- (3) **Notice of Receipt.** Within 30 days of receipt of the complete Application, the County Clerk shall also publish or post a class 2 notice under Wis. Stat. Chapter 985 indicating that the Application has been filed and transmitted to the County Planning and Zoning Committee. A copy of the Application shall be made available for public review.
- (4) **Additional Information.** The County Planning and Zoning Committee may request the Applicant to submit additional information if the County Planning and Zoning Committee determines that the Application is incomplete, or if the County Planning and Zoning Committee determines that additional information is needed to determine whether the proposed Mining Operation will meet the applicable standards. The County Planning and Zoning Committee may also retain the services of Retained Experts to review the Application and report to the County Planning and Zoning Committee whether additional information is required for review of the Application and to determine whether the proposed Mining Operations meet the applicable standards. The County Planning and Zoning Committee shall make a determination regarding the need for additional information or expertise within 90 days after receiving the Application, which time period may be extended for a period of time up to an additional 90 days in the County Planning and Zoning Committee's sole and absolute discretion. If the County Planning and Zoning Committee determines that no additional information or expertise is necessary, the Application shall be deemed complete.
- (5) **Conditions.** The County Planning and Zoning Committee may place conditions of approval upon the Conditional Use Permit/Mining Permit based on the following considerations or addressing the following concerns:

 - a. Any minimum operational standards for the Mining Operations, as set forth in Section 13-1-25A(p).
 - b. Any reporting requirements, as set forth in Section 13-1-25A(q).
 - c. Any change in operation requirements, as set forth in Section 13-1-25A(r).
 - d. Any notification requirements regarding other Government Body or Agency reports, conditions, approvals or actions.
 - e. Any notification requirements regarding notices or violations issued by any other Government Body or Agency.
 - f. Reimbursement of all County costs and expenses as described in Section 13-1-25A(m) or as may otherwise be incurred.
 - g. Duration or phasing of the Conditional Use Permit/Mining Permit

- h. Any conditions to address concerns of adverse effects of the Mining Operations as set forth in Section 13-1-25A(b)(1)(c).
- i. Any conditions, requirements or restrictions related to employment and economic improvement as a result of the Mining Operations.
- j. Any other conditions that the County Planning and Zoning Committee may deem reasonable and necessary and that are:
 - 1. Within the jurisdiction of the County;
 - 2. Not arbitrary or unreasonable;
 - 3. Have a substantial relation to public health, safety, convenience and/or general welfare;
 - 4. Supported by substantial evidence; and
 - 5. To the extent practicable, are measurable.

(6) **Retained Expert Findings.** To the extent practical and within the area of expertise of a Retained Expert, a Retained Expert shall provide a written verification that any conditions imposed by the County Planning and Zoning Committee are related to the purpose of this Ordinance and are based upon facts and information that would support the imposition of the condition.

(7) **Public Hearing and Determination by County Planning and Zoning Committee.** Within 120 days of receipt of the complete Application, the County Planning and Zoning Committee shall hold a public hearing on the Application following a class 2 notice under Wis. Stat. Chapter 985. Within 180 days of receipt of the complete Application, and any additional information requested by the County Planning and Zoning Committee, and following the public hearing (which may be adjourned from time to time in the County Planning and Zoning Committee's sole and absolute discretion) the County Planning and Zoning Committee shall make findings of fact and determination of whether to grant the Application's request for a Conditional Use Permit/Mining Permit, or deny the Application's request for a Conditional Use Permit/Mining Permit.

(8) **Approval and Issuance of Mining Permit.** Upon the County Planning and Zoning Committee's approval of the Application's request for a Conditional Use Permit/Mining Permit, the approved Conditional Use Permit shall be deemed the Mining Permit.

(9) **Remedies on Denial.** If the County Planning and Zoning Committee denies the Conditional Use Permit/Mining Permit request, an Applicant may exercise any remedies available under the County's ordinances or at law, including, but not limited to, an appeal to the County's board of adjustment pursuant to Wis. Stat. § 59.694(4). The County's board of adjustment shall apply the common law certiorari standard of review in rendering its decision and may elect to accept additional evidence, within the board of adjustment's discretion. In addition, the

Applicant may re-submit its Application in accordance with this Ordinance, and re-submittal shall constitute an Application in conformance with all provisions of this Ordinance, provided that any differences between the original Application and the new Application shall be summarized by the Applicant in a document entitled “Explanation of Reasons for Re-Submittal.” An Application received by re-submittal may be denied for any reason that any original Application may be denied.

(o) Review and Approval Process for Local Agreement/Mining Permit

- (1) Application for Mining Permit by Local Agreement.** The process set forth in this Section 13-1-25A(n) shall apply to an Application that requests the grant of a Mining Permit by virtue of the County Board’s approving and adopting a Local Agreement pursuant to Wis. Stat. § 293.41.
- (2) Initial Review.** Upon receipt of an Application for Local Agreement/Mining Permit, the County Planning and Zoning Administrator shall complete an initial review to determine if additional information or expertise is necessary to properly evaluate the Application. The County Planning and Zoning Administrator’s acceptance of an Application does not render the Application complete. The County Planning and Zoning Administrator may retain the services of Retained Experts to assist in determining whether the Application is complete and complies with the requirements of this Ordinance and other applicable County regulations.
- (3) Notice of Receipt.** Within 30 days of receipt of the complete Application, the County Clerk shall also publish or post a class 2 notice under Wis. Stat. Chapter 985 indicating that the Application has been filed and transmitted to the County Planning and Zoning Committee. A copy of the Application shall be made available for public review.
- (4) Additional Information.** The County Planning and Zoning Committee may request the Applicant submit additional information if the County Planning and Zoning Committee determines that the Application is incomplete, or if the County Planning and Zoning Committee determines that additional information is needed to determine whether the proposed Mining Operation will meet the applicable standards. The County Planning and Zoning Committee may also retain the services of Retained Experts to review the Application and report to the County Planning and Zoning Committee whether additional information is required for review of the Application and to determine whether the proposed Mining Operations meet the applicable standards. The County Planning and Zoning Committee shall make a determination regarding the need for additional information or expertise within 90 days after receiving the Application. If no additional information or expertise is deemed necessary, the Application shall be deemed complete. The County Planning and Zoning Committee is designated as the sole and exclusive agent of the County Board in relation to the negotiation of a Local Agreement. When an Application is deemed complete, the County Planning and Zoning Committee shall establish dates and locations for meetings to negotiate a Local Agreement.

(5) Requirements in a Local Agreement. A Local Agreement shall include the following information and terms:

- a. The requirements set forth in Wis. Stat. § 293.41(2) and in Sections 13-1-25A(i)(2), 13-1-25A(i)(3) and 13-1-25A(s)(6)(b). Minimum operation standards such as those set forth in Section 13-1-25A(p).
- b. Reporting requirements such as those set forth in Section 13-1-25A(q).
- c. Change in operation requirements such as those set forth in Section 13-1-25A(r).
- d. Inspection, enforcement, procedures and penalties such as those set forth in Section 13-1-25A(s), including a forfeiture schedule. The County Board may delegate its enforcement powers under the Local Agreement to the County Planning and Zoning Committee. Section 13-1-25A(s)(6)(b) may not be modified in a Local Agreement/Mining Permit.
- e. The process of reimbursement of all County expenses incurred as a result of the Application review process and the negotiation process of the Local Agreement.
- f. Other consideration for impacts of a Mining Operation paid to the County or other units of government.

(6) Optional Contents of Local Agreement. The County Planning and Zoning Committee may consider the specific provisions in the Local Agreement related to the following, without limitation:

- a. Any conditions, requirements or restrictions needed to adequately address concerns of adverse effects of the Mining Operations as set forth in Section 13-1-25A(b)(1)(c).
- b. Any conditions, requirements or restrictions needed to adequately address concerns of specific environmental impacts and effects on natural resources, whether those natural resources are located entirely within the County or partially within the County.
- c. Any conditions, requirements or restrictions related to employment and economic improvement as a result of the Mining Operations.
- d. Any notification requirements regarding other Government Body or Agency reports, conditions, approvals or actions, including notifications to the Operator for mining operations located outside of the County.
- e. Any notification requirements regarding notices or violations issued by any other Government Body or Agency.
- f. Requirements to minimize the impact of Mining Operations on roads, bridges or other transportation infrastructure.

- g. Reimbursement of all County costs and expenses incurred by the County, its agents and any Retained Experts in the review and negotiation of the Local Agreement and in the review and determination of whether to issue the Local Agreement/Mining Permit.
- h. Duration or phasing of the Local Agreement/Mining Permit.
- i. Any recommendations or information provided by the Local Committee, other Government Body or Agency, or relating to other Applicable Laws and Regulations.
- j. Any other conditions that the County Planning and Zoning Committee may deem reasonable and necessary.

(7) **Modification of Zoning Ordinance Requirements.** Except for the requirements set forth in Sections 13-1-25A(i)(2), 13-1-25A(i)(3), and 13-1-25A(s)(6)(b), a Local Agreement may modify, waive or alter the provisions of this Ordinance and any other County regulations; provided, however, that if the terms of this Ordinance require specific votes or specific action for such waiver, waiver cannot occur absent such votes or specific action.

(8) **Recommendation to the County Board.** Upon completion of negotiations, the County Planning and Zoning Committee shall either recommend that the County Board grant the Application's request for approval of the Local Agreement/Mining Permit or recommend that the County Board deny the Application's request for approval of the Local Agreement/Mining Permit. The County Planning and Zoning Committee's recommendation shall not be binding upon the County Board.

(9) **Decision by the County Board.**

- a. Notice and Hearing. Upon recommendation by the County Planning and Zoning Committee, the County Clerk shall place the County Planning and Zoning Committee's recommendation on the agenda for the next regular meeting of the County Board. At that meeting, the County Board shall set a date for a public hearing. At least 15 days prior to the public hearing, the County Clerk shall publish or post a class 2 notice under Wis. Stat. Chapter 985. At the public hearing, the County Board shall take public comment on the Application and proposed Local Agreement/Mining Permit.
- b. County Board Decision. Within 30 days following the public hearing, the County Chairperson shall set a date for a County Board meeting to consider a final decision on the Application and Local Agreement/Mining Permit. At that meeting, the County Board shall review the complete Application, any Local Committee reports or information, any reports or information from other units of government or parties that participated in the Local Committee or may be party to the Local Agreement, any Retained Experts' reports, public comments made, and information provided at the public hearing, and any other information deemed necessary by the County Board. Consideration of the Local Agreement/Mining Permit may be adjourned

from time to time as the County Board may determine in its sole and absolute discretion.

- c. Approval and Issuance of Mining Permit. Upon the County Board's approval of the Application for Local Agreement/Mining Permit and adoption of the Local Agreement, the Local Agreement shall be deemed the Mining Permit.
- d. Effective Date. A Local Agreement/Mining Permit shall be effective after all of the County Board, and the governing body of any other county, town, village, city or tribal government which is identified as a party to the Local Agreement approve the Agreement in a public meeting.
- e. Remedies on Denial. If the County Board fails to approve the Local Agreement/Mining Permit, an Applicant may re-submit its Application in accordance with this Ordinance, and re-submittal shall constitute an Application in conformance with all provisions of this Ordinance, provided that any differences between the original Application and the new Application shall be summarized by the Applicant in a document entitled "Explanation of Reasons for Re-Submittal." An Application received by re-submittal may be denied for any reason that any original Application may be denied.
- f. Recording. Upon approval of a Local Agreement/Mining Permit, the County Clerk shall record a copy of the Local Agreement/Mining Permit against any parcel of real property upon which the Mining Site sits or is used as part of the Mining Operation. The Applicant shall secure all required approvals and permissions to record the Local Agreement/Mining Permit from the necessary property owners in order to comply with this Section 13-1-25A(o)(9)(f).

(p) Minimum Operational Standards Applicable to All Mining Permits

(1) The standards set forth in this Section 13-1-25A(p) shall be considered as conditions in a Conditional Use Permit/Mining Permit or as the foundation of negotiations in developing the terms of a Local Agreement/Mining Permit. The standards set forth in Section 13-1-25A(p) shall be deemed the minimum operational standards and no Mining Permit may allow standards below those set forth in this Section 13-1-25A(p) unless set forth otherwise in a Local Agreement.

(2) General Standards.

- a. The borders of the entire Mining Site will be appropriately staked or marked, and the Mining Site will be secured by appropriate measures which may include fencing or other alternative measures consistent with mine safety and security as set forth by any Government Body or Agency.
- b. The Operator shall demonstrate to the satisfaction of the County that all other Applicable Laws and Regulations of any Government Body or Agency required for the Mining Operation have been or will be obtained

prior to commencement of any Mining Operation. The Applicant shall also deliver copies of any applications, notices, reports, approvals or waivers from any Government Body or Agency regarding the Mining Operations' compliance with Applicable Laws and Regulations prior to commencing any Mining Operations.

c. The Operator shall provide proof that it has provided the financial assurances as required under Wis. Stat. Chapter 293 or any other Applicable Laws and Regulations.

d. The Operator shall agree to comply with all Applicable Laws and Regulations and any other Government Body or Agency permits, approvals, conditions or restrictions for the Mining Operations.

(3) **Buffer Areas.** The Operator shall provide a Buffer Area from the boundaries of the Mining Site to protect bordering properties from noise, dust, lighting, odors, blasting and other adverse impacts of the Mining Operation along bordering property lines and public roadways.

a. The Buffer Area shall provide a setback of one mile from the Mining Site to the property line of any adjacent property owner unless a landowner consents to a lesser distance, but not less than 2000 feet. If consent is provided for a lesser distance, a copy of such consent agreement shall be recorded against the property at the register of deeds office for the county in which the land is located and a copy of the agreement shall be provided to the County Clerk.

b. The Buffer Area shall provide a setback of one-half mile from the Mining Site to any school, medical facility, nursing home, or community based residential facility.

c. The Operator shall screen the Mining Operations from public view. Screening may be achieved through the use of berms, additional setbacks or other measures deemed adequate by the County Planning and Zoning Committee and the County Board.

(4) **Hours of Operation.** The Operator shall limit normal hours of operations at the Mining Site to 9 hours a day Monday through Friday not earlier than 7:00 a.m. and not later than 8:00 p.m. and on Saturday not earlier than 8:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and County residents. During any Mining Operations occurring after sunset, the Operator shall use white noise or lighted backup alarms on equipment. Operations on-site shall not occur on Sundays or legal holidays.

(5) **Control of Light.** The Operator shall limit night lighting on a Mining Site to that which is minimally necessary for security and worker safety. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties. At a minimum such measures shall include the following:

- a. The use of full cutoff shrouds on all lights.
- b. Portable lighting shall be used only as necessary to illuminate temporary work areas.
- c. The use of berms of sufficient height coupled with other methods of visual screening to block light from the Mining Site to neighboring properties.
- d. The design and location of access roads, driveways and other access points to the Mining Site to minimize lights from traffic and operations to neighboring properties.

(6) Control of Noise.

- a. The Operator shall control off-site noise levels to avoid adverse impacts to neighboring landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 65 dB. The noise levels at the boundaries of any school, medical facility, nursing home, or community based residential facility shall not exceed 60 dB. Decibels shall be based on dB(A), which is the unit of sound level expressed in decibels (dB) and A-weighted as described in ANSI § 1.4-1983 and shall be measured in accordance with accepted protocols.
- b. Noise levels shall be monitored at the Mining Site's property boundary by an independent testing company. The tests shall occur for a 10-day period at least once per quarter. The results shall be reported to the County within 30 days of the last test result.

(7) Blasting Requirements. In addition to all other applicable provisions of this Ordinance and any other Applicable Laws or Regulations, the Operator shall comply with the following requirements when engaging in any blasting activity as part of the Mining Operations:

- a. Blasting may only occur between the hours of 10:00 a.m. and 2:00 p.m., Monday through Friday. Blasting may not occur on weekends or outside of the hours set forth herein.
- b. No later than 30 days prior to blasting, the Operator shall provide written notice of its intended blasting to the County Administrator and to each property owner whose property is located within two miles of the perimeter of the Mining Site.
- c. The Zoning Administrator, either upon request of an impacted landowner or by the Zoning Administrator's discretion, may require that any structure lying within a two-mile radius of the perimeter of the Mining Site be surveyed by an independent third party, the cost of which shall be paid by the Operator, prior to any blasting activities on the Mining Site. The Zoning Administrator, either upon request of an impacted landowner or by the Zoning Administrator's discretion, may require that any structure lying within a two-mile radius of the perimeter of the Mining Site be surveyed by

an independent third party, the cost of which shall be paid by the Operator, after any blasting activities on the Mining Site to determine whether the blasting activities caused property damage to any structures or other property within the two-mile radius of the perimeter of the Mining Site.

d. The Operator shall comply with all Applicable Laws and Regulations when conducting blasting activities.

(8) **Well Monitoring and Impact on Groundwater Quality.** In order to ensure compliance with the Applicable Laws and Regulations regarding groundwater quality, the Operator shall monitor all private and public wells (to the extent access can be secured), at the Operator's sole cost and expense, located within three miles of the perimeter of the Mining Site in order to provide baseline data concerning quantity and quality of water. The Operator shall comply with the requirements of this Section 13-1-25A(p)(7) for a period of two years prior to commencement of construction of any portion of the Mining Site or commencement of any Mining Operation, and during the period of the Mining Operation, and continuing for no less than five years after the completion of the Mining Site reclamation. The wells shall be monitored quarterly for lead, arsenic, turbidity, total dissolved solids, chlorides, nitrates, specific conductivity and any toxic substance that may reasonably be believed to be present in the ore deposit proposed to be mined. Well monitoring required under this Ordinance shall be performed by an independent consultant agreeable to both the County and the Operator. All test and monitoring results shall be reported to the County within 30 days of completion. Mining Operations shall not cause an exceedance of groundwater quality standards in Wis. Admin. Code Ch. NR 140 or as otherwise may be set forth in any Applicable Law or Regulation. Any test or monitoring result showing that groundwater quality standards have not been met as set forth in Wis. Admin. Code Ch. NR 140 or any other Applicable Law or Regulation shall be cured by the Operator at the Operator's sole cost and expense.

(9) **Fugitive Dust Control.** In addition to any ambient air monitoring required by WI DNR, the Operator shall comply with best management practices for control of off-site fugitive dust, including, but not limited to, use of truck covers, watering roads and equipment, and stabilizing stock piles.

(q) **Reporting**

(1) **Considerations.** The standards set forth in this Section 13-1-25A(q) shall be considered as conditions in a Conditional Use Permit/Mining Permit or as the foundation of negotiations in developing the terms of a Local Agreement/Mining Permit.

(2) **Ongoing Reporting Requirements.**

a. The Operator shall provide notice to the County of any notices of violations, citations, or other enforcement actions taken by any other Government Body or Agency as a result of the Mining Operation or any activity on the Mining Site. The Operator shall provide notice to the County of such actions within 15 days after receiving such notice from the

Government Body or Agency.

- b. All monitoring data, sampling results and any other test results required by this Ordinance shall be undertaken at the Operator's expense and provided to the County Clerk. Unless otherwise specified in this Ordinance, all monitoring data sampling results and any other test results shall be provided to the County Clerk within 30 days of receipt of the results by the Operator.

(3) Annual Report.

- a. No later than October 1 of each calendar year, the Operator shall submit an annual report to the County Planning and Zoning Committee for all active and intermittent Mining Sites and Mining Operations for which the Operator has a Mining Permit in Bayfield County. The County Planning and Zoning Committee may require that the Operator appear at a County Planning and Zoning Committee meeting to present the annual report and answer questions from the County Planning and Zoning Committee. The County Board may also require that the Operator appear at a County Board meeting to present the annual report and answer questions from the County Board. The reporting period shall be from the date of the issuance of the first Operator's Mining Permit to August 31, and thereafter from September 1 to August 31.
- b. The annual report shall include the following information:
1. An identification of the Operator and location of the Mining Site.
 2. A map or drawing of the entire Mining Site accurately showing each use, activity and area associated with all Mining Operations.
 3. A map or drawing accurately showing the area of excavation, the unclaimed area and the reclaimed area, including a calculation of the number of acres for each type.
 4. A written description of activities, including ore extraction and waste material production and operations on the Mining Site for the previous calendar year, including the cubic yards each of material extracted, processed, and waste material produced.
 5. A written description of all activities and operations on the Mining Site, including ore extraction and waste material production or processing anticipated for the following calendar year.
 6. A written report demonstrating how the Operator has been in compliance with all terms and conditions of its Mining Permit and this Ordinance. The report shall include all groundwater, surface water and other monitoring results, as well as a copy of all annual reports or other reports submitted to any other Government Body or Agency.

7. A summary of all areas of non-compliance, a plan for bringing non-compliant areas into compliance, and any actions taken by any Government Body or Agency as a result of any alleged or actual non-compliance.
8. A signed certification by the Operator to the effect that: “I certify that this information is true and accurate, and except as expressly set forth herein, the metallic mineral mining site and operations described herein and for which the County issued the Mining Permit dated _____ complies with all conditions of the County ordinances and codes, and all other governmental or other regulatory authority requirements, laws, regulations and requirements and is in compliance with any applicable permits, requirements, conditions and approvals required for operation of the metallic mineral mining site and operations described herein and for which the County issued the Mining Permit dated _____.”
9. Any other materials required in this Ordinance that may not have been already submitted at the time of the annual report.
10. Any other materials or information that the Zoning Administrator, County Planning and Zoning Committee or County Board deems necessary.

c. Quarterly Inspection Summary. The Operator shall submit to the County Clerk, within 30 days following the close of each calendar quarter, a report summarizing the results of the following inspections:

1. Daily Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons on a daily basis for evidence and indications of any phenomenon, activity or process which might affect the integrity of any tailings pond or dike.
2. Monthly Inspections. The Operator shall designate one or more qualified senior personnel to inspect any tailings ponds and any other waste lagoons on a monthly basis and prepare, sign and date a report. If the person or persons making the monthly inspections is not a Wisconsin registered professional engineer, then the Operator shall also provide for quarterly inspections as required herein by a Wisconsin registered professional engineer.
3. Natural Event Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons after any unusual natural occurrence, including, but not limited to, the following: earthquake, tornado, flood, storm event exceeding the 100-year storm threshold, or any other natural event which the Operator should reasonably expect could affect the integrity of the tailings pond, dike or other areas of the Mining Site.

d. Inspection Logs. All daily, monthly and quarterly inspection observations shall be recorded in a log and maintained on the premises of the Mining Site and be made available for inspection by County officials during regular business hours. The Operator shall submit copies of inspection logs to the County upon request.

(r) Changes in Operation.

(1) Considerations. The standards set forth in this Section 13-1-25A(r) shall be considered as conditions in a Conditional Use Permit/Mining Permit or as the foundation of negotiations in developing the terms of a Local Agreement/Mining Permit.

(2) Expansion. Expansion of the Mining Site or any Mining Operation that is not specifically allowed by or is inconsistent with any limitation or parameters of the Mining Permit is prohibited and is a violation of this Ordinance. Performance of activities not described in, or activities not expressly allowed by the Mining Permit shall be considered an unlawful expansion and a violation of this Ordinance. The movement of any waste, ore or concentrate to a Mining Site from a location outside the boundary of that Mining Site shall be deemed an unlawful expansion of Mining Operation unless such movement is specifically and expressly authorized in a Mining Permit issued pursuant to this Ordinance.

(3) Suspension or Termination of Mining.

a. An Operator must provide notice to the County as soon as possible of any temporary halt of Mining Operations lasting more than 180 days, including, but not limited to, a statement showing projected loss of employment. Notice shall include the reason for the temporary suspension as well as plans to ensure continued compliance of all Applicable Laws and Regulations throughout the suspension period.

b. The Operator must provide notice of its intent to permanently terminate any or all Mining Operations at the Mining Site no later than one year before the proposed Mining Operation, or any portion of the Mining Operation, is terminated. The Operator must provide notice by the end of each calendar year of any significant change in the anticipated timing of each major phase of the Mining Operation as originally detailed in the plan of operation submitted as part of the Application pursuant to this Ordinance and explain any reasonably foreseeable changes to the overall Mining Operation lifetime based on such changes.

c. Upon receipt of a notice of temporary halt in mining or upon a cessation lasting more than 180 days, whichever is sooner, the County Planning and Zoning Committee may require that the Operator take additional measures to ensure that public health, safety and welfare are protected during the temporary cessation of Mining Operations, including, but not limited to, a temporary cap on tailing facilities, additional security measures, additional erosion control measures, and other site stabilization measures.

d. A suspension longer than two years shall be considered a permanent abandonment and require the Operator to commence closure and reclamation. The Operator may request the County Planning and Zoning Committee re-evaluate this requirement based on exceptional circumstances. The County Planning and Zoning Committee shall not be obligated to grant the request for re-evaluation. The County Planning and Zoning Committee's determination of the Operator's request for re-evaluation is not subject to appeal or other additional review.

(4) Major Conditional Use Permit/Mining Permit Modifications or Amendment.

If a Conditional Use Permit/Mining Permit has been issued, both the County and the Operator may pursue an amendment to that Conditional Use Permit/Mining Permit during the Conditional Use Permit/Mining Permit term pursuant to this Section 13-1-25A(r)(4) and Section 13-1-25A(s)(7)(b).

a. The County reserves the right to reopen and modify any Conditional Use Permit/Mining Permit if it is determined by the County Planning and Zoning Committee, upon the basis of newly discovered evidence, including, but not limited to, evidence presented that any Mining Operation or any part of the Mining Operation by any Government Body or Agency, such Mining would, without further conditions placed on the Mining Permit, substantially endanger the environment, public health, safety or welfare of the community. Any action to reopen a Mining Permit shall be done by hearing with at least 30 days' notice to the Operator. In order to reopen the Mining Permit and modify any terms and conditions, the County Planning and Zoning Committee must determine that there is reasonable cause to believe that the newly discovered evidence demonstrates a threat to the environment, public health, safety or welfare.

b. Should the Operator desire to modify the Conditional Use Permit/Mining Permit in any way, it may request modification by submitting a written application and evidence supporting such modification to the County Clerk. Such application shall be in substantially the same form as the original Application for the Conditional Use Permit/Mining Permit, with the same level and substance of information required, although it shall be permissible to incorporate by reference any portions of the original Application that still pertain to the re-opening request. Upon receipt of the application to modify the Conditional Use Permit/Mining Permit, the County shall follow the procedures outlined in this Ordinance for review of an application for a Conditional Use Permit/Mining Permit as set forth in Section 13-1-25A(n).

(5) Minor Conditional Use Permit/Mining Permit Modifications and

Amendments. Upon request by either the County or the Operator for a minor modification to the Conditional Use Permit/Mining Permit, the County Planning and Zoning Committee has the discretion to determine that a proposed Mining Permit modification is so inconsequential in scope or limited in proposed duration that the Mining Permit modification procedures outlined under Section 13-1-25A(r)(4) are unnecessary and therefore inapplicable. If such a determination is made, the County Planning and Zoning Committee may act on the proposed minor Conditional Use Permit/Mining Permit modification at a properly noticed County

Planning and Zoning Committee meeting. The County Planning and Zoning Committee's decision shall require a majority vote by the County Planning and Zoning Committee.

(6) Local Agreement/Mining Permit Modification and Amendment.

- a. The County or the Operator may request to modify or amend a Local Agreement/Mining Permit according to the procedures set forth in the Local Agreement/Mining Permit.
- b. The Local Agreement/Mining Permit may address both major modifications and amendments and minor modifications or amendments.
- c. Any modification or amendment to a Local Agreement/Mining Permit shall be executed by all parties thereto and shall be approved according to the requirements set forth in Wis. Stat. § 293.41(4), Section 13-1-25A(i)(3) and Section 13-1-25A(o)(6).
- d. The County Board may delegate its authority to modify, amend, suspend or revoke a Local Agreement/Mining Permit pursuant to this Section 13-1-25A(s)(6)(c) to the County Planning and Zoning Committee.

(7) Transfer of Mining Permit. When one Operator succeeds to the interest of another in a Mining Site, the County shall release the current Operator of the responsibilities imposed by the Mining Permit only if all the following conditions are met, pursuant to the County's reasonable discretion:

- a. Both the Operator and the successor Operator are in compliance with the requirements and standards of this Ordinance and all other Applicable Laws and Regulations.
- b. The successor Operator assumes the responsibility of the current Operator in writing and agrees to operate, complete and reclaim the Mining Operations in accordance with the Mining Permit and all other Applicable Laws and Regulations.
- c. The successor Operator shows proof of financial responsibility in the same manner and amount as the current Operator and the successor Operator agrees to maintain any instrument of financial assurance at the same level as the current Operator.
- d. The County Planning and Zoning Committee makes a written finding that all conditions of the existing Mining Permit will be complied with by the successor Operator.
- e. The Local Agreement, if any, is amended to reflect the change in Operator and Persons responsible under the Local Agreement.

(8) Commencement of Reclamation. Reclamation of any Mine shall begin within one year after cessation of Mining Operations, whether temporary or permanent, in

accordance with the reclamation plan as set forth in Wis. Stat. Chapter 293 and as may be required by any Government Body or Agency.

(s) Inspection, Enforcement, Procedures and Penalties Associated with a Mining Permit.

(1) Application of Section 13-1-25A(s). The provisions of this Section 13-1-25A(s) apply to a Conditional Use Permit/Mining Permit. The provisions of this Section 13-1-25A(s) shall be considered for inclusion in a Local Agreement/Mining Permit provided, however, that the terms set forth in Section 13-1-25A(s)(6) are required elements of a Local Agreement unless otherwise agreed by majority vote of the County Board.

(2) Inspection of Mining Operation.

a. Upon issuance of a Conditional Use Permit/Mining Permit, the Operator is deemed, as a condition of the Conditional Use Permit/Mining Permit issuance, to have consented to allow inspections of the Mining Site and all Mining Operations by the County Planning and Zoning Committee or its designee(s) for the purpose of determining compliance with the provisions of this Ordinance and the terms and conditions of the Conditional Use Permit/Mining Permit. Inspections may occur pursuant to this Section 13-1-25A(s).

b. All required records to demonstrate lawful operation of the Mining Operation shall be maintained by the Operator at the Mining Site and made available within a reasonable time to the County Planning and Zoning Committee or its designee(s) to assist the County Planning and Zoning Committee to determine compliance with the provisions of this Ordinance.

c. The Operator shall provide access to the Mining Site and Mining Operations to allow the County Planning and Zoning Committee or its designee(s) to inspect for the purpose of investigating any complaint against the Operator alleging a condition that negatively impacts the public health, safety or welfare.

d. If, as a result of any inspections or investigations, the County Planning and Zoning Committee determines that any Retained Expert should undertake any further inspections or investigations, the County may hire a Retained Expert, the expense of which shall be paid by the Operator pursuant to Section 13-1-25A(m). If the Operator fails to provide access for the inspections or investigations, or provide payment of the County's expenses, the County may take enforcement action under this Section 13-1-25A(s) or as otherwise set forth in this Ordinance.

(3) Violations. In addition to failure to comply with any provision of this Ordinance, the following are specific violations under this Ordinance:

a. Failure to comply with any term or condition set forth in the Conditional Use Permit/Mining Permit.

- b. Failure to comply with any Applicable Law or Regulation, or failure to comply with any permit, approval, order, condition, directive or requirement issued by a Government Body or Agency.
- c. Engaging in any Mining Operation or any activities associated with metallic mining without a Mining Permit granted by the County pursuant to this Ordinance.
- d. Failure to comply with the applicable minimum standards and other terms of this Ordinance, all other County ordinances and codes, and any Applicable Law or Regulation, or failure to comply with any applicable permits, approvals or conditions required for the Mining Operation as set forth by a Government Body or Agency.
- e. Making an incorrect or false statement in the information and documentation submitted as part of the Application, Mining Permit approval process, or during inspection of the Mining Operation by the County or its designees or other duly appointed representative.
- f. Failure to timely file the annual operational report under Section 13-1-25A(q).
- g. Failure to comply with any conditions of approving the Application or any agreements entered into as a condition of approving the Application and issuing the Mining Permit.
- h. Failure to provide or maintain any financial assurance required as a condition to issuing the Mining Permit.
- i. Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance, or other order issued by the County.

(4) **Notice of Violation.** The County Planning and Zoning Committee or its designee may issue a notice of violation and order for curing the violation upon a violation of any term of this Ordinance or upon any violation of the terms and conditions of a Conditional Use Permit/Mining Permit pursuant to the following provisions.

- a. The County Planning and Zoning Committee shall issue a notice of violation within 30 days of the County's obtaining knowledge of the violation by service upon the Operator. The notice of violation may include an order, proposed work plan or other remediating steps to cure the violation. The Operator shall have 30 days from the Operator's receipt of the notice of violation and order to complete all necessary work to cure the violations to the County's satisfaction.
- b. Any Person affected by a notice and order issued in connection with the enforcement of this Ordinance may request and shall be granted a hearing on the notice of violation and order before the County Planning and Zoning Committee, provided such person shall file with the County Clerk a written

petition requesting the hearing and setting forth the person's name, address, telephone number and a brief statement of the grounds for the hearing, the requested relief, or for the mitigation of the order. Such petition shall be filed within 30 days of the date the notice and order are served upon the Operator. Upon receipt of the petition for hearing, the County Clerk shall set a time and place for a hearing before the County Planning and Zoning Committee and shall give the petitioner written notice thereof. In the event the petitioner is not the Operator, the County shall provide notice of the hearing to the Operator.

c. After the hearing, the County Planning and Zoning Committee by a majority vote, shall sustain, modify or withdraw the notice, or modify the order, depending on the County Planning and Zoning Committee's findings, as to whether the provisions of this Ordinance have been complied with. The petitioner shall be notified within 10 days of the County Planning and Zoning Committee's issuance of its findings and any modification of the order. In the event the petitioner is not the Operator, the County shall provide a copy of the County Planning and Zoning Committee's findings of fact and any modification of the County's order to the Operator.

d. The proceedings of the public hearing, including the findings and decision of the County Planning and Zoning Committee and the reasons therefor, shall be summarized in writing and entered as a matter of public record in the office of the County Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

e. If the Operator fails to correct or cure the violation to the County Planning and Zoning Committee's satisfaction in accordance with any compliance schedule, order or other findings approved by the County Planning and Zoning Committee, the County Planning and Zoning Committee may revoke the Mining Permit and commence legal action against the Operator for injunctive relief and additional appropriate forfeitures.

f. Prior to the County's issuance of a notice and order, and prior to the public hearing set forth in Section 13-1-25A(s)(4)(b) above, the County may take such action as necessary in order to protect the public's health, welfare and safety, including, but not limited to, the remedies set forth in Section 13-1-25A(s)(5) in the event of any violation of this Ordinance or the Mining Permit.

(5) **Remedies.** The County Planning and Zoning Committee may take any appropriate action or proceeding against any Person in violation of this Ordinance or in violation of the terms of the Conditional Use Permit/Mining Permit, including, but not limited to, the following:

a. Issue a stop work order for all Mining Operations.

b. Issue a notice of violation and order that specifies the action to be taken to remedy a violation.

- c. Issue a citation in accordance with the County's citation ordinance or pursuant to the County's general authority.
- d. Refer the matter to legal counsel for consideration and commencement of legal action, including, but not limited to, the assessment of forfeitures under Section 13-1-25A(s)(9) and injunctive relief.
- e. Suspend or revoke the Conditional Use Permit/Mining Permit pursuant to Section 13-1-25A(s)(6) or Section 13-1-25A(s)(7).

(6) Suspension or Revocation of Mining Permit Issued Pursuant to Section 13-1-25A(o) as a Local Agreement/Mining Permit.

- a. Upon receipt of a notice of violation as set forth in Section 13-1-25A(s)(4), and after giving notice and conducting a hearing if requested pursuant to Section 13-1-25A(s)(4)(b), the County Board may suspend or revoke a Local Agreement/Mining Permit for a violation of this Ordinance or the terms of the Local Agreement/Mining Permit. A Local Agreement/Mining Permit may also be revoked if it is determined after notice and a hearing that there has been an abandonment of mining as defined under Wis. Stat. § 293.61.
- b. Any suspension or revocation of a Local Agreement/Mining Permit, whether in part or in full, shall require a majority vote by the County Board.
- c. The County Board may delegate its authority to suspend or revoke a Local Agreement/Mining Permit pursuant to this Section 13-1-25A(s)(6)(c) to the County Planning and Zoning Committee. If the County Board delegates its authority to the County Planning and Zoning Committee pursuant to this Section 13-1-25A(s)(6)(c), any reference to the County Board in Section 13-1-25A(s) shall also include the County Planning and Zoning Committee.

(7) Suspension or Revocation of Conditional Use Permit/Mining Permit.

- a. Upon receipt of a notice of violation as set forth in Section 13-1-25A(s)(4) and after giving notice and conducting a hearing if requested pursuant to Section 13-1-25A(s)(4)(b), the County Planning and Zoning Committee may suspend or revoke a Conditional Use Permit/Mining Permit for a violation of this Ordinance or the terms of the Conditional Use Permit/Mining Permit. A Conditional Use Permit/Mining Permit may also be revoked if it is determined after notice and a hearing that there has been an abandonment of mining as defined under Wis. Stat. § 293.61. Notwithstanding the terms of this Section 13-1-25A(s)(7), the County Planning and Zoning Committee may suspend or revoke a Conditional Use Permit/Mining Permit pursuant to the terms of Section 13-1-25A(s) if such suspension or revocation is necessary to protect public health, welfare and safety.
- b. Any modification, amendment, suspension or elimination of a Conditional Use Permit/Mining Permit, whether in part or in full, shall require a

majority affirmative vote by the County Board.

c. The County Board may delegate its authority to modify, amend, suspend or revoke a Conditional Use Permit/Mining Permit pursuant to this Section 13-1-25A(s)(7)(c) to the County Planning and Zoning Committee. If the County Board delegates its authority to the County Planning and Zoning Committee pursuant to this Section 13-1-25A(s)(7)(c), any reference to the County Board in Section 13-1-25A(s) shall also include the County Planning and Zoning Committee.

(8) **General Revocation Provisions Applicable to All Mining Permits.** The following shall apply to revocation of any Mining Permit:

a. Revocation of any Mining Permit shall terminate the Operator's right and authority to continue Mining Operations pursuant to this Ordinance but shall not affect the Operator's obligation to comply with any continuing obligations of the Operator under the terms of the Mining Permit or any agreement to which the County is a party.

b. Revocation of any Mining Permit shall not terminate any obligation set forth in this Ordinance or in the Mining Permit, whether existing or a future obligation, of the Operator or any Person associated with the Mining Operation.

(9) **Penalties.** Any Person or Operator who violates this Ordinance or any of the provisions contained herein shall forfeit not less than \$10 or more than \$10,000 for each violation, as reasonably determined by the County Planning and Zoning Committee. Each day of violation is a separate offense.

a. The County Planning and Zoning Committee shall, promptly after verifying any violation of any provision of a Mining Permit, notify the Operator in writing of such violation and require the Operator to report to the County Clerk within 10 days.

b. The County shall be entitled to recover from the violator the reasonable and necessary expenses associated with prosecution of the violation.

c. All funds recovered pursuant to this Section 13-1-25A(s) will be placed in an assigned account established by the County and used at the County Planning and Zoning Committee's sole discretion consistent with achieving the intent of this Ordinance.

d. The remedies provided herein shall not be exclusive of other remedies.

e. If the Operator fails to correct or cure the violation to the County Planning and Zoning Committee's satisfaction in accordance with any compliance schedule approved by the County Planning and Zoning Committee, the County Planning and Zoning Committee may revoke the Mining Permit and commence legal action against the Operator for injunctive relief and additional appropriate forfeitures.

(10) **Non-Waiver.** A failure by the County to take action on any past violation(s) shall not constitute a waiver of the County's right to take action on any present or future violations.

(t) **Effective Date and Revisions to Existing County Zoning Ordinance.** This Ordinance shall become effective as provided in Section 13-1-25A(c)(5) upon its adoption and publication by the Bayfield County Board of Supervisors.

(u) **Prohibited Areas.** Metallic mining, and/or drilling for oil or gas shall not be allowed in the following areas:

(1) Under lakes, rivers, creeks, or streams.

(2) Within one (1) mile of Lake Superior or connected wetlands.

(3) Within one (1) mile of any lake, river, creek, or stream.

Section 2. Except as specifically modified and amended by this ordinance, the Bayfield County Code of Ordinance shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

Section 3. **SEVERABILITY.** If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

Section 4. **EFFECTIVE DATE.** This ordinance shall take effect and be in full force from and after its passage.

Motion by Silbert, Strand to adopt Amendatory Ordinance No. 2019-08. Motion carried.

The Executive/Closed Session agenda item was moved to earlier in the meeting, in order for *Planning and Zoning Director Schierman* to participate.

11. **The Bayfield County Board of Supervisors may entertain a motion to move in and out of Executive/Closed Session pursuant to: §19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.**

Motion by Crandall, Milanowski to enter Closed/Executive Session at 7:04 p.m. Motion carried.

The following were allowed to remain in Executive/Closed Session: *County Administrator-Mark Abeles-Allison; County Clerk- Scott Fibert; Planning and Zoning Director-Rob Schierman; Clerk III- Allison Radke.*

Discussion took place regarding the Red Cliff Zoning Lawsuit.

There being no further business to conduct in Executive/Closed Session, *a motion was made by Crandall, Zepczyk to return to Open Session at 7:24 p.m. Motion carried.*

12. **Bayfield County Resolution No. 2019-27; Request to Adopt the certified Bayfield County Farmland Preservation Plan under s. 91.16, Wis. Stats.; Land Water Conservation Department;**

A background was provided regarding Resolution No. 2019-27, Request to Adopt the certified Bayfield County Farmland Preservation Plan. This Resolution was reviewed and recommended by the Land Water Conservation Committee.

WHEREAS, Bayfield County first adopted a Farmland Preservation Plan in 1982, which was expired and needed significant updates; and

WHEREAS, the county's Farmland Preservation Plan, as the name of the plan implies, is an attempt to preserve agricultural land at the county-level, and allows for landowners that farm land inside an Agricultural Enterprise Area to obtain tax credits on their agricultural land; and

WHEREAS, the Bayfield County Land and Water Conservation Department in conjunction with the Northwest Regional Planning Commission, Bayfield County Staff, and local farmers, prepared a farmland preservation plan (FPP) that meets the requirements under s. 91.10(1), Wis. Stats.,

WHEREAS, the Bayfield County Land and Water Conservation Department requests that under s. 91.16, Wis. Stats. that the Bayfield County Board of Supervisors adopt the Farmland Preservation Plan for Bayfield County, Wisconsin, as presented;

NOW, THEREFORE, BE IT RESOLVED, that the Bayfield County Board of Supervisors, meeting this May 28th, 2019, adopt the Farmland Preservation Plan for Bayfield County, Wisconsin, as presented.

Motion by Strand, Milanowski to approve Resolution No. 2019-27, requesting to adopt the certified Bayfield County Farmland Preservation Plan. Motion carried.

13. **Bayfield County Resolution No. 2019-28; Request to Amend the 2019 UW-Extension Budget to account for receiving two 4-H Grants; UW-Extension, Bayfield County;**

County Administrator Abeles-Allison gave information regarding Resolution No. 2019-28 which involves UW-Extension receiving two 4-H Grants. The 4-H grants are for the summer youth program, which is now named Superior Adventures. The two grants together total \$4,500.

WHEREAS, the Bayfield County UW-Extension Office has received a grant, which will start on March 27, 2019 and end on August 31, 2019, from the Apostle Island Area Community Fund, an Affiliate of the Duluth-Superior Area Community Foundation in the amount of \$4,000 and a grant from the Wisconsin 4-H Foundation in the amount of \$500 for the program "Potential Adventures Through 4-H".

WHEREAS, the 2019 Bayfield County UW-Extension 292 budget needs to be amended to reflect these increases and expenses:

Revenue Accounts to increase for a total of:	\$ 4,500
# 292-25-48516-001 Potential Adventures Grant Revenue in the amount of:	\$ 4,500

Disbursement Accounts to increase for a total of:	\$ 4,500
# 292-25 -55636 - 50290 Contractual Services in the amount of:	\$ 2,118
# 292-25 -55636 - 50332 Mileage in the amount of:	\$ 900
#292- 25- 55636- 50340 Operating Supplies in the amount of:	\$ 1,482

NOW, THEREFORE, BE IT RESOLVED that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, does hereby amend the 2019 292-UW-Extension budget to reflect the increase in revenues by \$ 4,500 and the increase in expenditures by \$ 4,500.

Motion by Newago, Crandall to approve Resolution No. 2019-28, a request to amend the 2019 UW-Extension budget to account for receiving two 4-H Grants, with a change in two account numbers. A roll call was taken as follows: Newago-yes, Gordon-absent, Fickbohm- yes, Oswald-yes, Silbert-yes, Pocernich-yes, Strand-yes, Snilsberg-absent, Milanowski-yes, Zepczyk-yes, Crandall-yes, Rondeau-absent, Maki-yes. (10-yes, 0-no, 3 absent) Motion carried.

14. Bayfield County Resolution No. 2019-29; Request to Amend the 2019 UW-Extension Budget, Hazelnut-Finished Pork Grant; UW-Extension, Bayfield County;

County Administrator Abeles-Allison explained Resolution No. 2019-29, a UW-Extension budget amendment accepting a Hazelnut-Finished Pork Grant. It was reviewed and recommended for approval by the UW-Extension Committee. This grant amounts to \$39,777.

WHEREAS, the Bayfield County UW-Extension Office has received a grant from the Northern Central Sustainable Agriculture Research & Education (SARE), University of Minnesota, for the Project “Hazelnut-Finished Pork in the Upper Midwest: A New High-Value Product from a Sustainable Production System” which will start on March 15, 2019 and end on March 31, 2021.

WHEREAS, the 2019 Bayfield County UW-Extension 292 budget needs to be amended to reflect these increases and expenses:

Revenue Accounts to increase for a total of:	\$39,777
# 292-25-43570-014 - Hazelnut Finished Pork SARE Grant in the amount of	\$39,777

Disbursement Accounts to increase for a total of:	\$39,777
# 292 - 25 - 55654 - 50290 Contractual Services in the amount of:	\$37,308
# 292 - 25 - 55654 - 50332 Mileage in the amount of:	\$1,045
#292 - 25 - 55654 - 50336 Lodging in the amount of:	\$ 424
#292 - 25 - 55654 - 50340 Operating Supplies in the amount of:	\$1,000

NOW, THEREFORE, BE IT RESOLVED that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, does hereby amend the 2019 292 UW-Extension budget to reflect the increase in revenues by \$ 39,777 and the increase in expenditures by \$ 39,777.

Motion by Strand, Fickbohm to approve Resolution No. 2019-29, requesting to amend the 2019 UW-Extension budget for a Hazelnut-Finished Pork Grant. A roll call was taken as follows: Newago-yes, Gordon-absent, Fickbohm- yes, Oswald-yes, Silbert-yes, Pocernich-yes, Strand-yes, Snilsberg-absent, Milanowski-yes, Zepczyk-yes, Crandall-yes, Rondeau-absent, Maki-yes. (10-yes, 0-no, 3 absent) Motion carried.

15. **Bayfield County Resolutions No. 2019-30; No. 2019-31; No. 2019-32; No. 2019-33; No. 2019-34; No. 2019-35; No. 2019-37; No. 2019-38; Wisconsin Counties Association Resolutions; Please address Resolutions as one motion.**

Information was provided regarding the following eight Wisconsin Counties Association (WCA) Resolutions by *County Administrator Abeles-Allison*. They are being proposed to the WCA for legislature consideration.

a) **Resolution to Increase the Payments to Towns with County Forests from \$.30 to \$2.00 per acre;**

An increase in payments to Towns with County Forests is a topic that has been discussed by Bayfield County for many years.

WHEREAS, the State of Wisconsin has 29 Counties with 2.4 million acres of County Forest Land;

WHEREAS, County Forest lands are entered under Wisconsin State Statute 28.11 County Forest Law, which outlines the framework for County Forest Management;

WHEREAS, Wisconsin State Statute 28.11 requires compensation and a reasonable revenue to Towns;

WHEREAS, The State currently provides a payment of \$.30 per acre to local units of government containing County Forest lands. This amount was established in 1989 and has not increased in 30 years;

WHEREAS, payments for National Forest lands are approximately \$2.00 per acre to local units of government;

WHEREAS, these payments to towns help maintain forest roads providing access into the county forest;

WHEREAS, the DNR is willing to consider a budgetary fix to this issue; and

NOW THEREFORE, BE IT RESOLVED, the Bayfield County Board of Supervisors Assembled this 28th Day of May 2019, supports an increased PILT payment to Counties with County Forest Lands to \$2.00 per acre.

NOW THEREFORE, BE IT RESOLVED, the Bayfield County Board of Supervisors Assembled this 28th Day of May 2019, recommends that the Wisconsin Counties Associations does hereby urge the State Legislature to increase the Acreage Share Payment to towns with County forest lands, to \$2 per acre.

b) Action to address the Mental Health Epidemic in County Jails;

This Resolution encourages working with Jail and Sheriff staff to help ensure that inmates receive medications while in jail and to reduce the mental health impact on communities.

WHEREAS, the number of individuals with mental health issues in county jails has exploded over the past decade; and,

WHEREAS, those with mental illness need specialized care and attention;
and,

WHEREAS, demands on local correctional institutions is greater than can be sustained;
and,

WHEREAS, this workload and case type is overwhelming jail staff.

NOW THEREFORE BE IT RESOLVED, that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, do hereby request that WCA Support Legislation addressing mental health issues in county jails including:

- That individuals on psychotropic medicines before incarceration be allowed to continue while in jail, with no interruption to funding of those medications if the individual is currently enrolled in a state program which provides that resource.
- That increased state DOC funding be made available for crisis intervention utilizing licensed mental health professionals that hold prescribing licensure.

c) Action to support Legislation Funding Additional Assistant District Attorney Positions;

This item, which would fund an Assistant District Attorney, is currently being proposed in the legislature and is supported by *Bayfield County District Attorney* Kimberly Lawton.

WHEREAS, District Attorneys are the gatekeeper for cases at the Circuit Court Level; and

WHEREAS, Multiple studies have shown that County District Attorneys are overloaded and unable to maintain existing caseloads, and

WHEREAS, overloaded result in delayed and less effective sanctions as time elapses; and

WHEREAS, legislation considered in SB 54, 2017 address the ADA shortage; and

NOW, THEREFORE, BE IT RESOLVED, that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, do hereby request that WCA Support Legislation addressing Assistant District Attorney Shortages.

d) Support Expansion of Wisconsin Department of Corrections Opening Avenues to Re-Entry Success (OARS) to the entire state of Wisconsin;

Wisconsin offers this re-entry program through the Department of Corrections in 44 Counties in the Southern part of the State. It provides additional case-management once individuals leave prison. Bayfield County is asking that the program be extended to this region as well.

WHEREAS, the OARS program enhances public safety by supporting the successful transition, recovery and self-sufficiency of offenders with mental health needs as they reintegrate into the community.

WHEREAS, this is a vision and effort that should be supported and encouraged by every county in the state.

WHEREAS, OARS enhances public safety by reducing recidivism and revocation rates.

WHEREAS, People released from incarceration often face difficulty finding housing and employment. Those on **OARS** have opportunities before and after release to plan, reducing the chance of relapse into unhealthy lifestyles.

WHEREAS, OARS is currently available in 44 Counties in the State of Wisconsin.

NOW THEREFORE BE IT RESOLVED, that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, do hereby request that WCA supports expansion of the OARS program to the entire state of Wisconsin.

e) Volunteer Emergency Medical Response;

Senator Bewley wrote this legislation, proposing to provide tax credits and incentives for Volunteer Emergency Medical Responders.

WHEREAS, Bayfield County is a very rural area with less than 10 people per square mile; and,

WHEREAS, a large portion of the Ambulance, Emergency Medical and Fire Response within the county is volunteer; and,

WHEREAS, Increasingly, rural areas like ours are having more and more difficulty in recruiting and retaining volunteer emergency responders, resulting in longer response times; and,

WHEREAS, Increasingly, neighboring services are called upon to respond in these emergency situations because of the shortage of local volunteers; and

WHEREAS, AB 142 and SB 135 have been created to introduce non-refundable tax credits for volunteer emergency responders, and

WHEREAS, the first credit equals \$20 for each hour an individual who volunteers spends on active duty, in training or in class. The second credit equals the volunteers unreimbursed expenses. The maximum an individual may claim a year is \$1000 and \$400 respectively.

NOW THEREFORE BE IT RESOLVED, that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, do hereby request that WCA Support this Legislation in order to make volunteering more attractive and financially affordable.

f) Medicaid Expansion;

Two Resolutions were submitted addressing increased Medicaid funding. Both versions support additional funding, with different terminology. Both *Health Director* Wartman and *Human Services Director* Skulan were supportive of either option, with a consideration to include additional funding for the Counties. There was a discussion regarding the two Resolution versions and Version 2 was chosen as Bayfield County Resolution 2019-35. The title was discussed, and it was recommended to change it to: Human Services/Health Services Expansion. It was also decided to remove the phrase Medicaid Expansion from the Resolution.

Bayfield County supports increased human services and health services funding for Wisconsin residents. Bayfield County supports state expansion of services with some dollars coming back to counties to accommodate workload increases in Economic Support/Income Maintenance Consortium.

WHEREAS, with services comparable to adjacent states an additional 82,000 Wisconsin fewer residents could receive health care coverage who are currently underserved; and

WHEREAS, this service increase would improve the health, wellbeing and productivity of thousands of residents in the areas of preventive care, prenatal care, opioid and other drug treatment, behavioral health and crisis intervention, lead poisoning, treatment of chronic disease, dental health and support people with disabilities thus providing for healthier families and a more productive workforce; and

WHEREAS, most states in the country are providing services at this level resulting in improved health care of their citizens; and

WHEREAS, Wisconsin has lost an amount exceeding \$800 million over the last eight years. This has not benefitted the health of Wisconsin's citizens.

WHEREAS, the Wisconsin Department of Health Services projects a \$325 million savings from the increased service level.

NOW, THEREFORE, BE IT RESOLVED, that Bayfield County supports the adoption of increased human services and health services as soon as can be implemented based on humanitarian and economic grounds; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that funding from savings in accepting the expansion be designated to the counties as recommended by the Wisconsin Counties Human Services Association to accommodate a workload increase in Economic Support/Income Maintenance Consortium.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Wisconsin Counties Association consider adoption of this resolution as part of their policy platform.

g) Conduct Additional Research on Chronic Wasting Disease to Improve Testing, Treatment, and Management Options;

This Resolution encourages additional research on Chronic Wasting Disease (CWD) to improve testing, treatment, and management options.

WHEREAS, Chronic wasting disease (CWD) is a serious disease of captive and wild cervids and threatens to cause considerable economic, cultural, and ecological damage to Wisconsin;

WHEREAS, A better understanding of CWD is needed to develop better management tools;

WHEREAS, Current funding and research levels are not commensurate to the threat posed by CWD;

WHEREAS, since its discovery in Wisconsin in a wild deer harvested in 2001 it is now been found in wild deer in 26 counties and in 25 captive deer farms;

WHEREAS, the most heavily infected areas of Dane and Iowa counties the prevalence rate in adult males is over 35 percent and in adult females is over 15 percent;

WHEREAS, the WI Department of Health the Center for Disease Control and the World Health Organization all recommend that meat from cervids only be eaten from cervids that have tested negative for CWD;

WHEREAS, in 2018 the DNR sold over 803,000 gun and archery deer hunting licenses to over 750,000 Wisconsin residents and to over 53,000 non-residents;

WHEREAS, in 2011 hunting -related expenditures in Wisconsin totaled \$2.5 billion in 2011. 88% of hunters participated in deer hunting, making it the most popular form of hunting in the state.

NOW, THEREFORE, BE IT RESOLVED, the Bayfield County Board of Supervisors Assembled This 28th day of May 2019, does hereby request that WCA urge the State Legislature to direct state agencies and provide funding to conduct the following research and development in order to better manage CWD:

- Develop a reliable, rapid, and easy to administer CWD test that can be conducted on live cervids.
- Develop a reliable, rapid, and easy to administer CWD test that can be implemented in the field on harvested deer and can provide immediate results.
- Develop a vaccine for CWD for cervids.
- Develop a cure for CWD infected cervids.
- Breed heritable resistance to CWD in captive cervids such that the cervids are both asymptomatic and do not carry and shed prions.

- Determine CWD prion longevity and virulence in contaminated soil, feed, and crops under a range of environmental conditions and soil types.
- Develop a better understanding CWD prion movement in the environment once outside of a cervid.
- Expand monitoring of individual animal and herd health in CWD endemic zones to better understand the effect of CWD on population dynamics.
- Conduct epidemiological assessment of CWD prions on human health including whether humans are already carriers of CWD prions, the likelihood of CWD prions infecting humans and causing disease, and the impact of eating CWD positive deer, if any.
- Conduct additional research to determine viability and methodology for composting CWD infected cervids.

h) Enact Stronger Regulations to Limit the Spread of Chronic Wasting Disease;

With this Resolution, Bayfield County is requesting that WCA support stronger regulations in Wisconsin to limit the spread of CWD.

WHEREAS, Chronic wasting disease (CWD) is a serious disease of captive and wild cervids and threatens to cause considerable economic, cultural, and ecological damage to Wisconsin; CWD is a fatal, neurological disease of cervids;

WHEREAS, since its discovery in Wisconsin in a wild deer harvested in 2001 it is now been found in wild deer in 26 counties and in 25 captive deer farms;

WHEREAS, the most heavily infected areas of Dane and Iowa counties the prevalence rate in adult males is over 35 percent and in adult females is over 15 percent;

WHEREAS, the WI Department of Health the Center for Disease Control and the World Health Organization all recommend that meat from cervids only be eaten from cervids that have tested negative for CWD;

WHEREAS, in 2018 the DNR sold over 803,000 gun and archery deer hunting licenses to over 750,000 Wisconsin residents and to over 53,000 non-residents;

WHEREAS, in 2011 hunting-related expenditures in Wisconsin totaled \$2.5 billion in 2011. 88% of hunters participated in deer hunting, making it the most popular form of hunting in the state;

WHEREAS, with no known cure or vaccine, the only option currently available to manage CWD is to aggressively limit the transmission and spread of CWD;

WHEREAS, current regulations do not adequately limit human assisted transmission of CWD.

NOW, THEREFORE, BE IT RESOLVED, The Bayfield County Board of Supervisors Assembled this 28th day of May 2019, does hereby request that WCA urge the State Legislature to make the following changes to State Statutes and concordant Administrative Rules:

- Change ATCP 10.56(1) to eliminate exceptions that allow transport of live cervids without a Certificate of Veterinary Inspection.
- Change NR 10.105(7) to prohibit the export of cervid carcasses which have any part of the spinal column or head attached from CWD affected areas in which a wild or captive cervid tested positive for CWD in the last 10 years.
- Enact new rules to require the disposal of harvested cervid carcasses in approved landfills, rendering, or composting facilities.
- Enact new rules to prohibit the export of live cervid animals from areas within 10 miles of a known positive CWD detection within the last five years.
- Enact new rules to require all captive cervid operations to install solid perimeter or double-fencing.
- Once a reliable live animal CWD test has been developed, enact rules to prohibit the transport of live cervids unless the animal tests negative for CWD.

Motion by Crandall, Newago to approve Resolutions No. 2019-30; No. 2019-31; No. 2019-32; No. 2019-33; No. 2019-34; No. 2019-35; No. 2019-37; No. 2019-38; Wisconsin Counties Association Resolutions, with two changes in the Human Services/Health Services Expansion Resolution. Motion carried.

16. Bayfield County Amendatory Ordinance No. 2019-09; Amendment to Section 2-3-1, Designation of Standing Committees in Bayfield County Code of Ordinances, Wisconsin;

The Executive Committee discussed this Amendatory Ordinance. Amendatory Ordinance No. 2019-09 will help Committees reach a quorum. There was a discussion regarding the importance of regular Committee meetings and the commitment that *County Board members* make.

WHEREAS, Wisconsin Statutes §59.03(2) provides that, except as elsewhere specifically provided in the statutes, the board of any county is vested with all powers of a local, legislative and administrative character; *and*

WHEREAS, Wisconsin Statutes §59.02(2) permits the enactment of ordinances by the County Board of Supervisors; *and*

WHEREAS, Section 2-2-3, Code of Ordinances, Bayfield County, Wisconsin, authorizes County Board committees or individual supervisors to introduce proposed ordinances; *and*

WHEREAS, it is deemed to be in the best interest of the County of Bayfield to Amend Section 2-3-1; *and*

WHEREAS, it is deemed to be in the best interest of the County of Bayfield that the Code of Ordinances, Bayfield County, Wisconsin, be further modified and amended in the manner hereinafter set forth.

NOW, THEREFORE, the Bayfield County Board of Supervisors does hereby ordain as follows:

Section 1. Subsection (c) of Section 2-3-1 [Designation of Standing Committees.] of Chapter 3 [County Board Committees, Commissions and Boards] of Title 2 [Government and Administration] of the Code of Ordinances, Bayfield County, Wisconsin is hereby created to read as follows, with additions highlighted by the double underline feature (additions):

(c) The County Board Chair and County Board Vice-Chair will be ex officio members of all Bayfield County Board Committees in the event any such committee does not have enough members present to form a quorum. As an ex officio, the County Board Chair and Vice-Chair can be used to meet a Committee quorum and as part of the Committee quorum have the right to discuss, debate, make motions and vote on all matters before the committee. Only one ex-officio committee member may be used to meet a Committee quorum.

If quorum is present without using the County Board Chair or Vice-Chair, as an ex officio, the County Board Chair and Vice-Chair will not be considered ex-officio members of the committee at that time .

Section 2. Except as specifically modified and amended by this ordinance, the Bayfield County Code of Ordinance shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

Section 3. SEVERABILITY. If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

Section 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force from and after its passage.

Motion by Oswald, Fickbohm to approve Amendatory Ordinance No. 2019-09, Amendment to Section 2-3-1, regarding the Designation of Standing Committee in the Bayfield County Code of Ordinances. Motion carried.

17. **Discussion and Possible Action regarding Industrial Development Agency Amendatory Promissory Note Agreement and Memorandum of Understanding;**

The promissory note agreement has expired. The agreement is between Bayfield County and the Bayfield County Industrial Development Agency.

AMENDMENT OF PROMISSORY NOTE

WHEREAS, Bayfield County (“Lender”) borrowed to Bayfield County Industrial Development Agency, Inc. (“Borrower”) and executed a Promissory Note (“Note”) dated November 19, 2009 in the amount of \$240,019.64.

WHEREAS, the Note was due to be paid on or before June 16, 2017.

WHEREAS, the Borrower has paid interest and principal on the Note and the balance remains \$164,076.27

WHEREAS, the Lender and Borrower wish to amend the terms of the Note.

NOW THEREFORE, the terms of the Note are amended as follows:

1. The principal balance shall remain to be \$164,076.27 and shall continue to accrue interest at a rate of 5% per annum.
2. The Note shall be paid in full on or by June 16, 2027.
3. All other terms of the Note not specifically amended herein shall remain unchanged.

Dated this _____ day of May 2019.

BAYFIELD COUNTY INDUSTRIAL DEVELOPMENT AGENCY, INC.

BY: _____, its President

BAYFIELD COUNTY

Memorandum of Understanding
By and Between
Impact Seven, Inc. (I 7), and Bayfield County Industrial Development Agency, Inc. (BCIDA)

Effective November 16, 2009, I 7 and BCIDA entered into a loan participation agreement for financing a project owned by The Town of Bayfield to construct a commercial building on Township property. The participation agreement totaled \$1,152,278.64. The participation called for I 7 to hold \$912,259 (79.17% and BCIDA holding \$240,019.64 (20.83%). The original participation had a maturity date of June 16, 2017.

Payments on the participation were to come from lease payments made by World Class Precision Manufacturing. As payments have been and are received 20.83% is remitted to BCIDA. If no payments are received nothing can be divided between the participants.

The original lease with World Class has matured and is being extended by agreement between I 7, the Town of Bayfield and World Class. The agreement calls for 6-month extensions until any party provides a 60-day notice of termination. A copy of that extension agreement is attached to this MOU.

It is intended and agreed upon that this MOU shall extend the original maturity date of the participation agreement for a period of 10 years resulting in a new maturity date of Jun 16, 2027. No other terms, conditions of the original participation shall be modified. All parties shall remain bound by the original participation agreement dated November 16, 2009 subject to this modification.

The undersigned do hereby agree to the terms of this MOU.

_____ Date:
Robert Mayer, Credit Manger
For: Impact Seven, Inc.

_____ Date
Brett Rondeau, President
For: Bayfield County Industrial Development Agency Inc.

Motion by Newago, Maki to approve the Industrial Development Agency Amendatory Promissory Note Agreement and Memorandum of Understanding. Motion carried.

18. Local Emergency Planning Committee (LEPC) Appointments: Gayle Gonsior; Marian Schraufnagel; Erika Kurtz; Jack Hoiby;

Jan Victorson, *Emergency Management Coordinator*, would like to recommend these four individuals: Gayle Gonsior; Marian Schraufnagel; Erika Kurtz; and Jack Hoiby to join the Local Emergency Planning Committee.

Motion by Newago, Crandall to approve the appointments of Gayle Gonsior; Marian Schraufnagel; Erika Kurtz; and Jack Hoiby to the Local Emergency Planning Committee (LEPC). Motion carried with one abstention.

19. **Bayfield County Resolution No. 2019-36; Authorizing an Additional \$1.5 million for County Highway A Reconstruction in 2019; Highway Department;**

This Resolution had been discussed earlier in the meeting. It would authorize an additional \$1.5 million for County Highway A reconstruction in 2019.

WHEREAS, County Highway maintenance is a top priority of the Bayfield County Board.

WHEREAS the 2019 budget includes funding for four miles of County Highway A reconstruction from Fay Road to Hessey Road;

WHEREAS the 5-Year County Highway Plan identifies an additional six miles of reconstruction on County Highway A in 2022 from Hessey to County Highway B;

WHEREAS the 6 miles of County Highway A from Hessey to County Highway B are in very poor condition;

WHEREAS the Highway Committee has recommended that the County Board consider reconstructing this entire section of County Highway A in 2019 rather than portions of the project in two separate years;

WHEREAS the estimated cost for the additional 6 miles of reconstruction will require an additional \$1,500,000 in 2019;

WHEREAS the Bayfield County Highway Department has no available resources for this until reimbursements from flood damages come in;

WHEREAS, Bayfield County currently has fund balance available in the general fund that could be temporarily transferred to the highway fund;

WHEREAS, the Bayfield County Highway Department will pay back the County the first \$500,000 received in flood damage reimbursements.

NOW, THEREFORE, BE IT RESOLVED, that the Bayfield County Board of Supervisors assembled this 28th day of May 2019, does hereby approve an amendment to authorize the transfer of \$1,500,000 from the General Fund Balance to the Highway Fund and to proceed with paying back Bayfield County \$50,000 in 2020 from flood reimbursement.

Increase General Fund Balance applied account 100-00-49301 by	\$1,500,000
Increase Transfer to Highway account 100-00-57910-50998 by	\$1,500,000

Increase Transfer from General Fund account 710-71-49201 by	\$1,500,000
Increase CTH Special Projects 710-71-53314-50290 by	\$1,500,000

Motion by Maki, Milanowski to approve Resolution No. 2019-36, authorizing an additional \$1.5 million for County Highway A reconstruction in 2019, with one correction to a figure in the Resolution. A roll call was taken as follows: Newago-yes, Gordon-absent, Fickbohm- yes, Oswald-yes, Silbert-yes, Pocernich-yes, Strand-yes, Snilsberg-absent, Milanowski-yes, Zepczyk-yes, Crandall-yes, Rondeau-absent, Maki-yes. (10-yes, 0-no, 3 absent) Motion carried.

20. Bayfield County Administrator's Report:

a) Future County Board Meeting Dates:

- ✓ June 25th, 2019
- ✓ July 30th, 2019
- ✓ August 27th, 2019

b) Annual Picnic (12:00, Wednesday, June 19) and Board Training with Jon Hochkammer, WCA Outreach Manager, Board Roles and Responsibilities, 1:15 p.m.;

Following the picnic, there will be a Board Training at 1:15 p.m.

c) Cervid Study Committee Informational Meeting: Wednesday May 29, 6:30 p.m. Great Lakes Visitor Center;

The Cervid Study Committee held a public informational meeting on May 29th. Following the meeting, the Committee will discuss findings and finalize the report. The Cervid Study Committee will present on June 25th at the next Bayfield County Board meeting.

d) Opioid/ Meth/ Substance Abuse Epidemic in Bayfield County;

There was discussion regarding the efficacy of the programs. A significant cost of the epidemic is foster care. There will be more information at the June County Board meeting.

e) High School Senior, Local Government Scholarships;

County Board Supervisors presented four scholarships at various local schools.

f) County Highway N Update;

It remains closed. There is work being done.

21. Supervisors' Reports;

The Cervid Committee is having an informational meeting on May 29th. The new Red Cliff Recreation pamphlet is being distributed now.

22. Future Agenda Items; None identified.

23. Adjournment.

There being no further business to come before the Bayfield County Board of Supervisors', *Chairman Pocernich* adjourned the meeting at 8:05 p.m.

Respectfully submitted,

SCOTT S. FIBERT

Scott S. Fibert, *Bayfield County Clerk*
SSF/alr