

1 ORDINANCE AMENDMENT #10-2018
2 Note: All of Chapter 9, Article 9.61 is repeal and recreate
3 Additions noted by Underlined
4



5 9.61 METALLIC MINERAL EXPLORATION, BULK SAMPLING, PROSPECTING AND
6 MINING.
7

8 **Findings.** Oneida County has over 1127 lakes within its boundaries and approximately
9 167,000 acres of public forest lands. Oneida County is valued for its scenic beauty and
10 recreational resources. It also has known deposits of nonferrous metallic minerals.
11 Development of nonferrous minerals has potential for adversely impacting groundwater
12 quality and quantity and surface water quality. The 'boom to bust' economic cycle of
13 nonferrous mining and the associated development of housing, infrastructure and
14 commercial establishments undertaken to meet the peak demands of a nonferrous
15 metallic mining operation and the temporary nature of the need for such development
16 could result in adverse social consequences in the County. If not properly regulated,
17 nonferrous metallic mineral exploration, bulk sampling, prospecting and mining could
18 have an adverse impact on the environmental character and quality of the communities
19 in Oneida County, as well as an adverse effect on the public health, safety, convenience,
20 morals and general welfare.

21 A. **Purpose and Intent.** The purpose of this section is to regulate nonferrous metallic
22 mineral exploration, bulk sampling and mining in Oneida County and to promote the
23 public health, safety, convenience, morals and general welfare and accomplish the
24 purposes under Wis. Stat. s. 59.69(1), including but not limited to the protection of
25 water, groundwater, forest and other natural resources, the protection of property
26 values and the property tax base, and to encourage uses of land and other natural
27 resources which are in accordance with their character and adaptability. In addition,
28 it is the purpose of this section to coordinate the requirements of this section with other
29 applicable state and federal requirements. It is not the intent of Oneida County to
30 duplicate or supersede the regulatory authority of the Wisconsin Department of Natural
31 Resources (DNR) or other state and federal government agencies. Furthermore, it is
32 the intent of Oneida County to require applicants to provide the County with copies of
33 all information applicants submit to the DNR, other state agencies and the federal
34 government for the purposes of permitting, with the exception of information that is
35 determined the state to be a confidential trade secret. It is also the intent of Oneida
36 County to require the applicant to pay all of the County's costs including but not limited
37 to the review, permitting and monitoring of nonferrous metallic mining.

38 B. **Authority.** This Chapter is adopted under authority of the powers set forth in Wis.
39 Stats. ss. 59.01, 59.03, 59.04, 59.51, 59.54(6), 59.57, 59.69, 59.70, 92.07, and 293.
40

41 C. **Interpretation/Severability.** Where provisions of this section of the Oneida County
42 Zoning Ordinance impose requirements or procedures that differ from other provisions
43 in this ordinance, the provisions of this section shall govern. Should any portion of this
44 section be declared unconstitutional or invalid by a court of competent jurisdiction, the
45 remainder of this section shall not be affected.
46

47 D. **Oneida County Metallic Mining Local Impact Committee.** The Oneida County
48 Mining Oversight/Local Impact Committee established under 2.39 (2) (b) of the
49 General Code shall be the Local Impact Committee for Nonferrous Metallic mining in

50 Oneida County and its formation and actions shall be as set forth 2.39 (2) (b) of the
51 General Code and in accordance with Wis. Stats. ss. 293.33 and 293.41.

52
53 **E. Successor Statutes and Administrative Rules Incorporated.**

54 This ordinance has been passed and published in response to 2017 WI ACT 134 (the
55 “Act”), which removed barriers to the initiation of nonferrous nonferrous metallic mining
56 in Wisconsin. The provisions of the Act are effective July 1, 2018. The effect of the
57 Act is to amend, repeal, and create certain sections of Wisconsin Statutes It is
58 anticipated that related statutes and administrative rules and regulations, in effect at
59 the time of publication of this ordinance, will also undergo substantial change in
60 response to the Act. All references and citations to state or federal statutes and/or
61 regulations in this Ordinance shall include any and all modifications, amendments, or
62 revisions thereto that become effective after the effective date of this ordinance. If a
63 specified administrative code reference is determined not to exist or not to apply for
64 any reason and has not been replaced by a different applicable administrative code,
65 then the governance for any topic, standard or purpose served by reference to that
66 specified administrative code shall be the statute that provided the authority under
67 which the referenced rule was last promulgated, and as that statute may be amended.

68
69 **F. Definitions.**

70 The terms defined in Wis. Stat. Ch. 293 are adopted in full to apply to this Ordinance
71 and shall have the same meaning as in that statute. In addition, the term “processing”
72 as applied to an activity at a mining site shall mean milling, concentrating, refining, or
73 chemically treating ore mined at the site.

74 **G. Timing Milestones and Triggering Events.** The following significant regulatory
75 milestones and events prescribed by statute, rule, regulation or ordinance, are listed
76 below in the approximate sequence in which they are likely to occur, however any
77 failure of events to occur in this exact sequence shall not be deemed a violation of this
78 Ordinance:

- 79
- 80 1. Notice of Intent to perform Bulk Sampling and filing of bulk sampling plan
- 81 2. Notice of Intent to collect data or apply for DNR Mining permit application (“NOI”)
- 82 3. Activation of a Local Impact Committee in Oneida County (including for example,
83 the Oneida County Mining Oversight and Local Impact Committee commencing its
84 activities as a Local Impact Committee under Wis. Stats. s. 293.33)
- 85 4. Filing of County Mining Permit Application and DNR Mining permit application
86 (simultaneous filing of both applications is required; any subsequent filing of
87 additional information or amendments to the DNR Mining Permit Application shall
88 also be filed with the County).
- 89 5. DNR Review of completeness of DNR Mining Permit application and possible
90 request for additional information
- 91 6. County Planning and Development Committee reviews County Mining Permit
92 application.
- 93 7. Environmental Impact Report (“EIR”) (optional, prepared by applicant; if prepared
94 would be submitted to DNR and County)
- 95 8. DNR prepares and provides to the County and affected towns the Draft
96 Environmental Impact Statement (“DEIS”), draft approvals, draft mining permit and
97 summaries of DNR’s analysis of the approval and proposed mining operation
- 98 9. DNR starts the 45-day public comment period

- 99 10. County reviews DEIS and materials released by DNR and prepares to comment
100 11. County Planning and Development Committee holds public hearing on DEIS and
101 draft DNR materials
102 12. County Planning and Development Committee determination of completeness of
103 County Mining Permit Application
104 13. County Planning and Development Committee prepares and delivers written
105 comments to County Board for consideration and submittal to DNR before close
106 of DNR 45-day comment period
107 14. Notice of DNR Public Hearing Regarding Permit Issuance
108 15. Notice of County Board Public Hearing on proposed Local Agreement(s)
109 16. DNR holds public hearing on mine permit application and issuance
110 17. DNR reviews record of Public Hearing and responds to hearing comments
111 18. Public Hearing regarding proposed Local Agreement(s)
112 19. County Board decides to award or deny proposed Local Agreement(s) to which
113 the County is a party
114 20. Notice of County Board Public Hearing on County Mine Permit
115 21. County Board Decision on County Mine Permit
116 22. DNR Decision Document and Environmental Impact Statement (prepared by DNR)
117 23. Commencement of Mining Operations, beginning with mine construction
118 24. Reclamation Commences and is Completed
119 25. Closure of Mine
120 26. Long Term Monitoring
121 27. DNR Issues Partial and/or Full Certificate of Completion
122 28. County issues Certificate of Completion
123 29. Continuance and phased release of Financial Assurance(s)
124 30. Final Release of Financial Assurance(s)
125

126 H. **Exploration.**

- 127
128 1. Permit Required. Exploration is a permitted use subject to review by the Planning
129 & Development Committee that may be allowed in the following zoning districts:
130 District 1-A Forestry; District 8 Manufacturing and Industrial; and District 10
131 General Use. No person may engage in exploration without securing an
132 exploration permit issued pursuant to this ordinance. A person's application for
133 and acceptance of an exploration permit shall constitute the Exploration Permit
134 holder's binding and irrevocable consent to allow the County to enter any of the
135 Exploration Permit holder's exploration sites in Oneida County at any time for
136 purposes of inspection.
137
138 2. Review and Processing of Permit Applications.
139 a. The applicant shall submit an exploration permit application meeting the
140 requirements of this section.
141 b. The application shall be made on an application form provided by the County
142 and shall include all indicated information.
143 c. The form shall be accompanied by a copy of the applicant's complete submittal
144 provided to the DNR to obtain a state exploration license, along with the
145 applicant's written certification that the materials provided are a true, complete
146 and correct copy of the materials submitted to DNR as application for state
147 exploration license as required by Wis. Stat. Ch. 293.
148 d. The application form shall be accompanied by payment of the required fee.
The fee for an exploration permit shall be \$1,500.00 per year for the duration

149 of exploration activities, to be paid annually on or before the anniversary date
150 of the application.

151 3. Notification Requirements. The holder of any Exploration Permit issued by Oneida
152 County shall notify the County in writing, as required in this section, at least ten
153 days prior to commencement of the earlier of preparing any location to serve as a
154 drilling site or commencement of drilling in Oneida County. The notification
155 required by this section shall include the following:

156
157 a. Copies of any notices of intent to drill provided to DNR under Wis. Stat. Ch.
158 293 or any rule promulgated thereunder;

159 b. A list of all local and state permits and approvals in effect to allow the intended
160 exploration to proceed;

161 c. An exploration plan as set forth below, provided that where the information
162 required is duplicative of documents filed with DNR, those material may be
163 provided by cross references:

164 1) Identity of the owner of land on which any drilling site is located;

165 2) Certification of legal ingress and egress to and including the lands to be
166 explored;

167 3) Type and distance of nearest water body, including lakes, streams,
168 floodplains and wetlands, to drilling location;

169 4) Type of equipment or machinery to be used;

170 5) Time frame for exploration, drillhole abandonment and reclamation in
171 accordance with applicable permits, approvals and applicable
172 provisions of the Wisconsin Administrative Code.;

173 d. A schedule of financial assurances and certification that all such assurances
174 will remain in effect for the duration of exploration from commencement of
175 drilling through completion of drill site reclamation. Applications for an
176 exploration permit shall be accompanied by a certificate of insurance certifying
177 that the applicant has in force a liability insurance policy issued by an insurance
178 company authorized to do business in Wisconsin covering all exploration
179 activities of the applicant and affording personal injury and property damage
180 protection in a total amount deemed adequate by the Planning and
181 Development Committee but no less than \$5,000,000.00;

182 e. A description of intended methods for proper segregation, handling, storage
183 and disposal of all waste materials produced in the process of exploration.

184 4. Further Notifications. The Exploration Permit holder shall provide the County with
185 copies of any reports and forms pertaining to drillhole abandonment and to drilling
186 site reclamation that are provided to DNR under Wis. Stat. Ch. 293 or any rule
187 promulgated thereunder, within 5 business days of providing any such information
188 to DNR.

189 5. Approval Standards.

190 a. The exploration activities shall be designed, constructed and operated in
191 accordance with all applicable standards of the DNR, including both statutory
192 and administrative code standards.

193 b. The exploration activities as proposed, including reclamation, are not
194 incompatible with existing land uses.

195 c. The committee shall establish notification and inspection procedures
196 applicable to the various stages of drilling and abandonment and procedures
197 for the proper abandonment of drill holes.

198 d. The applicant shall certify that the information contained in its application
199 materials is true and correct.

200 6. Enforcement. The committee may revoke or suspend an exploration permit issued
201 under this section utilizing the procedures set forth in this chapter for a permit
202 revocation if it determines that:

203 a. Statutes, ordinances, or permit requirements have been violated; or

204 b. Financial assurance of types and amounts pledged have not been obtained or
205 maintained as certified.

206
207 7. Penalties. The penalty for violation shall be levied against the permit holder, or the
208 violator if there is no permit, and shall consist of a forfeiture equal to the County's
209 cost of enforcement plus the cost to reclaim any exploration sites, dispose of
210 exploration wastes, and remedy any damage caused by exploration activities,
211 including environmental restoration and natural resource damages.

212
213 **i. Bulk Sampling.**

214 1. Permit Required. Bulk sampling shall be allowed, subject to review and approval
215 by the Planning and Development Committee, as a permitted use in each zoning
216 district where nonferrous metallic mining is a permitted use, provided all standards
217 are met for both the proposed extraction and the proposed reclamation. A County
218 bulk sampling permit and a state bulk sampling license are required to undertake
219 bulk sampling for nonferrous metallic minerals in Oneida County. Bulk Sampling
220 includes the removal of overburden, sand, gravel, decomposed or solid bedrock
221 and the land disturbing activities incidental to such removal, including the
222 construction of roads and the installation of equipment and machinery to be used
223 in the bulk sampling operation. The County bulk sampling permit and reclamation
224 permit shall be issued upon completion of the following requirements:

225
226 a. Notice of Intent to Perform Bulk Sampling. Within two business days of
227 providing a bulk sampling plan to the DNR a person intending to perform bulk
228 sampling in Oneida County shall submit written notification of such intent to the
229 County Zoning Administrator. Such notification shall be accompanied by a fee
230 in the amount of \$5,000.00 and the applicant's certification that the information
231 contained in its application materials is true and correct. If the fee paid is
232 insufficient to cover the County's actual and anticipated costs to administer this
233 section, the County shall request, and the applicant or permit holder shall
234 promptly pay, one or more additional fees in the amounts specified by the
235 County.

236 b. Bulk Sampling Plan. The notice of intent to perform bulk sampling shall
237 include a copy of the bulk sampling plan submitted to DNR, less any
238 information in the plan that is entitled to protection as a trade secret, as
239 provided in Wis. Stat. s. 134.90 (1) (c), which shall be omitted or redacted from
240 the materials before submittal to the County. Submittal of the bulk sampling
241 plan or any other notice of intent materials to the County shall constitute the
242 submitter's full, unconditional and irrevocable waiver and release of all claims

- 243 involving trade secrets or breach of confidentiality that otherwise could be
244 brought against the County.
- 245 c. Supplementary Materials. If not included in the state bulk sampling plan, the
246 following materials shall be submitted with the notification of intent:
- 247 1) A map identifying all waste sites, access routes and haulage roads to be
248 used in or constructed for the bulk sampling operation;
- 249 2) A narrative and map identifying and describing the source, quantity,
250 handling, treatment and disposition of water to be diverted, used,
251 withdrawn, consumed or discharged as part of the bulk sampling operation;
252 3) A narrative and map identifying and describing the location and nature of
253 any waste storage and treatment facilities to be used in conjunction with
254 the bulk sampling operation;
- 255 4) An endangered and threatened species review and survey report and plan
256 of the proposed bulk sampling operation site and surrounding area within
257 300 feet;
- 258 5) A cultural and historical resources review and survey report and plan of the
259 entire area to be disturbed and the surrounding area within 50 feet of area
260 to be disturbed;
- 261 6) The types and amounts of financial assurances proposed to be provided to
262 the DNR;
- 263 7) A schedule of calculations providing full and itemized details showing why
264 the operation will not result in displacing more than 10,000 tons of materials
265 per mining site;
- 266 8) A schedule of calculations providing full and itemized details showing why
267 the proposed financial assurances will be sufficient to complete all
268 necessary reclamation activities should the operator fail to initiate or
269 satisfactorily complete said reclamation activities.
- 270 9) A reclamation plan meeting the standards and requirements set forth in
271 Oneida County Zoning Ordinance sections 22.05 or 22.10, which shall
272 apply to all bulk sampling proposals, operations, sites and reclamations.
- 273 2. Applicable Setbacks. Bulk sampling is prohibited in any areas where nonferrous
274 mining is prohibited, including within any areas prohibited in Wis. Admin. Code,
275 NR 132.18, unless an exemption is granted by DNR. The areas include both the
276 above-ground portion and the underground portion extending vertically from the
277 site boundaries within the specified setback areas as follows:
- 278 a. Any area designated as unsuitable as described in Wis. Admin Code NR
279 132.03(25)(a)(b);
- 280 b. Within 1,000 feet any navigable lake, pond, or flowage;
- 281 c. Within 300 feet of any navigable river or stream;
- 282 d. Within a floodplain;
- 283 e. Within 1,000 feet of the nearest edge of the right-of-way of any of the following:
284 any state trunk highway, interstate or federal primary highway; the boundary of
285 a state public park; the boundary of a scenic easement purchased by the DNR
286 or the Department of Transportation; the boundary of a designated scenic or
287 wild river; a scenic overlook designated by the department by rule; or a bike or
288 hiking trail designated by the United States Congress or the Wisconsin
289 Legislature; unless, regardless of season, the site is visually inconspicuous
290 due to screening or being visually absorbed due to natural objects, compatible
291 natural plantings, earth berm or other appropriate means, or unless, regardless

- 292 of season, the site is screened so as to be aesthetically pleasing and
293 inconspicuous as is feasible;
294 f. Within wetlands, to the extent regulated under Wis. Stat. ss. 293.13(2)(c)8 and
295 281.36 or any other applicable source of regulation.
- 296 3. Prohibited Areas. Bulk sampling activities are prohibited within any of the
297 following described areas unless it is determined by the Planning and
298 Development Committee that the activity will not have an adverse impact upon the
299 described area. The areas include both the above-ground portion and the
300 underground portion extending vertically from the bulk sampling site boundaries
301 within the specified setback areas as follows:
302 2) 800 feet of any land owned by a city, village or town, excluding road right of
303 ways;
304 3) 800 feet of any residential structure;
305 4) 650 feet of any non- residential structures;
306 5) 1200 feet of any water well used for potable water.
307
- 308 4. Buffer Zones. A 500-foot vegetated buffer zone shall be established and
309 maintained from the boundaries of the bulk sampling site, except for identified
310 haulage ways. The buffer zone is an area to be left in its natural state except for
311 the planting of native trees or shrubs to provide an aesthetic visual barrier to the
312 bulk sampling site. The buffer zone is to remain during active bulk sampling and
313 for a period of 20 years following completion of bulk sampling reclamation unless
314 an alternate use is approved by the County as part of the bulk sampling
315 reclamation plan, or as provided in the mine reclamation plan if the site becomes
316 part of a nonferrous metallic mining operation.
- 317 5. Financial Assurances.
318
319 a. The supplemental operational plan and reclamation plan shall include financial
320 assurances consistent with Oneida County Non-Metallic Reclamation
321 Ordinance section 22.06 and sufficient to pay for all reclamation activities
322 including site reclamation, damage to property, damage to natural resources
323 or liability for environmental pollution.
- 324 b. The County shall be named as an additional insured on any insurance policy
325 and as an additional beneficiary on any bond or other security applicable to the
326 bulk sampling.
- 327 6. Penalties.
328
329 a. Bulk Sampling Without Permit. The penalty for bulk sampling without a
330 County bulk sampling permit shall be shut-down of the bulk sampling
331 operation; forfeiture of any mineral, rock or other earth materials extracted
332 without permit; a fine in the amount of the County's estimated cost to reclaim
333 the site; a penalty of \$10,000 to \$50,000 per day, applied from commencement
334 of the bulk sampling operation until the site reclamation is complete and; the
335 County's costs of enforcement. These penalties shall be in addition to any fine
336 or penalty for any other violations committed in conduct of the bulk sampling.

337 b. Bulk Sampling Not Described In Approved Plan. The penalty for performing
338 bulk sampling other than as described in a bulk sampling plan as noticed to the
339 County and approved by the DNR is all of the following: forfeiture of the County
340 bulk sampling permit; forfeiture of any bond or cash deposit used to satisfy any
341 requirement for financial assurance pertaining to bulk sampling or reclamation
342 of a bulk sampling site; a fine equal to the amount by which the projected cost
343 to reclaim the site exceeds the available financial assurance; and the County's
344 costs of enforcement. These penalties shall be in addition to any fine or penalty
345 for any other violations committed in conduct of the bulk sampling. In
346 calculating the fine for the cost of site reclamation, the calculated cost of
347 reclamation shall be offset by the amount of the actual proceeds of any
348 financial assurance provided by the operator that are paid toward the
349 reclamation.

350 7. Permit. Upon the County's determination that the application is complete, the
351 applicable standards have been met, and the financial assurances are reasonable
352 in type and amount as supported by appropriate calculations, the County will issue
353 the bulk sampling permit. No County bulk sampling permit shall be effective or
354 otherwise valid for use until the operator has received a state bulk sampling license
355 for the same bulk sampling activity.
356

357 **J. Notice of Intent to Collect Data or Apply for Mine Permit.**

358 1. At the time a person provides written notice to DNR of either intent to apply for a
359 prospecting or mining permit or intent to gather data to support an application to
360 the DNR for prospecting or mining permit with respect to any land in Oneida
361 County, such person shall provide written notice to the Zoning Administrator for
362 Oneida County identifying the applicant's name and contact information, estimated
363 time frame for completing any proposed pre-application data gathering, estimated
364 time frame for submitting a DNR mining permit application, location and probable
365 extent of potential mining site, statement regarding likely mining methods will
366 include underground, open pit or other methods.

367 2. A notice of intent shall include all materials provided in writing to the DNR, including
368 the initial and all supplemental submittals, except those materials the DNR is
369 obligated to hold confidential shall not be provided to Oneida County.

370 3. A notice of intent shall be accompanied by payment in the form of a check or
371 money order made payable to Oneida County, Wisconsin in the amount of
372 \$5,000.00, which shall serve as the initial review fee. The person providing notice
373 of intent is obligated to reimburse Oneida County upon demand for the actual and
374 reasonable expenses incurred by Oneida County in administering its regulations
375 and participating in the state regulatory process with respect to the notice of intent
376 including, without limitation, the County's costs of participating in any local impact
377 committees formed and public hearings held with respect to the notice of intent,
378 and the cost of expert advice rendered to assist the County in administering its
379 regulations with respect to the notice of intent.

380 4. The County shall track and account for all its expenses and costs incurred as a
381 result of the notice of intent and shall invoice the person providing notice of intent

382 on a periodic basis, but not less than every 30 days, and the person providing
383 notice of intent shall pay each invoice in full within 15 days of receipt.

384 5. Failure to comply with the requirements of this section shall be grounds for denial
385 of any zoning permit requested by the person providing the notice of intent, by any
386 person affiliated with the person providing the notice of intent, or with respect to
387 any portion of the proposed mining site identified in the notice of intent.

388 **K. Local Agreement Required.**

389 1. Local Agreement Required. The County Board may not approve, and the County
390 may not issue, any County Mining Permit until, in accordance with this section, the
391 County Board has approved the County Mine Permit by a simple majority, and the
392 County is party to a fully executed and binding local agreement with the applicant
393 for County Mine Permit.

394 2. Mining Impact Committee to Serve as Local Impact Committee. As soon as notice
395 of intent has been filed under Wis. Stat. s. 293.31 or pursuant to this Ordinance,
396 the Mining Impact Committee shall serve as the Local Impact Committee for
397 Oneida County for the purposes enumerated in Wis. Stat. s. 293.33 and in addition
398 have the responsibilities as may be assigned to it by the County Board. The Mining
399 Impact Committee shall serve as a joint committee under Wis. Stat. s. 293.33 (2),
400 unless no other government eligible to form a local impact committee under Wis.
401 Stat. s. 293.33 joins or cooperatively designates the County Local Impact
402 Committee as its local impact committee, in which case the County Local Impact
403 Committee shall be and serve as a separate committee under Wis. Stat. s. 293.33
404 (1). If the County Board designates the Mining Impact Committee to serve as a
405 joint committee under Wis. Stat. s. 293.33 (2), at the discretion of the County
406 Board, the County Board may designate another committee to serve as the
407 separate local impact committee under Wis. Stat. s. 293.33 (1) in addition to the
408 joint local impact committee.

409 3. Negotiating Process.

410 a. All conditions established pursuant to this ordinance may be subject to one or
411 more local agreements negotiated by the Mining Impact Committee and signed
412 by the County pursuant to Wis. Stat. s. 293.41.

413 b. In carrying out their activities with respect to local agreements, the County
414 Board and Mining Impact Committee shall abide by the requirements of the
415 Wisconsin Open Meetings Law, Wis. Stat. s. 19.81 et seq.

416 4. Approval Process.

417 a. Governing Body. The County Board is the governing body for the purposes of
418 approving a local agreement under Wis. Stat. s. 293.41 to which the County is
419 a party.

420 b. Public Hearing. The County Board shall not approve a local agreement until
421 after holding a public hearing which is duly noticed as a class 2 notice under
422 Wis. Stat. s. 985.

423 c. Other Governments. Any local agreement to which the County is a party must
424 also be approved by the governing body of any town, village, city or tribal
425 government that is also a party, which approval may only be provided following
426 public hearing duly noticed as a class 2 public notice under Wis. Stat. s. 985.

427 5. Timing.

428 a. No local agreement shall be approved for public hearing under Wis. Stat. s.
429 293.41 until the applicant has filed all applications for all necessary approvals,
430 County Mining Permits and permits from the DNR and any other state or
431 federal agency with jurisdiction over the prospecting or mining site or operation,
432 and those permit applications have been deemed complete by the agency with
433 primary responsibility for issuing the respective permits and approvals and the
434 applicant has filed the Environmental Impact report under Wis. Stat. s. 23.11
435 relating to any state permit applications.

436 Note (1): There is no triggering event or decision rendered by the DNR which
437 certifies that an application for a mining permit is "deemed complete." The
438 application is deemed complete at the time that the comment period has
439 expired and further information has not been requested by the DNR.

440 Note (2): It is the intent of the County to commence communication and
441 negotiation of local agreements with the applicant any time after the filing of
442 the Notice of Intent to collect data or apply for a mining permit from the DNR.
443 The County will not approve any local agreements until after the applicant has
444 submitted all permit application information required by the DNR and the
445 County.

446 b. A local agreement pursuant to Wis. Stat. s. 293.41, either individual between
447 Oneida County and the applicant or joint between Oneida County, the applicant
448 and one or more other affected units of government, shall be complete and
449 fully executed by all intended parties prior to the issuance of a County Mining
450 Permit.

451 6. Non-Applicability Provisions.

452 a. The local agreement may not declare any portions of this ordinance non-
453 applicable to a nonferrous metallic mining operation or include variances from
454 this ordinance except upon an affirmative vote of a majority of the members of
455 the County Board, and upon the affirmative vote of the Town Board of each
456 Town in which the proposed mining site is located. Any exceptions, variances,
457 or rezoning must comply with federal and state law.

458 b. A local agreement may include the right to reopen and modify the local
459 agreement after it has been approved under conditions specified in the local
460 agreement. In such a case, the agreement shall be modified in accordance
461 with the approval process set forth above except that any vote to reopen and
462 modify must be made by a three-fourths vote of the County Board.

463 L. County Mining Permit Required.
464

- 465 1. The requirements of Section 9.61 of Article 6 of Chapter 9 of the Oneida County
466 General Code of Ordinances (Chapter 9.61 or "this section") apply to any
467 development and operation of nonferrous metallic mining sites within towns that
468 have adopted Chapter 9.61, and the operators of any such sites, effective upon
469 passage and publication according to law.
- 470 2. No person or business entity may commence construction or reclamation of a
471 nonferrous metallic mine or conduct nonferrous metallic mining or processing of
472 nonferrous metallic minerals in Oneida County unless in conformance with a valid
473 nonferrous metallic mining permit ("County Mining Permit") issued by the County
474 pursuant to and in conformance with Chapter 9.61.
- 475 3. A County Mining Permit shall not be issued by Oneida County unless in
476 accordance with this section and the General Requirements of Chapter 9.61 all
477 listed requirements are met, including the conditions, restrictions, prohibitions and
478 limitations on mine location, construction, operation, and reclamation and method
479 of storage and disposal of mining wastes, financial assurance and any other listed
480 requirements, all as necessary to achieve the intent of Chapter 9.61.
- 481 4. Conditions established by the County Mining Permit pursuant to Chapter 9.61 must
482 be met at all times or the applicant may be found in violation and be subject to
483 forfeitures, penalties, permit suspension or revocation or other enforcement
484 provided herein.
- 485 5. A County Mining Permit issued pursuant to Chapter 9.61 shall become effective on
486 the date the applicant is issued a nonferrous metallic mining permit by the State of
487 Wisconsin ("State Mine Permit") for the identical mining site.
- 489 6. Any County Mining Permit issued pursuant to Chapter 9.61 shall be in addition to
490 any local agreement entered into by the County and the applicant. Local
491 agreements executed by Oneida County may address or supersede conditions set
492 forth herein.
- 493 7. Any County Mining Permit issued pursuant to Chapter 9.61 shall be in addition to
494 any other state, federal or local permits, licenses or approvals necessary for any
495 mine construction or any aspect of the mining operation.

496 **M. Application Requirements for Nonferrous Metallic Mineral Mining Permit.**

- 498 1. An application for a County Mining Permit shall be filed with the Zoning
499 Administrator contemporaneously with the filing of a DNR Mining Permit
500 application.
- 501 2. The application submitted for a County Mining Permit for a nonferrous metallic
502 mining permit shall not be determined to be complete, unless the following is
503 submitted:
- 504 a. The proper application fee, the applicant's certified statement that the
505 information provided in its application is true and correct and an electronic copy
506 and one paper copy of all required application materials;

- 507 b. Copies of all deeds, leases and landowner agreements for proposed mine site;
508
509 c. Complete application for mining pursuant to Wis. Stat. s. 293.37 and Wis.
510 Admin. Code NR 132.06;
- 511 d. All State and Federal documents with respect to the proposed mining permit
512 and the following information:
- 513 1) Environmental Impact Report, if prepared with respect to the proposed
514 mining operation.
515 2) Environmental Impact Statement pursuant to Wis. Stat. s. 293.39.
516 3) Mining Operational Plan pursuant to Wis. Admin Code NR 132.07.
517 4) Plan of operation for any mining waste site(s) to be operated as part of the
518 mining operation, including the long term maintenance plan and proof of
519 financial responsibility pursuant to Wis. Admin. Code NR 182.
520 5) Reclamation Plan pursuant to Wis. Admin Code NR 132.
521 6) Hydrologic study which identifies and characterizes groundwater resources
522 that potentially could be impacted by the mining activity, including all
523 accessible public and private wells subject to depletion or contamination.
524 7) A map and aerial photo identifying the proposed locations of existing and
525 proposed permanent and temporary structures showing setback distances
526 to property boundaries, right of ways, potable wells and private onsite
527 wastewater treatment systems.
528 8) A description of the proposed primary travel routes to transport material to
529 and from the mining site, type of vehicles used in transport, average loaded
530 weight of vehicle, and the anticipated schedule of travel to be used for
531 transporting. The description shall identify the following information:
532 a) The anticipated need for road modifications resulting from the
533 likely mine-related traffic impacts, including both primary and
534 secondary impacts and shall fully describe the existing
535 reasonably foreseeable mine-related changes to traffic
536 patterns, traffic volume, the class of roads associated with those
537 patterns, the existing and preferred bearing capacity of said
538 roads and any advisable load-related or traffic volume-related
539 needs and restrictions.
540 b) All reasonably foreseeable road construction and maintenance
541 needs arising in Oneida County and affected towns from
542 operation of the proposed mine and reasonably foreseeable
543 secondary impacts of the mining operation which may result in
544 the demand for additional road improvements, including, but not
545 limited to, transport of materials and equipment to and from the
546 mining site.
547 9) A description of the proposed frequency and amount of blasting, if any, to
548 be used in the operation.
549 10) A description of measures to be taken to control dust including during
550 mining, stockpiling, and on haul roads (internal and external).
551 11) A description of measures to be taken on the mining site with vegetative or
552 other screening devices to screen or buffer the operation from view from
553 adjacent properties.

- 554 12) A description of proposed lighting to be use during the mining operation;
555 including location, type, style and intensity of lighting to be used and its
556 power source(s).
557 13) A description of security and safety measures including any proposed
558 fencing, gating, or signing.
559 14) A description of the anticipated hours of operation including startup,
560 shutdown, and maintenance of all equipment.
561 15) A description of how and where the ore extracted will be processed.
562 16) If for any reason a mining permit is not required by the DNR or if the
563 application requirements for a State of Wisconsin mining permit change
564 substantially from those in effect on the effective date of this chapter, the
565 applicant shall provide the County with all of the information, materials and
566 application content that would be required to be provided to the DNR under
567 the mine permit application process of Wis. Stat. s. 293.37.
568

569 **N. General Requirements for Nonferrous Metallic Mining Operations.**

- 570 1. All mines permitted pursuant to this section shall be located, constructed, operated
571 and reclaimed to protect the promote the public health, safety, convenience,
572 morals and general welfare and accomplish the purposes set forth under Wis.
573 Stat. s. 59.69(1).
- 574 2. Nonferrous metallic mining may be permitted by the Oneida County Board in
575 accordance with section 9.61 of this code as a permitted use in the following
576 districts: District 1-A Forestry; District 8 Manufacturing and Industrial; and District
577 10 General Use. The powers of the County Board include, but are not limited to,
578 establishing conditions which regulate the duration, transfer or renewal of the
579 permit.
- 580 3. The applicant for a mining permit shall demonstrate that they have applied for all
581 necessary approvals, licenses and permits for the proposed project from the DNR
582 (including, but not limited to, those under Wis. Stat. ss. 30, 31, 107, 280 to 299),
583 from any other agency of the State of Wisconsin, and from any federal agency with
584 jurisdiction over the mining or mining operation.
- 585 4. Mining activities are prohibited within any areas prohibited in Wis. Admin. Code
586 NR 132.18, unless an exemption is granted by DNR. The areas include both the
587 above-ground portion and the underground portion extending vertically from the
588 site boundaries within the specified setback areas as follows:
589 a. Any area designated as unsuitable as described in Wis. Admin Code NR
590 132.03(25)(a)(b);
591 b. Within 1,000 feet any navigable lake, pond, or flowage;
592 c. Within 300 feet of any navigable river or stream;
593 d. Within a floodplain;
594 e. Within 1,000 feet of the nearest edge of the right-of-way of any of the following:
595 any state trunk highway, interstate or federal primary highway; the boundary of
596 a state public park; the boundary of a scenic easement purchased by the DNR
597 or the Department of Transportation; the boundary of a designated scenic or
598 wild river; a scenic overlook designated by the department by rule; or a bike or
599 hiking trail designated by the United States Congress or the Wisconsin
600 Legislature; unless, regardless of season, the site is visually inconspicuous
601 due to screening or being visually absorbed due to natural objects, compatible

- 602 natural plantings, earth berm or other appropriate means, or unless, regardless
603 of season, the site is screened so as to be aesthetically pleasing and
604 inconspicuous as is feasible;
605 f. Within wetlands, to the extent regulated under Wis. Stat. ss. 293.13(2)(c)8 and
606 281.36 or any other applicable source of regulation.
- 607 5. Mining activities are prohibited within any of the following described areas unless
608 it is determined by the Planning and Development Committee that the activity will
609 not have an adverse impact upon the described area. The areas include both the
610 above-ground portion and the underground portion extending vertically from the
611 mining site boundaries within the specified setback areas as follows:
612 a. 800 feet of any land owned by a city, village or town, excluding road right of
613 ways;
614 b. 800 feet of any residential structure;
615 c. 650 feet of any non- residential structures;
616 d. 1200 feet of any water well used for potable water.
- 617 6. Buffer Zones. A 500-foot vegetated buffer zone shall be established and
618 maintained from the boundaries of the mining site, except for identified haulage
619 ways. The buffer zone is an area to be left in its natural state except for the planting
620 of native trees or shrubs to provide an aesthetic visual barrier to the active mine
621 site. The buffer zone is to remain during active mining and for a period of 40 years
622 following issuance of certificate of completion by DNR of mining unless an
623 alternate use is approved by the County as part of the reclamation plan.
- 624 7. Mine Reclamation Standards. The standards set forth in Wis. Admin. Code NR
625 132.07(4)(g) and NR 132.08 shall apply to nonferrous metallic mineral mining
626 activities in Oneida County.
- 627 8. Location and Operation. A nonferrous metallic mineral mining project shall be
628 located, designed, constructed and operated in such a manner so as to prevent
629 any surface or subsurface discharge from the facility into navigable waters or
630 groundwater that would cause a violation of any applicable water quality standard
631 contained in or promulgated pursuant to Wis. Stat. Chs. 160, 281, 283 and 293, or
632 constitute an unlawful discharge of any hazardous substance under Wis. Stat. Ch.
633 292 or any other State, Federal or local law.
- 634 9. Financial Assurance. Every County Mining Permit shall require the permit holder
635 to maintain in constant effect the financial assurances required by this ordinance
636 in addition to the financial assurances required for the State Mine Permit. Any
637 lapse or shortcoming in type or amount of any financial assurance required by the
638 County or State shall be grounds for revocation of the County Mining Permit. The
639 required financial assurances shall survive any transfer of ownership of the County
640 Mine Permit, until specifically released by the County. Any insurance policies used
641 by the applicant to satisfy any financial assurance requirement shall name the
642 County and other political subdivisions affected by the mining operation as
643 beneficiaries or additional insureds, in kinds and amounts as set forth in section P,
644 below. Financial assurances for County Mining Permits shall include:
645 a. General Liability Insurance.
646 b. Pollution Liability Insurance.
647 c. Other Financial Assurance(s) Required by DNR

- 648 d. Groundwater Trust Fund.
649 e. Property Value Compensation Fund.
650 f. Road Damage Compensation Trust Fund.
651 g. Political Subdivisions Compensation Fund
- 652 10. Control of Environmental Pollution. The Applicant shall comply with the
653 standards of Wis. Stat. Chs. 160, 280, 281, 283, 285, 291, 292 and 293 and related
654 Wisconsin Administrative Codes including, but not limited to, Wis. Admin Code
655 Chs. NR 102, 103, 105, 132, 135, 140, 142, 151, 182, 200 et seq., 300 et seq.,
656 500 et seq., 660 and 700 et seq.; and with any applicable standards of Wis. Stat.
657 Ch. 289.
- 658 11. Groundwater Protection. The Applicant shall comply with all applicable standards
659 for protection of groundwater quality and quantity set forth in and established
660 pursuant to the Wis. Stat. Chs. 160, 289 and 293 and those set forth in Wis. Admin.
661 Code, Chs. NR. 130, 131, 132, 140 and 820. Should for any reason the standards
662 under Wis. Admin Code Ch. NR 132, not apply, the groundwater shall be protected
663 in accordance with the standards of Wis. Admin Code Ch. NR 140.
- 664 12. Surface Water Protection. The Applicant shall comply with the requirements of:
665 a. The Non-Agricultural Performance Standards set forth in Wis. Admin. Code
666 Ch. NR 151.
667 b. The water quality standards set forth in Wis. Admin. Code Chs. NR 102, 103,
668 104 and 105.
669 c. The provisions of Wis. Admin. Code Chs. NR 132, 182, 207, 216, 269, and
670 270.
671 d. All stormwater including stormwater runoff, snow or ice melt runoff and surface
672 runoff and drainage from the active mine site, shall at a minimum be managed
673 and controlled in accordance with federal and/or state regulations, including
674 but not limited to those under Wis. Stat. Ch. 30 and Wis. Admin. Code Chs. NR
675 151, 216 and 132.
676 e. All activities in or near navigable waters shall be in accordance with all
677 applicable federal or state approvals, including but not limited to those under
678 Wis. Stat. Chs. 30 and 31, and 33 U.S.C. Section 1344 and all applicable
679 shoreland, shoreland-wetland, and floodplain zoning ordinances.
- 680 13. Wastewater Discharges. The Applicant shall comply with the standards of all
681 wastewater discharges to surface or ground water in accordance with all applicable
682 federal or state approvals; including but not limited to those under Wis. Stat. Chs.
683 160, 281, 283, 289, 292 and 293.
- 684 14. Water Supplies. The Applicant shall comply with the standards of Wis. Stat. Chs.
685 160, 293.65, and 30, 31, 280, and 281. any related Wisconsin Administrative
686 Codes and any related Federal laws.
- 687 15. Hydrologic Studies. The results of any hydrologic studies conducted in furtherance
688 of any Environmental Impact Report or otherwise provided to the DNR shall be
689 provided to Oneida County; applicant shall pay the cost of a licensed professional
690 hired by the County to interpret the results.

- 691 16. Well Monitoring. The Applicant shall, prior to commencement of construction of
692 any mine, and during the period of operation of any mine, and for forty (40) years
693 after completion of mine reclamation, pay the cost of well monitoring. Periodic well
694 monitoring shall occur for all private and public wells, subject to, or potentially at
695 risk of, depletion or contamination, as identified by a hydrologic study approved by
696 the County. The identified wells shall be monitored beginning before the onset of
697 mine development and mining, in order to provide baseline data concerning
698 quantity and quality of water adequate for all purposes, including, but not limited
699 to, determining the validity of any well damage claim. The well network, individual
700 well locations, monitoring intervals and analytical parameters shall be established
701 before permit approval and shall be included in the permit as a condition of permit
702 validity and any failure to monitor shall be sufficient grounds for permit revocation.
703 The well monitoring required under this chapter shall be performed by an
704 independent licensed professional hired by the County. All monitoring data shall
705 be a public record.
- 706 17. Air Quality Standards. The Applicant shall comply with the standards of Wis.
707 Admin. Code ss. NR 400 et seq.
- 708 18. Hazardous Waste Standards. The Applicant shall comply with the standards of
709 Wis. Admin Code NR 662 et seq.
- 710 19. Solid Waste Standards.
711 a. The Applicant shall comply with the standards set forth in and established
712 pursuant to Wis. Stat. Chs. 289 and 293 and the standards set forth in Wis.
713 Admin. Code Chs. NR 182, 528, and 538.
714 b. All solid and hazardous waste which is not subject to the mine permit issued
715 by the DNR shall be disposed of at a solid waste or hazardous waste facility.
- 716 20. Traffic Safety, Road Maintenance and Infrastructure. All studies, plans, reports
717 and analyses regarding roads, traffic, traffic safety, drainage, utilities, and public
718 utilities shall be in conformance with Wisconsin Department of Transportation
719 standards.
- 720 21. Mine Safety and Security. The applicant shall comply with the requirements of
721 Wis. Admin. Code NR 132.07(3)(j) and (j), NR 132.07(4)(m), and NR 132.17(2).
- 722 22. Prevention of Adverse Impacts.
723 a. The Applicant shall comply with the standards of Wis. Admin. Code NR
724 132.08(2)(c)..
725 b. The applicant shall not allow adverse impacts during mining operations, or 40
726 years following issuance by DNR of a certificate of completion of mining,
727 including, but not limited to those situations set forth in Wis. Admin. Code NR
728 132.10(1)(j), as follows:
729 1) Significant landslides or substantial deposition from the proposed
730 operation in stream or lake beds;
731 2) Significant surface subsidence which cannot be reclaimed; or
732 3) Hazards resulting in irreparable damage to any of the following, which
733 cannot be avoided by removal from the hazard area or mitigated by
734 purchase or by obtaining the consent of the owner;
735 4) Dwellings;
736 5) Public buildings and land;

- 737 a) Schools;
738 b) Churches;
739 c) Cemeteries;
740 d) Commercial or institutional buildings;
741 e) Public roads, or
742 f) Habitat required for survival of vegetation or wildlife designated as an
743 endangered species through prior inclusion in rules adopted by the
744 DNR if such endangered species cannot be firmly re-established
745 elsewhere.

746 24. Limitations on Blasting.

- 747 a. The applicant shall comply with the requirements of Wis. Admin. Code NR
748 132.07(5) and SPS Chapter 307..
749 b. Blasting hours may be regulated by the conditions placed on the County Mining
750 Permit.
751 c. All blasting shall be done in compliance with State and Federal guidelines and
752 requirements, including Wis. Admin. Code SPS 307.
753 d. All blasting must be done by a state licensed and certified blaster, who shall
754 have a certificate of liability or proof of liability insurance.
755 e. Blasting logs shall be provided to the County upon written request within 72
756 hours, excluding weekends, and legal holidays. Blasting logs shall include but
757 not limited to, the date, time and location of any blasting activities.

758 25. Public Lands.

- 759 a. Notice and Consultation. The County shall provide notice of any application
760 for mining permit on lands owned, in whole or part, by the state or federal
761 governments, the County, towns or any other political subdivisions of either the
762 state or federal governments, to the governmental body or administrator
763 responsible for each such parcel or tract of land, and such governmental body
764 or administration shall be consulted by the County Board before action is taken
765 on the County Mining Permit and/or exemption.
766 b. Consistency with Public Purpose. Before a County Mining Permit is issued it
767 shall be determined by the County Board, that such use of the land is not in
768 violation of any laws or regulation governing the public use of said land and
769 that such use of the land in question shall not unduly interfere with or violate
770 the purpose or purposes for which such land is owned and maintained by the
771 governmental body in question.

- 772 26. Local Agreement. A local agreement, pursuant to Wis. Stat. 293.41, between
773 Oneida County and the applicant shall be in effect prior to the issuance of a County
774 Mining Permit.

- 775 27. Effective Date of County Mining Permit. The County Mining Permit shall take effect
776 on the same date that the State Mining Permit becomes effective.
777

- 778 O. Financial Assurance and Responsibility. The period of the financial assurance is
779 dictated by the period of time required to reach milestones as set forth below. The
780 financial assurances set forth below shall survive any transfer of ownership and/or the
781 County Mining Permit, until specifically released by the County.

- 782
783 1. General Liability Insurance.

784 Applications for a mining permit shall be accompanied by a copy of a certificate of
785 insurance, as required by the DNR, certifying that the applicant has in force general
786 liability insurance policy issued by an insurance company authorized to do
787 business in Wisconsin or evidence that the operator has satisfied state or federal
788 self-insurance requirements. Insurance shall cover all exploration, bulk sampling
789 and mining activities of the applicant and afford personal injury and property
790 damage protection. Insurance provisions shall remain in force throughout the
791 mining and reclamation operations and provide coverage of operations in the
792 United States and shall be consistent with current Oneida County insurance
793 minimum coverages. In addition, applicant shall demonstrate pollution impairment
794 liability coverage of not less \$10,000,000 per claim and \$10,000,000 in aggregate,
795 provided said individual and aggregate limits and policies shall apply only to the
796 mining operation permitted by Oneida County. Oneida County shall be named as
797 an additional insured on all certificates used to comply with this section.

798
799 Note: Oneida County Minimum Coverages, as of April 2018, are:

- 800 • Wisconsin Statutory Workers Compensation Coverage Minimums.
- 801 • General Liability \$1,000,000 per occurrence and \$2,000,000 in aggregate
- 802 for bodily injury and Property Damage.
- 803 • Professional Liability Coverage, \$1,000,000 per occurrence and
- 804 \$2,000,000 in aggregate.
- 805 • Automobile Liability \$1,000,000 per occurrence and in aggregate for
- 806 bodily injury and property damage.
- 807 • Excess Liability Coverage, \$1,000,000 over the General Liability and
- 808 Automobile Liability Coverage.
- 809 • If aircraft are used in conjunction with this project, \$2,000,000 per
- 810 occurrence and in aggregate for bodily injury and property damage.

811
812 2. Applications for a mining permit shall be accompanied by a copy of all other proof
813 of financial assurance, as required by the DNR, pursuant to Wis. Stat. s. 293.51.

814
815 3. Groundwater Trust Fund.

- 816
- 817 a. The applicant shall make a deposit into an interest-bearing trust account for
- 818 each well potentially impacted, as identified by the hydrologic study, in the
- 819 amount of \$15,000.00. The original deposit, any additional deposits, as
- 820 requested by the Local Impact Committee, pursuant to par. e, below, and other
- 821 accumulated interest shall remain in the trust account for a period of 100 years
- 822 after certificate of completion, issued by the DNR. If no outstanding claims are
- 823 pending at the end of the 100-year period, any remaining balance shall be
- 824 returned to the operator. The applicant agrees to establish the trust account
- 825 at a bank or financial organization identified by Oneida County.
- 826 b. The applicant shall pay the cost for the County to monitor all potentially
- 827 impacted private or public wells as identified by the hydrologic study. The
- 828 applicant shall also pay the cost of any licensed professional hired by the
- 829 County to collect and interpret the results.
- 830 c. The groundwater trust fund shall be used to pay for replacing any
- 831 contaminated, damaged or depleted wells and/or for providing potable water
- 832 to any well owner/claimant whose well has been contaminated, damaged or
- 833 depleted. The mine operator may object to payment of these claims only if it

834 can establish that the contamination, damage or depletion is not due in whole
835 or in any part to the mining operation.
836 d. Any person whose well is contaminated, damaged or depleted beyond the
837 identified hydrologic study area may apply for funds for a replacement well or
838 alternate water supply if that person can demonstrate, by the preponderance
839 of the evidence, that the contamination, damage or depletion was due in whole
840 or in any part to the mining operation.
841 e. The Oneida Local Impact Committee or their designee is designated to
842 supervise and administer the Groundwater Trust Fund. It shall approve of the
843 distribution of monies from said fund to claimants under this subsection. The
844 Local Impact Committee shall be empowered to hold meetings and hire
845 licensed professionals to assist him or her in the proceeds of ascertaining the
846 entitlement of the claimant to compensation, to ascertain the amount of such
847 damages and to authorize disbursements to the claimant or to purchase and
848 provide water to the claimant. The Groundwater Trust Fund shall also be
849 monitored to determine if there are adequate funds to cover actual and/or
850 pending claims. The Local Impact Committee shall request the operator to
851 provide additional funding within 30 days if funding is deemed inadequate.
852

853 4. Property Value Compensation Fund.

854 a. The applicant may enter into a property value compensation agreement with
855 any political subdivision where property values are, or are likely to be, impacted
856 by the mining operation.
857 b. The Local Impact Committee for Oneida County or their designee shall
858 negotiate any Property Value Compensation Fund agreements to which the
859 County would be a party, and to supervise and administer any Property Value
860 Fund that is created I lieu of immediate cash payments from the applicant to
861 affected landowners. Any agreements negotiated under this section may only
862 be approved by the County Board, following hearing duly noticed.
863 c. Oneida County, at the cost of the applicant, may hire a licensed independent
864 agent to create a distribution plan for a compensation fund which identifies
865 property whose values have suffered or may suffer a substantial economic
866 impact as a result of mining operations. Criteria to be used for the
867 determination of impact shall come from the Environmental Impact Report and
868 DEIS, and other criteria as determined by the licensed independent agent.
869 Prior to the commencement of any mining, the operator shall compensate
870 those property owners identified in the distribution plan.
871

872 5. Road Damage Compensation Trust Fund.

873 a. The applicant may enter into a roadway maintenance agreement with any
874 political subdivision whose roads are, or are likely to be, affected by the mining
875 operation.
876 b. The applicant shall fund an irrevocable road damage compensation trust. The
877 applicant shall initially deposit funds in an amount determined by the Local
878 Impact Committee to be the reasonably anticipated cost to construct, maintain,
879 repair and reconstruct all affected public roadways to meet the traffic demands
880 to be caused by the mining operation. The cost projection shall be based on a
881 roadway improvement and maintenance engineering study required by the
882 Planning and Development Committee, at the applicant's expense.

883 c. The Oneida Local Impact Committee or their designee shall negotiate any
884 roadway maintenance agreements to which the County would be a party and
885 supervise and administer the fund. The Local Impact Committee shall approve
886 the distribution of monies from said fund to claimants under this subsection.
887 The Local Impact Committee shall be empowered to hold meetings and hire
888 licensed professionals to assist him or her in the process of ascertaining the
889 entitlement of the claimant to compensation, the amount of damages, and
890 authorizing disbursements to the claimant. The Local Impact Committee may
891 seek the cooperation and assistance of the County Infrastructure Committee
892 and County Highway Commissioner, if any, in planning and undertaking all
893 road studies, planning, construction, maintenance and repair pursuant to the
894 road damage compensation trust. The trust fund shall also be monitored to
895 determine if there are adequate funds to cover actual and/or pending claims.
896 The Local Impact Committee shall request the operator to provide additional
897 funding within 30 days if funding is deemed inadequate.
898
899

6. Political Subdivisions Compensation Fund.

900 a. The applicant may enter into a local impact agreement with any political
901 subdivision which is, or is likely to be, impacted by the mining operation.
902 b. Oneida County, at the cost of the applicant, may hire a licensed independent
903 agent to create a distribution plan for compensation to political subdivisions
904 that have suffered or may suffer a substantial economic impact as the result of
905 mining operations. Criteria to be used for the determination of impact shall
906 come from the Environmental Impact Report and Statement, and other criteria
907 as determined by the licensed independent agent. Prior to the commencement
908 of any mining, the operator shall compensate those political subdivisions
909 identified in the distribution plan.
910
911

7. Application Fee.

912 a. The application fee for a nonferrous metallic mining County Mining Permit shall
913 be in the amount of \$50,000. This fee will be used as an advance deposit to
914 cover actual costs, described below. The balance of the fee together with any
915 additional payments received from the applicant, less any costs incurred that
916 have been billed by the County, shall be held by the County in a segregated
917 fund until the final billing for actual costs has been paid, at which time any
918 excess funds held in the segregated fund shall be refunded to the applicant.
919 Not less than annually the County shall account for and make public a record
920 summarizing all transactions involving either deposit to or withdrawal from the
921 segregated fund.
922
923

8. Actual Costs.

924 a. The applicant for a proposed mining project shall be responsible for all costs
925 reasonably incurred by the County as necessary to: evaluate the operator's
926 application for a County Mining Permit; evaluate any applications for permits
927 required from the State of Wisconsin and the Federal Government to undertake
928 the proposed mining, and; participate in any administrative or legislative
929 meetings, public comment opportunities, public hearings and adjudicatory or

- 930 contested case hearings related to such mining project, including the hearings
931 required under this section.
- 932 b. The applicant's responsibility for costs reasonably incurred by Oneida County
933 shall include both before and after the application for the County Mining Permit
934 is filed with the County and for monitoring any such mining project which
935 becomes operational, continuing for the life of the operation and during the 40
936 years following closure.
- 937 c. Costs under this subsection shall include staff time, travel expense, equipment
938 and material costs, licensed professionals and legal counsel. Such costs shall
939 not exceed those which are reasonably charged for the same or similar
940 services by licensed professionals of the type retained. The County shall also
941 avoid duplication of services where reasonably possible, taking into
942 consideration the normal duties and responsibilities of the staff.
- 943 d. The County shall use standard cost and time accounting practices to document
944 its time and expenses in performing any work and purchasing any equipment
945 and services that will be billed to the applicant or charged against the
946 segregated account.
- 947 e. Prior to processing an application for a permit under this section, if the County
948 determines that the cost involved in permit review and approval will exceed
949 \$50,000, the County shall supply the applicant with an estimate of the cost
950 involved in the permit review and approval process.
- 951 f. Costs under this section may be billed to the applicant for reimbursement to
952 the County on a quarterly basis and shall be paid within thirty (30) days of such
953 billing. Should the applicant fail or refuse to pay costs within thirty (30) days
954 upon request or demand from the County, the County may stop the processing
955 of the permit application and deny any permit that has not been issued. A
956 County Mine Permit shall not be issued until any fees incurred prior to issuance
957 have been paid in full.
- 958 g. If an applicant withdraws its application at any time after its submittal, all fees
959 and charges assessed for work to that point in time by the County shall be paid
960 by the applicant. Any balance would be refunded to applicant.
- 961 h. A condition of any County Mining Permit that is issued shall be the payment of
962 all County costs of administering the permit, in annual installments, based upon
963 estimates to be provided by the County, the first estimate to be provided with
964 the permit and subsequent estimates to be provided on the anniversary date
965 of the permit, each such estimate to be paid in full within 30 days of receipt.

966
967 **P. Environmental Impact Report and Statement.**

968 Oneida County will timely review and comment on any environmental impact report
969 prepared by the applicant and any environmental analysis, draft environmental impact
970 statement and final environmental impact statement prepared by DNR pursuant to
971 Wis. Stat. ss.1.11, 293, and Wis. Admin. Code Ch. NR 150. The Planning and
972 Development Committee will prepare a recommendation for the County Board and the
973 Board will act and timely provide the County's comments to the DNR.

974 **Q. Inspections and Reports.**

- 975
976 1. Inspections. Upon application for a County Mining Permit, the applicant and
977 property owner are deemed as a condition of application to have consented to
978 allow inspections of the mining site and all mining operations by the County for the
979 purpose of determining compliance with the provisions of this section and the

980 terms conditions of the County Mining Permit. Inspections may occur pursuant to
981 this section upon showing of proper identification, with or without advance notice
982 to the applicant and/or property owner.

- 983 2. Reports. Operator to shall supply copies of all mine operation reports provided to
984 the DNR until such time that a certificate of completion is issued.

985
986 **R. Effective Date of Permit and Commencement of Mining Operations.**

987
988 The granting of a County Mining Permit shall not be deemed effective until the
989 operator has procured all necessary permits from the state and federal agencies
990 to construct, operate, close, reclaim, and monitor the mining operation; process
991 any ore from the mine in Oneida County; manage and reclaim any mining waste
992 resulting from the mining operation; and provide all financial assurances required
993 by those permits. Construction must be commenced within two (2) years of the
994 effective date of the last state and federal permit issued or the County Mining
995 Permit shall be null and void.

996
997 **S. Permit Modification.**

- 998
999 1. The County reserves the right to reopen and modify a County Mining Permit
1000 after it has been granted if it is determined, upon the basis of substantial
1001 evidence, including evidence presented at state or federal hearings, that
1002 mining activity pursuant to the permit would endanger the public health, welfare
1003 or safety.
- 1004 2. In order to reopen a permit, the County or the County Mining Permit permittee
1005 shall identify the specific terms of the permit subject to reopening and file an
1006 application for a public hearing with the Planning and Development Committee,
1007 which shall hold a public hearing on the matter before making a
1008 recommendation to the County Board. The County Board shall hold a public
1009 hearing in accordance with the procedures in Chapter 2 of the General Code,
1010 before deciding the matter. No modifications to an existing permit shall be
1011 made unless supported by the substantial evidence and approved by the
1012 County Board.
- 1013 3. Successors in Interest. In the event one operator succeeds to the interest of
1014 another by sale, assignment, lease, or otherwise, the operator holding the
1015 County Mining Permit shall notify the Zoning Administrator. Such transfer of
1016 ownership shall constitute grounds for the County Board to re-open and/or
1017 modify the County Mining Permit to protect the public health, welfare or safety.
1018 Any successor acquiring rights of ownership, possession or operation of the
1019 permitted mine shall be subject to all existing conditions of the County Mining
1020 Permit and any conditions established as a result of County Board action.

- 1021
1022 a. No transfer of the County Mining Permit may occur until the successor
1023 has satisfied all financial assurance requirements under this code.
- 1024 b. All forms of financial assurance must name the County as the
1025 beneficiary.
- 1026 c. The successor shall also provide proof that it has satisfied all financial
1027 assurances required by the DNR.

- 1028 d. The operator holding the permit shall maintain proof of financial
1029 assurance until the successor acquiring ownership, possession or
1030 operation of the mine obtains County Board approval.
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1032 4. In the event the state/federal laws and/or regulations are amended to the extent
1033 that the terms and conditions of the County Mining Permit are affected, the
1034 applicant shall apply for a modification to the permit within 6 months of the
1035 effective date of such amendments.

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T. **Violation/Enforcement.**

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1. Conducting Metallic Mining Operations without a County Mining Permit are subject to the following:

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- a. After the fact permit application fees; and
b. Penalties under section 9.61(V) below and allowed by Statute.

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2. Such other and further relief, including but not limited to, equitable relief granted by a court of competent jurisdiction.

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3. Permit Revocation or Suspension. The Zoning Administrator may revoke or suspend a mining permit issued under this section if it is determined that there is substantial evidence that any of the following has occurred:

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- a. Statutes, ordinances, or permit requirements have been violated;
b. Financial Assurance has not been provided as required or has lapsed;
c. Insurance coverage has lapsed or fallen below required levels;
d. Actual costs have not been paid timely upon request for permit processing, administration, monitoring or review;
e. Applicant has failed to comply with County, State and Federal Regulations;
f. Failure to strictly comply with County, State and Federal laws, regulations or permits;
g. The mine is idle for two (2) consecutive years.

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U. **Penalties.**

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Except as otherwise specified herein, any operator violating this section shall, upon conviction, pay a forfeiture of not less than \$1000 nor more than \$25,000, plus costs per day for each day a violation continues. Forfeitures for second or subsequent offenses shall be not less than \$5000 nor more than \$50,000 plus costs per day for each day a violation continues.

