

# ORDINANCE

Ordinance No. 011=2013-80

## **ASHLAND COUNTY BULK SAMPLING AND NONFERROUS METALLIC MINERAL PROSPECTING ORDINANCE**

The County Board of Supervisors for the County of Ashland does ordain as follows:

### **Section 1.0 Ferrous Metallic Mineral Mining Bulk Sampling Ordinance**

#### **Section 1.0 Ferrous Metallic Mineral Mining Bulk Sampling.**

- (A) **Title.** Ferrous Metallic Mineral Mining Bulk Sampling Ordinance for the County of Ashland.
- (B) **Purpose.** This Ordinance requires a person or entity engaging in ferrous metallic mineral mining Bulk Sampling in the County to first obtain a Conditional Use Permit from the County the conditions of which shall, to the extent of the County's zoning authority and police powers, promote the public health, safety, convenience and general welfare, and encourage planned and orderly land use development.
- (C) **Statutory Authority.** This section is adopted pursuant to sections 59.01-59.04, 59.51, 59.54, 59.69-59.70, 92.07, 92.11, 293.41, 293.43(4) and 295.443(1m) Wisconsin Statutes, as amended, and pursuant to County Home Rule and Police Powers.
- (D) **Definitions.** When used herein, the following words are defined as follows:
  - (1) **"Bulk Sampling"** means excavating in a potential mining site by removing material for the purpose of obtaining site-specific data to assess the quality and quantity of a deposit pursuant to a permit under section 295.45 (1) Wisconsin Statutes and as set forth in section 295.41(7) as amended.
  - (2) **"County"** shall mean the County of Ashland in the State of Wisconsin.
  - (3) **"Local Management Zone"** means and refers to real property or land, improved or unimproved, situated in Ashland County which is within one thousand (1,000) feet of metallic mineral mining Bulk Sampling activities.
  - (4) **"Ferrous mineral"** shall mean an ore or earthen material in natural deposits in or on the earth that primarily exists in the form of an iron oxide, including taconite and hematite, or as otherwise defined in 295.41(17) Wisconsin Statutes as amended.
  - (5) **"Metallic mineral mining"** shall mean mining for any metal or metals, including ferrous and nonferrous mineral mining. This definition does not refer to Exploration, Prospecting or Bulk Sampling as defined in this Zoning Code.
  - (6) **"Person"** shall mean an individual, owner, mine operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, federal agency or another entity.
  - (7) **Other Words Defined.** Words which are not defined in this section shall have the meaning provided for elsewhere in the Ashland County Code or in Wisconsin Statutes unless such a definition is inconsistent with a definition provided for herein.
- (E) **Bulk Sampling.** Bulk sampling under 295.41 (7) of any kind pursuant to a DNR permit 295.45 (1) for ferrous metallic mineral mining is a conditional use in Ashland County.
- (F) **Conditional Use Application Required.** No Metallic Mineral Mining Bulk Sampling may be commenced in Ashland County unless said activity is first approved by the Ashland County Zoning & Land Committee. A Conditional Use Application requesting Ashland County Zoning & Land Committee approval of a proposed Metallic Mineral Mining Bulk Sampling activity shall

be submitted to the Ashland County Zoning Department and shall be accompanied by:

- (1) The Ashland County Metallic Mineral Mining Bulk Sampling Conditional Use Application form.
- (2) The Bulk Sampling Plan that is submitted to and deemed complete by the Wisconsin Department of Natural Resources.
- (3) The Metallic Mineral Mining Bulk Sampling Conditional Use Application Fee, in the amount of ten thousand dollars (\$10,000) or such other amount as the County Board may set from time-to-time.

**(G) Conditional Use Standards and Procedures.** Conditional use permits under this Ordinance shall conform to the standards and procedures set forth herein as well as 59.69 Wisconsin Statutes. Section 11.3 "Conditional use Permits" of the Ashland County Shoreland Amendatory Ordinance shall also apply.

**(H) Factors to Be Considered.** In reviewing a proposal for a metallic mineral mining bulk sampling activity, the Ashland County Zoning Committee shall take into consideration:

- (1) Substantial adverse impacts of the proposed metallic mineral mining Bulk Sampling on land use and values regarding properties in the Local Management Zone.
- (2) Substantial adverse effects on agriculture, forestry, industry, future business growth, or property tax due to the proximity of bulk sampling site and on the ability of municipalities to efficiently and economically use public lands.
- (3) Substantial adverse effects on public roads, public highways, bridges and other public infrastructure from vehicles and equipment used in metallic mineral mining bulk sampling activity.
- (4) Substantial adverse noise, dust, fumes, light, and visual impacts on properties in the Local Management Zone.
- (5) Substantial adverse water table and surface and groundwater quantity and quality impacts in the Local Management Zone.
- (6) Substantial adverse public safety, crime, or other issues regarding maintenance of the peace and safety of County residents.
- (7) Such other factors as might in the opinion of the Zoning & Land Committee have a substantial adverse impact on the health, safety, and welfare of the County or its residents.

**(I) Conditions Imposed.** The Zoning & Land Committee may impose whatever conditions are necessary within its power to protect the interests set forth in this Ordinance, as well as human health and the environment and the health, safety and welfare of the County and its residents, and to abate or mitigate the impacts from Bulk Sampling. Such conditions shall incorporate and take into account existing state and federal permits and approvals granted to the Applicant. In the event of any conflict between such permits and approvals and a Conditional Use Permit under this Ordinance such permits and approvals shall control. Conditions may include, without limitation:

- (1) truck routes and weight limits
- (2) hours of operation;
- (3) noise limits;
- (4) dust control measures;
- (5) run off protection;
- (6) ground water monitoring;
- (7) emergency planning;
- (8) financial assurance for reclamation;
- (9) sunsets and deadlines for permits and the accomplishment of milestones;
- (10) blasting rules (time, notice, damages, etc.);
- (11) testing and precautions regarding sulfide spoils or runoff to prevent sulfuric acid formation;
- (12) limits on the use of solution, high pressure or other technologies which do not rely solely on excavation or boring technologies;
- (13) compensation to, (including financial assurance) property owners in the Local Management Zone and to the County for measurable damages or other financial impacts caused by the activity;

- (14) such other restrictions as may be reasonably necessary to protect the health, safety and welfare of human health and the environment or the health, safety and welfare of the County and its residents; and
- (15) subject to site safety rules and regulations under Wisconsin Statutes and the Mining Safety Health Act including but not limited to 30 C.F.R. 48.31, consent to County personnel access to the property containing the area of Bulk Sampling activity at all reasonable hours without notice.

## 2.0 Nonferrous Metallic Mineral Prospecting Ordinance

### Section 2.0 Nonferrous Metallic Mineral Prospecting.

- (A) **Title.** Nonferrous Metallic Mineral Prospecting Ordinance for the County of Ashland.
- (B) **Purpose.** This Ordinance requires a person or entity engaging in nonferrous metallic mineral prospecting in the County to first obtain a Conditional Use Permit from the County the conditions of which shall, to the extent of the County's zoning authority and police powers, promote the public health, safety, convenience and general welfare, and encourage planned and orderly land use development.
- (C) **Statutory Authority.** This section is adopted pursuant to sections 59.01-59.04, 59.51, 59.54, 59.69-59.70, 92.07, 92.11, 293.41, 293.43(4) and 295.443(1m) Wisconsin Statutes, as amended, and pursuant to County Home Rule and Police Powers.
- (D) **Definitions.** When used herein, the following words are defined as follows:
  - (1) **"County"** shall mean the County of Ashland in the State of Wisconsin.
  - (2) **"Local Management Zone"** means and refers to real property or land, improved or unimproved, situated in Ashland County which is within one thousand (1,000) feet of metallic mineral prospecting activities.
  - (3) **"Metallic mineral mining"** shall mean mining for any metal or metals, including ferrous and nonferrous mineral mining. This definition does not refer to Exploration, exploring, Prospecting or Bulk Sampling as defined in this Zoning Code.
  - (4) **"Nonferrous mineral"** shall mean ore or earthen material in natural deposits on or in the earth that do not contain iron oxide in concentrations sufficient to render that iron oxide worthy of commercial development and sale via mining technologies.
  - (5) **"Prospecting"** shall mean engaging in the examination of an area for the purpose of determining the quality and quantity of nonferrous metallic minerals and as set forth in section 293.01 (18).
  - (6) **"Prospecting Site"** shall mean the lands on which prospecting is actually conducted as well as those lands on which physical disturbance will occur as a result of such activity.
  - (7) **Other Words Defined.** Words which are not defined in this section shall have the meaning provided for in Wisconsin Statutes unless such a definition is inconsistent with a definition provided for herein.
- (E) **Prospecting.** Nonferrous Metallic Mineral Prospecting under 293.01 (18) of any kind pursuant to a DNR permit 293.35 (1) for nonferrous metallic mineral mining will be a conditional use in Ashland County.
- (F) **Conditional Use Application Required.** No Nonferrous Metallic Mineral Prospecting may be commenced in Ashland County unless said activity is first approved by the Ashland County Zoning & Land Committee. Conditional Use Application requesting Ashland County Zoning & Land Committee approval of a proposed Nonferrous Metallic Mineral Prospecting activity shall be submitted to the Ashland County Zoning Department and shall be accompanied by:
  - (1) The Ashland County Nonferrous Metallic Mineral Prospecting Conditional Use Application form.

- (2) The Prospecting Permit Application that is submitted to and deemed complete by the Wisconsin Department of Natural Resources.
  - (3) The Metallic Mineral Prospecting Conditional Use Application Fee, in the amount of ten thousand dollars (\$10,000) or such other amount as the County Board may set from time-to-time.
- (G) Conditional Use Standards and Procedures.** Conditional use permits under this Ordinance shall conform to the standards and procedures set forth herein as well as 59.69 Wisconsin Statutes. Section 11.3 "Conditional Use Permits" of the Ashland County Shoreland Amendatory Ordinance shall also apply.
- (H) Factors to be Considered.** In reviewing a proposal for a metallic mineral prospecting activity, the Ashland County Zoning & Land Committee shall take into consideration:
- (1) Substantial adverse impacts of the proposed metallic mineral prospecting on land use and values regarding properties in the Local Management Zone.
  - (2) Substantial adverse effects on agriculture, forestry, industry, future business growth, or property tax due to the proximity of prospecting site and on the ability of municipalities to efficiently and economically use public lands.
  - (3) Substantial adverse effects on public roads, public highways, bridges and other public infrastructure from vehicles and equipment.
  - (4) Substantial adverse noise, dust, fumes, light, and visual impacts on properties in the Local Management Zone.
  - (5) Substantial adverse water table and surface and groundwater quantity and quality impacts in the Local Management Zone.
  - (6) Substantial adverse public safety, crime, or other issues regarding maintenance of the peace and safety of County residents.
  - (7) Such other factors as might in the opinion of the Zoning & Land Committee have a substantial adverse impact on the health, safety, and welfare of the County or its residents.
- (I) Conditions Imposed.** The Zoning & Land Committee may impose whatever conditions are necessary within its power to protect the interests set forth in this Ordinance, as well as human health and the environment and the health, safety and welfare of the County and its residents, and to abate or mitigate the impacts from prospecting including but not limited to: Such conditions shall incorporate and take into account existing state and federal permits and approvals granted to the Applicant. In the event of any conflict between such permits and approvals and a Conditional Use Permit under this Ordinance, such permits and approvals shall control. Conditions may include, without limitation:
- (1) truck routes and weight limits
  - (2) hours of operation;
  - (3) noise limits;
  - (4) dust control measures;
  - (5) run off protection;
  - (6) ground water monitoring;
  - (7) emergency planning;
  - (8) financial assurance for reclamation and restoration;
  - (9) sunsets and deadlines for permits and the accomplishment of milestones;
  - (10) blasting rules (time, notice, damages, etc.);
  - (11) testing and precautions regarding sulfide spoils or runoff to prevent sulfuric acid formation;
  - (12) limits on the use of solution, high pressure or other technologies which do not rely solely on excavation or boring technologies;
  - (13) compensation to, (including financial assurance) property owners in the Local Management Zone and to the County for measurable damages or other financial impacts caused by the activity.
  - (14) such other restrictions as may be reasonably necessary to protect the health, safety and welfare of human health and the environment or the health, safety and welfare of the County and its residents; and

- (15) subject to site safety rules and regulations under Wisconsin Statutes and the Mining Safety Health Act including but not limited to 30 C.F.R. 48.31, consent to County personnel access to the property containing the area of prospecting activity at all reasonable hours without notice.

**Section 3.0 General Provisions**

The following general provisions apply to both Sections 1.0 and 2.0 of this Ordinance:

- (A) **Unincorporated Areas Only.** This Ordinance applies only to the unincorporated areas of Ashland County, Wisconsin.
- (B) **Severability.** The provisions of this Ordinance are severable. If any provision of this Ordinance is invalid or if the application of a provision of this Ordinance to any person or circumstance is invalid, such invalidity shall not affect the other provisions or applications which can be given effect without the invalid provision or application.
- (C) **Violations.** A person who violates this Ordinance is subject to a forfeiture of up to \$2,500.00 per violation plus court costs. Ashland County is entitled to be reimbursed for its actual reasonable attorney fees, costs and disbursements associated with its enforcement of this Ordinance. Each day a violation occurs is a separate offense. Upon failure to pay the forfeiture, costs and fees assessed, the violator may be imprisoned for up to ninety (90) days.
- (D) **Injunctive Relief.** Injunctive relief is available to the County to enforce this Ordinance. The County is authorized to seek an injunction enjoining the violation of this Ordinance without the County being required to show irreparable harm or injury.
- (E) **Effective Date.** This Ordinance shall be effective on the first date following its publication.

Dated this 12<sup>th</sup> day of November, 2013.

	
	
	
	
	
	
	
	
	
	