

IRON COUNTY ORDINANCE 9-1-101

QUARRIES, NON-METALLIC MINES AND NON-METALLIC MINING
RECLAMATION

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PART I - GENERAL

SUBSECTION 1

1.00 Title. Quarries, Mines, and Nonmetallic Mining Reclamation Ordinance for the County of Iron.

SUBSECTION 2

2.00 Purpose. Abandoned nonmetallic mining sites are typically unstable and are often safety hazards, environmental threats, attractive nuisances and eyesores. They can result in groundwater and surface water pollution, personal injury or even loss of life. Abandoned sites result in a loss of productive land use and represent lost opportunities, loss or degradation of fish and wildlife habitat and loss of tax revenues. Accordingly, the purpose of this Ordinance is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Iron County after the effective date of this Ordinance, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.

SUBSECTION 3

3.00 Statutory Authority. This Ordinance is adopted under authority of Section 295.13(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 59.51, Wisconsin Statutes.

SUBSECTION 4

4.00 Restrictions Adopted Under Other Authority. The purpose of this Ordinance is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this Ordinance repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

SUBSECTION 5

5.00 Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites

required by Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this Ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

SUBSECTION 6 **6.00 Severability.** Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

SUBSECTION 7 **7.00 Applicability.**

7.10 Overall Applicability. The requirements of this Ordinance apply to all operators of nonmetallic mining sites within the County of Iron operating on or commencing to operate after August 1, 2001 and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in sub. 7.20 and except for nonmetallic mining sites located in a city, village or town within Iron County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code.

7.20 Exemptions. This Ordinance does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

SUBSECTION 8 **8.00 Administration.** The provisions of this Ordinance shall be administered by the Iron County Zoning Department.

SUBSECTION 9 **9.00 Effective Date.** The provisions of this Ordinance shall take effect on August 1, 2001, after passage and publication, as required by law.

SUBSECTION 10 **10.00 Definitions.** Definitions of terms utilized in this Ordinance are intended to conform to those contained in Section NR 135.03, Wisconsin Administrative Code, and the definitions contained in Section NR 135.03, Wisconsin Administrative Code, as amended from time to time, shall supercede any nonconforming definitions contained in this subsection. To the extent that the following definitions do so conform, in this Ordinance:

(1) "Alternative requirement" means an alternative to the reclamation standards of this Ordinance provided through a written authorization granted by Iron County pursuant to s. 22.

(2) "Applicable reclamation ordinance" means a nonmetallic mining reclamation ordinance, including this Ordinance, that applies to a particular nonmetallic mining site and complies with the requirements of Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Stats., unless the Wisconsin Department of Natural

Resources is the regulatory authority. If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR 135, Wisconsin Administrative Code.

(3) "Borrow site" means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.

(4) "Contemporaneous reclamation" means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

(5) "Department" means the Wisconsin Department of Natural Resources.

(6) "Environmental pollution" means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(7) "Existing mine" means a nonmetallic mine where nonmetallic mining takes place before August 1, 2001.

(8) "Financial assurance" means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in s. 18 and is sufficient to pay for reclamation activities required by this Ordinance.

(9) "Landowner" means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.

(10) "Municipality" means any city, town or village.

(11) "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(12) "Nonmetallic mining" or "mining" means all of following:

(a) Operations or activities at a nonmetallic mining site for the extraction from the earth for sale or use by the operator of mineral aggregates or nonmetallic minerals, such as stone, sand, gravel, asbestos, beryl, clay, feldspar, peat, talc and topsoil. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

(b) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

(13) "Nonmetallic mining reclamation" or "reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this Ordinance, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(14) "Nonmetallic mining refuse" means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(15) "Nonmetallic mining site" or "site" means all contiguous areas of present or proposed mining described in par. (a), subject to the qualifications in par. (b).

(a) Nonmetallic mining site means the following:

1. The location where nonmetallic mining is proposed or conducted.
2. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.
3. Areas where nonmetallic mining refuse is deposited.
4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
5. Areas where grading or regrading is necessary.
6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

(b) "Nonmetallic mine site" does not include any of the following areas:

1. Those portions of sites listed in par. (a) not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.
2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.

3. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.
- (16) "Operator" means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (17) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.
- (18) "Quarry" means a nonmetallic mine site.
- (19) "Registered geologist" means a person who is registered as a professional geologist pursuant to ss. 443.037 and 443.09, Stats.
- (20) "Registered professional engineer" means a person who is registered as a professional engineer pursuant to ss. 443.04 and 443.09, Stats.
- (21) "Regulatory authority" means the following:
- (a) Iron County for nonmetallic mine sites located within its jurisdiction, or
 - (b) A municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance.
- (22) "Replacement of topsoil" means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this Ordinance.
- (23) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, Stats., or source material, special nuclear material or by-product material, as defined in s. 254.31 (1), Stats.
- (24) "Topsoil" means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (25) "Topsoil substitute material" means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(26) (a) "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sub. 33.30. However the term does not include any areas described in par. (b).

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under sub. 33.30.
2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in an nonmetallic mining reclamation plan approved pursuant to this Ordinance but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. For purposes of fees under s. 31, those areas within a nonmetallic mining site which Iron County has determined to have been successfully reclaimed on an interim basis in accordance with sub. 33.30.

PART II - QUARRIES AND NON-METALLIC MINES

SUBSECTION 11 11.00 Application Required. No quarry or non-metallic mine operation may be commenced in Iron County unless said activity is first approved by the Iron County Zoning Committee. Application requesting Iron County Zoning Committee approval of a proposed quarrying or non-metallic mining activity shall be submitted to the Iron County Zoning Department, and shall be accompanied by:

- (1) A description of all phases of the contemplated operation including types of machinery and equipment which will or might be necessary to carry on the operation. Where the operation is to include sand and gravel washing, the estimated daily quantity of water required, its source and its disposition shall be identified.
- (2) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
- (3) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
- (4) The name, address and telephone number of the person or organization who is the operator.

(5) A certification by the operator of the operator's intent to comply with the statewide nonmetallic mining reclamation standards established by Part III.

(6) A Reclamation Plan as hereinafter required.

(7) If specifically required by the Iron County Zoning Committee, a topographic map, at a minimum contour interval of ten (10) feet, of the proposed site and the area extending beyond the site to a minimum distance of three hundred (300) feet on all sides.

(8) Any other and further information that Iron County, by the Iron County Zoning Committee, may require.

SUBSECTION 12 **12.00 Consideration of Compatibility.** In reviewing a proposal for a quarrying or non-metallic mining activity, the Iron County Zoning Committee shall take into consideration:

(1) The effect of the proposed operation on drainage and water supply, particularly in connection with sand and gravel washing.

(2) The possibility of soil erosion as a result of the proposed operation.

(3) The most suitable land use for the area.

(4) The impact upon, and the opinions and positions of, owners of lands within the vicinity of the proposed non-metallic mining site.

(5) Whether the applicant has ever failed to comply with a reclamation plan.

SUBSECTION 13 **13.00 Reclamation Plan and Financial Assurance Required.** No authority or permit to carry on a quarrying or non-metallic mining operation shall be given until a reclamation plan has been approved, as required herein, and the operator has agreed to restore the quarried or mined area to a condition of practical usefulness and reasonable physical attractiveness. Further, the operator shall provide sufficient financial assurance to secure the performance of the reclamation agreement, as required herein. The agreement and financial assurance shall be in forms approved by the Corporation Counsel, and shall meet the requirements of Section 135.40, Wisconsin Administrative Code.

SUBSECTION 14 **14.00 Conditions for Approval.** The Iron County Zoning Committee may set forth conditions of approval regarding appropriate setback and other dimensional requirements particularly with reference to avoiding a nuisance effect on surrounding residential uses, or an attractive nuisance effect upon children or passersby. Suitable fencing, capping and landscaping may be required.

PART III - STANDARDS

SUBSECTION 15 **15.00 Standards.** All nonmetallic mining sites subject to this Ordinance shall be

reclaimed in conformance with the standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code, as set forth below, and as amended from time to time:

(1) General Standards.

(a) Refuse and Other Solid Wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.

(b) Area Disturbed and Contemporaneous Reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(c) Public Health, Safety and Welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) Habitat Restoration. When the land use required by the reclamation plan approved pursuant to this Ordinance requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(e) Compliance with Environmental Regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

(2) Surface Water and Wetlands Protection. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this Ordinance. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(3) Groundwater Protection.

(a) Groundwater Quantity. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) Groundwater Quality. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application defined in that Ordinance.

(4) Topsoil Management.

(a) Removal. Topsoil and topsoil substitute material shall be removed, protected and redistributed to support reclamation and site stabilization. Topsoil shall be managed as specified in the reclamation plan approved pursuant to this chapter in order to achieve reclamation to the approved post-mining land use. Topsoil and topsoil substitute material removal shall be performed, as required by the reclamation plan, prior to any mining activity associated with any specific phase of the mining operation.

(b) Volume. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this Ordinance.

(c) Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this Ordinance, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(5) Final Grading and Slopes.

(a) All areas affected by mining shall be graded in accordance with the reclamation plan approved pursuant to this Ordinance to achieve a stable and safe condition consistent with the post mining land use. The reclamation plan may designate areas such as stable slopes and rock faces which do not require final grading.

(b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless alternative requirements are approved under s. 22, and stable slopes can be demonstrated based on site-specific engineering analysis. The engineering analysis shall show that a minimum acceptable slope stability factor is attainable at a steeper slope and that the post-mining land use specified in the reclamation plan is not adversely affected. When the slope occurs at the edge of a body of water, this approved slope shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(c) All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(6) Topsoil Redistribution for Reclamation. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this Ordinance in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(7) Revegetation and Site Stabilization. Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this Ordinance, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(8) Assessing Completion of Successful Reclamation.

(a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this Ordinance. Criteria to evaluate reclamation success shall be quantifiable.

(b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

1. On-site inspections by Iron County, by the Iron County Zoning Administrator or such other official as shall be designated;
2. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photodocumentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
3. A combination of inspections and reports.

(c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(d) Revegetation success may be determined by:

1. Comparison to an appropriate reference area;
2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
3. Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

(9) Intermittent Mining. Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to s. 18 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(10) Maintenance. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this Subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this Ordinance.

PART III - PERMITTING

SUBSECTION 16 16.00 Nonmetallic Mining Reclamation Permit Application.

16.10 Required Submittal. The operator of all nonmetallic mining sites that operate on or after August 1, 2001 shall apply for a reclamation permit from Iron County. All applications for reclamation permits under this section shall be accompanied by the following information:

- (1) A brief description of the general location and nature of the nonmetallic mine.
- (2) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
- (3) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
- (4) The name, address and telephone number of the person or organization who is the operator.
- (5) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by Part III.
- (6) Any other and further information that Iron County may require, in accordance with Section NR 135.18(3), Wisconsin Administrative Code.

16.20 Existing Mines. The operator of any existing nonmetallic mining site in operation on August 1, 2001 may apply for an automatic reclamation permit from Iron County by providing the information set forth below no later than on August 1, 2001 to the Iron County Zoning Administrator, Iron County Courthouse, 300 Taconite Street, Hurley, Wisconsin 54534, via personal delivery or certified or registered mail:

- (1) The information required by sub. 16.10.
- (2) The first year's annual fee, as required by s. 31.
- (3) A certification signed by the operator that he or she will provide Iron County with a complete reclamation plan required by s. 17 and financial assurance required by s. 18 no later than the times established pursuant to this Ordinance.

16.30 New Mines. The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1, 2001 or which has not applied for an automatic reclamation permit pursuant to sub. 16.20 shall submit an application that meets the requirements specified below to the Iron County Zoning Office, Iron County Courthouse, 300 Taconite Street, Hurley, Wisconsin 54534, via personal delivery or certified or registered mail, prior to beginning operations. This application shall be accompanied by a plan review fee as specified in s. 30.

- (1) The information required by sub. 16.10.
- (2) The plan review and annual fees required by s. 30 and 31.

(3) A reclamation plan conforming to s. 17.

(4) A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by s. 18 upon granting of the reclamation permit and before mining begins.

(5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this Ordinance.

SUBSECTION 17 17.00 Reclamation Plan.

17.10 Reclamation Plan Requirements. All operators of nonmetallic mining sites subject to this Ordinance shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

17.20 Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with sub. 16.20 shall submit the reclamation plan required by sub. 17.10 not more than two (2) years after receipt of the automatic permit under sub. 16.20.

17.30 New Mines. The operator of any nonmetallic mining site that applies for a permit in conformance with sub. 16.30 shall submit the reclamation plan required by sub. 17.10 with its application for a reclamation permit and/or a permit to commence a quarrying or non-metallic mining activity, in accordance with s. 11.

17.40 Existing Plans and Approvals. To avoid duplication of effort, the reclamation plan required by sub. 17.10 may, by reference, incorporate existing plans or materials that meet the requirements of this Ordinance. Previous approvals for nonmetallic mining sites that apply in accordance with sub. 16.20 shall satisfy the requirements of sub. 17.10 if they meet the requirements of Section NR 135.21(1)(d), Wisconsin Administrative Code.

17.50 Approval of Reclamation Plan. Iron County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to sub. 20.20 for existing mines and sub. 20.40 for new mines. Conditional approvals of reclamation plans shall be made according to sub. 20.70, and denials of reclamation plans made according to s. 21. The operator shall keep a copy of the reclamation plan required by this section, once approved by Iron County under this Ordinance, at the mine site or, if not practicable, at the operator's nearest office or place of business.

SUBSECTION 18 18.00 Financial Assurance.

18.10 Financial Assurance Requirements. All operators of nonmetallic mining sites in Iron County shall prepare and submit a proof of financial assurance that meets the following requirements:

(1) Notification. Iron County shall provide written notification to the operator of the

amount of financial assurance required under sub. (3).

(2) Filing. Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with in Iron County. The financial assurance shall provide that the operator shall faithfully perform all requirements in this Ordinance, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to Iron County. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to Iron County only if it currently has primary regulatory responsibility.

(3) Amount and Duration of Financial Assurance. The amount of financial assurance shall equal as closely as possible the cost to Iron County of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by Iron County to assure it equals outstanding reclamation costs. Any financial assurance filed with Iron County shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Iron County may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to effect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

(4) Form and Management. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to Iron County and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of Iron County, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

(5) Multiple Projects. Any operator who obtains a permit from Iron County for two or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by Iron County.

(6) Multiple Jurisdictions. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and

implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(7) Certification or Completion and Release.

(a) The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. Iron County shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. Iron County may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete Iron County shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.

(b) Iron County shall make a determination of whether or not the certification in par. (a) can be made within 60 days that the request is received.

(c) Iron County may make a determination under this subsection that:

1. Reclamation is not yet complete;
2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
3. Reclamation is complete in a part of the mine; or
4. Reclamation is fully complete.

(8) Forfeiture. Financial assurance shall be forfeited if any of the following occur:

- (a) A permit is revoked under s. 28 and the appeals process has been completed.
- (b) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(9) Cancellation. Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90 day notice to Iron County in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to Iron County a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(10) Changing Methods of Financial Assurance. The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to s. 16. The operator shall give Iron County at least 60 days notice prior to changing methods of

financial assurance and may not actually change methods without the written approval of Iron County.

(11) Bankruptcy Notification. The operator of a nonmetallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.

(12) Adjustment of Financial Assurance. Financial assurance may be adjusted when required by Iron County. Iron County may notify the operator in writing that adjustment is necessary and the reasons for it. Iron County may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(13) Net Worth Test.

(a) Only an operator that meets the definition of "company" in s. 289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.

(b) The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of s. 289.41 (4), Stats. The criteria in secs. 289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Stats., shall apply.

(c) An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with s. 289.41 (6), Stats.

(d) Determinations under the net worth test shall be done in accordance with s. 289.41 (5), Stats.

(e) In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.

18.20 Existing Mines. The operator of any nonmetallic mining that applies for an automatic reclamation permit in conformance with sub. 20.20 shall submit the proof of financial assurance required by sub. 18.10 no later than one (1) year after receipt of the automatic permit under sub. 20.20.

18.30 New Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sub. 16.30 shall submit the proof of financial assurance required by sub. 18.10 as specified in the reclamation permit issued to it under this Ordinance.

18.40 Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

SUBSECTION 19 19.00 Public Notice and Right of Hearing.

19.10 New Mines. Iron County shall, except as provided in sub. 19.20, provide public notice and the opportunity for a public informational hearing as set forth below:

(1) Public Notice.

(a) Except as provided in sub. (3) for existing mines, when Iron County receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies sub. 16.30.

(b) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a Class 2 notice pursuant to s. 985.07(2), Stats., in the official newspaper of Iron County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.

(c) Copies of the notice shall be forwarded by Iron County to the county or applicable local zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) Hearing. Except as provided in sub. (3) for existing mines, Iron County shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows.

(a) If it conducts a zoning-related hearing on the nonmetallic mine site, Iron County shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. Iron County shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this Ordinance.

(b) 1. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in par. (a), opportunity for public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. Iron County shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. (1). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code, by the Iron County Zoning Committee as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.

2. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

19.20 Existing Mines (1) No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued pursuant to sub. 20.20 for an existing mine, except as provided in sub. (3).

(2) If the regulatory authority accepts a previously approved reclamation plan for that mine as provided in sub. 20.30, no further public notice or informational hearing is required.

(3) If Iron County requires the submittal of a new reclamation plan, public notice and the opportunity for public informational hearing shall be provided following the receipt of the reclamation plan in accordance with sub. 19.10. In this case, the subject matter and testimony at that hearing, if held, shall be limited to the new reclamation plan.

19.30 Local Transportation-Related Mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 20.50.

SUBSECTION 20 20.00 Issuance of a Nonmetallic Mining Reclamation Permit.

20.10 Permit Required. Every operator of a nonmetallic mining site in Iron County who engages in or plans to engage in nonmetallic mining after August 1, 2001 shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this Ordinance as provided in sub. 7.20. No person or non-exempt entity may engage in nonmetallic mining or nonmetallic mining reclamation after August 1, 2001 without a reclamation permit issued pursuant to this Ordinance.

20.20 Automatic Permit for Existing Mines. Iron County shall issue an automatic reclamation permit to the operator of any nonmetallic mining that submits an application meeting the requirements of sub. 16.20 as set forth in Section 135.21(1), Wisconsin Administrative Code. The automatic permit shall be issued within 30 days of such application.

20.30 Evaluation of Follow-Up Submittals for Existing Mines. Mines covered by automatic permits issued under sub. 20.20 shall submit a reclamation plan in accordance with sub. 17.20 and proof of financial assurance in accordance with sub. 18.20 by the deadlines established in those subsections. Reasonable extensions to these deadlines may be granted in writing by Iron County, by the Iron County Zoning Committee, where extenuating circumstances exist. The follow-up submittals required by this subsection shall be evaluated using the criteria and procedures in Sections NR 135.21(1)(d), (e) and (f).

20.40 Permit Issuance for New Mines. Applications for reclamation permits for nonmetallic mining sites not permitted under sub. 20.20 that satisfy sub. 16.30 shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms with sub. 17.30, and provision by the applicant of financial assurance that conforms with sub. 18.30 payable to Iron County prior to beginning mining.

20.50 Automatic Permit for Local Transportation-Related Mines. Iron County shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued

according to the provisions of Sections NR 135.23(1)(b) through (j), Wisconsin Administrative Code.

20.60 Expedited Review. Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in sub. 30.20. The expedited review shall be carried out according to the provisions of Section NR 135.23(2), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to s. 19.

20.70 Permit Conditions. Permits issued under this section may include conditions as provided in Section NR 135.21(3), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

SUBSECTION 21 21.00 Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

SUBSECTION 22 22.00 Alternative Requirements.

22.10 Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in s. 15.00. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

22.20 Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in sub. 22.10 shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Iron County Zoning Department, Iron County Courthouse, 300 Taconite Street, Hurley, Wisconsin 54534. The request for an alternate requirement shall be included on the agenda for a meeting of the Iron County Zoning Committee, within forty-five (45) days of its receipt by the Committee. The operator making the request shall be notified, in writing, of the date and time of the meeting, and shall be afforded a reasonable opportunity to present his or her request, to the Zoning Committee. The Zoning Committee shall deliberate, taking into consideration the purpose and provisions of this Ordinance, and the best interests of the public, and shall then vote upon the request. A 2/3 vote of all Zoning Committee members present shall be required, for approval. The request shall be voted upon not more than forty (40) days after first appearing on a Zoning Committee agenda.

22.30 Transmittal of Decision on Request for Alternate Requirements. The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

22.40 Appeal of Decision of Zoning Committee. The decision of the Zoning Committee may be appealed by the operator to the Board of Adjustment, established pursuant to Sec. 9-1-180, Ordinances of Iron County, provided the operator notifies the Iron County Clerk and the Iron County Zoning Administrator of the operator's intention to so appeal, within

fifteen (15) days after his or her receipt of the written notification of the decision of the Zoning Committee.

22.50 Notice to Wisconsin Department of Natural Resources. Iron County shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code.

SUBSECTION 23 23.00 Permit Duration. A nonmetallic mining reclamation permit issued under this Ordinance shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sub. 36.20, or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.

SUBSECTION 24 24.00 Permit Transfer. A nonmetallic mining reclamation permit issued under this Ordinance shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

SUBSECTION 25 25.00 Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Iron County, the previously-issued municipal reclamation permit's terms and conditions shall remain in force until they can be modified by Iron County pursuant to sub. 27.10.

SUBSECTION 26 26.00 Review. Any permitting decision or action made by Iron County under this Ordinance may be reviewed as set forth in this section. Notwithstanding ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of s. 227.42 (1), Stats., may obtain a contested case hearing under s. 68.11, Stats., on Iron County's decision to issue, deny or modify a nonmetallic mining reclamation permit.

PART IV - ADMINISTRATION

SUBSECTION 27 27.00 Permit Modification.

27.10 By Iron County. A nonmetallic mining reclamation permit issued under this Ordinance may be modified by Iron County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this Ordinance. Such modification shall be by an order conforming with the procedures in s. 36 and as provided in Section NR 135.24(1); Wisconsin Administrative Code.

27.20 At the Operator's Option. If the operator of any nonmetallic mine that holds a reclamation permit issued under this Ordinance desires to modify such permit or reclamation plan approved under this Ordinance, it may request such modification by submitting a written application for such modification to the Iron County Department, Iron County Courthouse, 300 Taconite Street, Hurley, Wisconsin 54534. The application for permit or plan modification shall be acted on using the standards and procedures of this Ordinance.

27.30 Required of the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this Ordinance shall request a modification of such permit if required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this Ordinance.

27.40 Review. All actions on permit modifications requested or initiated under this section are subject to review under s. 26.

SUBSECTION 28 28.00 Permit Suspension or Revocation

28.10 Grounds. Iron County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this Ordinance if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

28.20 Procedures. If Iron County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 28.10, it may issue a special order suspending or revoking such permit as set forth in sub. 36.20.

28.30 Consequences. The consequences of a reclamation permit suspension or revocation order under s. 28 shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

SUBSECTION 29 29.00 Annual Operator Reporting.

29.10 Contents and Deadline. Annual reports shall be submitted by the operators of nonmetallic mining sites that satisfy the requirements of Section 135.36, Wisconsin Administrative Code. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year to the Iron County Zoning Office, Iron County Courthouse, 300 Taconite Street, Hurley, Wisconsin 54534. Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 33.30. Annual Reporting forms may be obtained from the Office of the Iron County Zoning Administrator.

29.20 Inspection in Lieu of Report. Iron County may, at its discretion, obtain the information required in sub. 29.10 by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

29.30 Retention of Annual Reports. Annual reports submitted under this section or inspection records that replace them shall be retained by Iron County, in the Office of the Iron County Zoning Administrator, for at least 10 years after the calendar year to which they apply. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

SUBSECTION 30 30.00 Plan Review Fees.

30.10 Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 16.30 shall submit a non-refundable plan review fee in accordance with the Fee Schedule established by the Iron County Zoning Committee, and as amended from time to time by the Iron County Zoning Committee. All non-refundable plan review fees shall be sent to the Iron County Zoning Department, 300 Taconite Street, Hurley, Wisconsin 54534. No plan review fee may be assessed under this section for any nonmetallic mine site for which an application for an automatic reclamation permit is submitted that meets the requirements of sub. 16.20 or for any local transportation-related mine issued an automatic permit under sub. 20.50. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to s. 27.

30.20 Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sub. 16.30 may obtain an expedited reclamation plan review by paying a fee in accordance with the Fee Schedule established by the Iron County Zoning Committee, and as amended from time to time by the Iron County Zoning Committee. Such fee shall be in addition to that required in sub. 30.10.

30.30 Relation to Annual Fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under s. 31.

SUBSECTION 31 31.00 Annual Fees.

31.10 Areas Subject to Fees, Procedures and Deadline. Operators of all nonmetallic mining sites subject to reclamation permits issued under this Ordinance shall pay annual fees to Iron County, by submitting the same to the Iron County Zoning Department, 300 Taconite Street, Hurley, Wisconsin 54534. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under sub. 31.20 and a share for Iron County under sub. 31.30 that equals as closely as possible the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining reclamation sites. These fees shall be calculated based on the amount of unreclaimed acres of each site, as defined in Section NR 135.39(1), Wisconsin Administrative Code and according to its provisions. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under s. 33. Fees shall be paid no later than December 31 before the year for which they apply.

31.20 Wisconsin Department of Natural Resources Share of Fee. Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be \$15.00.

31.30 Iron County's Share of Fee. Fees paid under this section shall also include an annual fee due to Iron County which shall be in accordance with the Fee Schedule established by the Iron County Zoning Committee, and as amended from time to time by the Iron County Zoning Committee. All fees paid under this section shall be remanded to the Iron County Zoning Department, 300 Taconite Street, Hurley, Wisconsin 54534.

31.40 Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee for the following calendar year a fee in accordance with the Fee Schedule established by the Iron County Zoning Committee, and as amended from time to time by the Iron County Zoning Committee.

SUBSECTION 32 32.00 Regulatory Reporting and Documentation.

32.10 Reporting. Iron County, by its Zoning Administrator, shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code.

32.20 Documentation. Iron County shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Iron County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

SUBSECTION 33 33.00 Completed Reclamation - Reporting, Certification and Effect

33.10 Reporting. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this Ordinance and Chapter NR 135, Wisconsin Administrative Code. Certification forms may be obtained from the Iron County Zoning Department, and shall be filed with said department, upon completion by operator.

33.20 Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this Ordinance and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 29.10.

33.30 Certification of Completed Reclamation. Iron County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Section NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with s. 17, Iron County shall issue the mine operator a written certificate of completion.

33.40 Effect of Completed Reclamation. If reclamation is certified by Iron County as complete under sub. 33.30 for part or all of a nonmetallic mining site, then:

- (1) No fee shall be assessed under s. 31 for the area so certified.
- (2) The financial assurance required by s. 18 shall be released.

(3) For sites which are reported as interim reclaimed under sub. 33.20 and so certified under sub. 33.30, financial assurance for reclaiming the certified area shall be reduced.

33.50 Effect of Inaction Following Report of Completed Reclamation. If no written response as required by sub. 33.30 for an area of the nonmetallic mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to Iron County for it under s. 31 shall be refunded.

SUBSECTION 34 34.00 Permit Termination. When all final reclamation required by a reclamation plan conforming to s. 17 and required by this Ordinance is certified as complete pursuant to s. 33, Iron County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

PART V - ENFORCEMENT

SUBSECTION 35 35.00 Right of Entry and Inspection. An official agent of Iron County, to-wit: Zoning Administrator, Sheriff, Deputy Sheriff, Corporation Counsel, or District Attorney, or the assign(s) of any of them, may, pursuant to sec. 295.17, stats., enter a nonmetallic mining site subject to this Ordinance in the performance of his or her official duties at any reasonable time in order to inspect those premises and to ascertain compliance with Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this Ordinance. Iron County shall furnish to the operator of said nonmetallic mining site any report prepared by Iron County regarding the inspection.

35.10 Obstruction Prohibited. No person may refuse entry or access to an official agent of Iron County, to-wit: Zoning Administrator, Sheriff, Deputy Sheriff, Corporation Counsel, or District Attorney, or the assign(s) of any of them, who requests entry for purposes of inspection, and who presents appropriate credentials. Any person who obstructs, hampers or interferes with the inspection shall be subject to a penalty for said violation, pursuant to s. 37 of this Ordinance.

SUBSECTION 36 36.00 Orders and Citations.

36.10 Enforcement Orders. Iron County may issue orders as set forth in Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by s. 17 and a permit issued under this Ordinance. A violation of this Ordinance, an order or permit issued pursuant to this Ordinance or a reclamation plan required by s. 17 and a permit issued under this Ordinance shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

36.20 Special Orders. Iron County may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to s. 28, or directing an operator to immediately cease an

activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this Ordinance until the necessary plan approval is obtained.

36.30 Review of Orders. An order issued under sub. 36.10 or sub. 36.20 may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code, and a person or entity holding a reclamation permit who or which is subject to an order pursuant to sub. 36.10 or sub. 36.20 of this section shall have the right to review the order in a contested case hearing under s. 68.11, Stats., notwithstanding the provisions of ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats.

36.40 Citations. Iron County may issue a citation under s. 66.0113, Stats. and proceed under Subchapter I of Chapter 66, to collect forfeitures or require any action needed to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by s. 17 and a permit issued under this Ordinance. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

36.50 Special Inspection Warrants. Iron County may apply for, obtain and execute a special inspection warrant under sec. 66.0119, stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, and this Ordinance. For this purpose, "Peace Officer," as defined in 66.0119(1)(b), stats., shall include the Iron County Zoning Administrator.

36.60 Enforcement Of Orders. Iron County may submit any order issued under s. 36 to the corporation counsel, the district attorney, or the attorney general for enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes. The corporation counsel, district attorney, or the attorney general may enforce those orders.

36.70 Prosecution of Citations and Forfeiture Complaints. Citations and Forfeiture Complaints issued for violations of this Ordinance, Subchapter I of Chapter 295, Wisconsin Statutes, or Chapter NR 135, Wisconsin Administrative Code, may be submitted to the corporation counsel, the district attorney, or the attorney general, for prosecution.

SECTION 37

37.00 Penalties. Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this Ordinance, a permit issued pursuant to this Ordinance or a reclamation plan required by s. 17 and a permit issued under this Ordinance may result in a forfeiture, as follows:

(1) Any person who violates s. 35.10 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation, plus the costs of prosecution and court costs. Each day of continued violation is a separate offense. While an order issued under s. 32 is suspended, stayed or enjoined, this penalty does not accrue.

(2) Any person who violates Subchapter I of Chapter 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this

Ordinance or an order issued pursuant to s. 36 shall forfeit not less than \$10 nor more than \$5,000 for each violation, plus the costs of prosecution and court costs. Each day of violation is a separate offense. While an order issued under s. 36 is suspended, stayed or enjoined, this penalty does not accrue.

(3) Bond amounts of and for the above-referenced violations shall be established by the Iron County Zoning Committee, and amended from time to time as deemed appropriate by said Committee.

(4) Iron County shall have any and all other remedies afforded by the Wisconsin Statutes, in addition to the forfeitures and costs of prosecution specified above.