



ORDINANCE



Ordinance No. 004-2019-107

AMENDING ORDINANCE #006-2013-78 ASHLAND COUNTY ZONING ORDINANCE REGARDING METALLIC MINERAL MINING AND RECLAMATION

WHEREAS, after publication in the County of a class 2 notice under Chapter 985, on February 25, 2019 and March 8, 2019 the Zoning & Land Committee of the Ashland County Board of Supervisors held a public hearing on proposed amendments to Ashland County's Metallic Mineral Mining and Reclamation Ordinance, and

WHEREAS, at its March 8, 2019 meeting, Zoning & Land Committee of the Ashland County Board of Supervisors approved the following amendments and directed an appropriate ordinance be drafted recommending that the Ashland County Board of Supervisors enact the same.

NOW, THEREFORE,

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

- 1) The following Sections: **1.11 (o)(p) Special Use Requirements**
1.12 (A) Well Monitoring
1.15 (d) Written Plans

is hereby **Amended** as follows:

SECTION 1.1(o)(p) Special Requirements

o) A statement that all core samples and test results taken from within the mine site will be available to the Zoning Administrator, Zoning Committee, and to any experts the Zoning Administrator and/or the Zoning Committee may consult with in regards to the application, the site, and/or the proposed mine plan. All information received will be considered confidential. As part of the discovery process, the parties may enter into a non-disclosure agreement with applicant or applicants.

p) A well monitoring plan including a cash deposit to reimburse for adverse effects from mining related activities.

Well Monitoring

For a period of two years prior to the commencement of the construction of any mine, and during the period of operation of any mine, and for 30 years thereafter, an applicant shall monitor on a continuous basis all private and public wells located within two miles of the boundary line of the property of the applicant or any wells that the hydrological study shows should be monitored, in order to provide baseline data concerning quantity and quality of water adequate for all purposes, including, but not limited to, determining the validity of any well damage claim. The well monitoring intervals shall be negotiated at the time of the permit application. This monitoring shall be done by an independent consultant agreeable to both the county and the applicant. That consultant shall employ the split sample technique and shall make samples available upon request to the county, or any person or consultant designated by the county to receive such samples. The information obtained in this monitoring program shall be included in the community impact report prepared pursuant to this division.

Hydrology studies shall be completed as part of the permit requirement by an independent consultant agreeable to the applicant and the county. The information obtained shall be included in the community impact report prepared pursuant to this division, and submitted to the county zoning administrator, the county clerk and the town clerks of affected areas, to be kept on file and available to the public. Each owner of a well in the above areas shall be given a copy of the information relevant to his/her well or wells and a copy of the full hydrological studies, if requested.

SECTION 1.12 (A) Well Monitoring

Before a permit is issued, the applicant shall deposit into an interest-bearing trust account \$1,000,000.00 or \$5,000.00 for each well within two miles of the boundary line of the property of the applicant and for each well located in any other area which have indicated there is the possibility of adverse effects from mining related activities. The applicant shall be required to deposit the greater amount; that is, if fewer than 200 wells exist in the above-described area, the applicant shall be required to deposit \$1,000,000.00; if more than 200 wells exist in the above described area, the applicant shall be required to deposit \$5,000.00 for each well.

This money shall be first used to pay for replacing any contaminated or damaged or depleted wells and/or for providing water to any well owner whose well was contaminated, damaged or depleted; and whose well is within two miles of the boundary line of the property of the applicant, or within any other area which hydrology studies have indicated can be adversely affected by the mining project or the disposal of its wastes.

Hydrology studies are to be done prior to the beginning of the project by an independent consultant agreeable to the applicant and the county. The costs of the studies are to be at the expense of the applicant. The information obtained by the hydrology studies shall be included in the community impact report, and submitted to the chairperson of the town where the mining deposit is located and the county clerk to be kept on file and to be made available to the public.

If and when the amount of accumulated interest equals the amount of the initial deposit, the applicant may collect the interest which is in excess of twice the amount of the original deposit until the applicant has received an amount equal to the sum which he/she originally deposited. The original deposit and other accumulated interest shall remain in the trust account, even after any mining operation has been completed and/or discontinued, to be used for replacing any contaminated, damaged or depleted wells, the contamination, damaging or depletion of which had not yet been discovered at the time of such completion or discontinuation; and/or for providing water for any well owner whose well was contaminated, damaged or depleted, the contamination, damaging or depletion of which had not yet developed or been discovered at the time of such completion or discontinuation. If any well in the above described area is contaminated, damaged or depleted, the well owner will be provided with water and/or the well owner's well will be replaced. The applicant agrees not to object to the disbursement of funds from the trust account for these purposes.

The applicant consents to the establishment of a trust account at a bank or financial organization mutually agreeable to him/her and the county.

The county zoning committee is designated to supervise the activities of the well fund administrator. It shall also approve of the distribution of moneys from such fund to owners of contaminated, damaged or depleted wells.

In so doing, it shall be empowered to hold meetings for the purpose of ascertaining whether complained of well damage resulted from the mining operation which has established the particular well fund in question and it shall also ascertain the amount of such damages and shall authorize the well fund administrator to disburse such amount to the owner or to purchase and provide water to the owner.

The zoning administrator shall be designated to administer the trust account on behalf of the county and shall be called the well fund administrator. Such person shall perform his/her responsibilities as a fiduciary on behalf of the county, the well owners and the applicant shall discharge his/her duties faithfully and without the right of compensation in addition to that prescribed generally for his/her office or position of employment by the county board. Among the responsibilities which he/she shall pursue shall be the following:

In accordance with this subsection, the administrator shall distribute to the applicant that accumulated interest to which he/she is entitled.

Subject to approval of well damage claims by the county zoning committee, the administrator shall disburse moneys to replace contaminated, damaged or depleted wells or for providing water to well owners.

Pursuant to Wis. Stats. Ch. 177, the administrator shall, absent disbursements under subsections (d)(3)a and b of this section, during a given calendar year, at least annually contact the bank or financial organization holding the deposit and communicate sufficient information with which to meet the provisions of Wis. Stats. 117.02 et seq. and maintain the account on an active status.

At the conclusion of the period commencing with the time of the initial deposit and ending with the passage of 100 years, the administrator shall disburse all remaining funds in the account to the county general fund, for use by the county in such manner as the county board deems to be appropriate.

On an annual basis in the month of March, the administrator shall issue a report to the zoning committee as to the status of the fund, distributions made therefrom, interest and principal, which report shall cover the preceding calendar year to and through December 31 thereof.

Such other and further duties as are prescribed by the zoning committee from time to time.

At the conclusion of the first 30 years from and after the time of the initial deposit by the applicant, the county zoning committee or its successor shall meet to ascertain the status of the well fund and to determine whether the need exists to maintain in the fund a sum of money in excess of \$12,000,000.00. Subject to further review by the committee between that time and the time designated for automatic termination of the fund and its disbursement in accordance with this subsection (d)(3), in the event of a change in the committee's finding as to need, the committee may authorize the administrator to disburse all moneys accumulated beyond the total sum of \$12,000,000.00 in interest and principal or, alternatively, restrict or revise his/her authority to do so. In the event of an order to disburse, the administrator shall be instructed to disburse such moneys on an annual basis, payable to the county general fund and, thereafter, as it deems appropriate.

SECTION 1.15 (d) WRITTEN PLANS

The plan submitted to the county zoning committee shall include a photographic survey of all buildings, which might suffer damage from the blasting. After consulting with the applicant and considering all relevant information, the county shall establish the scope of the survey by determining the radius of the survey area as measured from the point or points of the blasting activity. The survey shall include photographs of foundations of buildings as well as exterior views of all sides of the buildings. In determining the proper scope of the photographic survey, the county and applicant should make the scope broad enough to provide baseline data for determining the validity of any claim of damage to buildings caused by blasting.

- 2) As per §59.14, Wisconsin Statutes, the Clerk shall immediately publish this ordinance as a class 1 notice under Chapter 985 and shall procure and distribute copies of the ordinance to the several town clerks, who shall file the same in their respective offices.

Dated at the City of Ashland, Wisconsin this 18th day of April, 2019.

Pete Russo
Pete Russo, Chairperson
Ashland County Board of Supervisors

Heather W. Schutte
Heather W. Schutte, County Clerk
Ashland County, Wisconsin

Signed:

Pete Russo
Kathy S. Schutte
Richard Pufall
W. Williams
Norm
Ed Terzag
C.R.
Dany
William K. Metzger
Clarence Campbell

John J. W.
Daniel
Carl
Bob
Joe M. Rose

This Document is a full, true and correct copy of the original on file and of record in my office and has been compared by me.

Attest May 2, 2019
Heather W. Schutte

Publication Date: May 1, 2019