

LAND USE REPORT

TOWN OF IRON RIVER WISCONSIN

A LAND USE PLAN AND ZONING
RECOMMENDATIONS FOR REGULATING
NONMETALLIC MINING

SEPTEMBER, 1995

PREPARED FOR

ZONING COMMITTEE
BAYFIELD COUNTY, WISCONSIN

PREPARED BY

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WASHBURN AND MADISON, WISCONSIN

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(CURRENT DRAFT)

1. INTRODUCTION

Discovery Group, Ltd. of Washburn and Madison, Wisconsin has been engaged by the Zoning Committee of Bayfield County to prepare a land use report and make zoning ordinance amendment recommendations for regulating nonmetallic mining in the Town of Iron River.

The primary objective of the report and recommendations is to assist Town of Iron River and Bayfield County officials in achieving a balance between the interests of residential property owners and sand and gravel pit operators, primarily in the Pike Chain of Lakes area.

A second objective of the report is to make ordinance recommendations that will prepare Bayfield County to be in compliance with NR 135, which is the proposed new WDNR regulation on nonmetallic mining reclamation.

The public involvement aspects of the project have consisted of approximately 20 interviews with sand and gravel pit operators, Town and County officials, and residents and property owners in the Pike Chain of Lakes area. Interviews were conducted in May and June, 1995. A public workshop, attended by approximately 50 involved property owners and sand and gravel pit operators, was conducted in the Town of Iron River on July 10, 1995. Town of Iron River and Bayfield County Board members were also in attendance. A subsequent Town Board meeting was held on August 24, 1995 to discuss the preliminary draft report recommendations.

2. DESCRIPTION OF THE STUDY AREA

The study area for the project includes the southern two-thirds (Sections 13 through 36) of the Town of Iron River, which includes the majority of the active sand and gravel operations in the Town and the recreational residential areas around the Pike Chain of Lakes, Spider Lake, and Ruth Lake.

ENVIRONMENTAL CHARACTERISTICS

Topography and Surface Geology

The topography of the study area consists of rolling terrain with approximately 180 feet of relative elevation change. The highest elevations are approximately 1280 feet. The lowest elevation is 1101 at the lake level of Crooked Lake.

The surface geology consists of a combination glaciolacustrine deposits of glacial lakes, including associated deltas and sand dunes, and terminal end moraines. Most of the exploitable sand and gravel resources are located in the outwash fans and other deposits associated with the terminal end moraines. The greatest concentrations of exploitable materials are in the vicinity of Crooked Lake, east of Spider Lake, and north of Ruth Lake.

Lakes and Wetlands

The primary lakes in the study area range from 18 to 259 acres in size. The lakes are all natural seepage lakes, generally not connected to flowing streams. Most of the larger lakes support abundant populations of northern pike and walleyes, with lesser populations of muskie, large mouth bass, small mouth bass, and panfish. The lakes in the Pike Chain of Lakes are known to have deposits of mercury in the fish.

There are approximately 1,000 acres in wetland complexes associated with most of the lakes in the Iron River study area. The wetlands include emergent wet meadows, scrub and shrub wetlands, and forested wetlands. The Wisconsin Department of Natural Resources has inventoried and mapped all of the wetlands over 5 acres in size.

Lake Name	Size	Max. Depth	Mean Depth	Lake Type
Bass Lake	41 acres	18 feet	n.a.	Seepage
Bismark Lake	61 acres	13 feet	n.a.	Seepage
Buskey Bay	100 acres	51 feet	15 feet	Seepage
Crooked Lake	93 acres	34 feet	15 feet	Seepage
Five Island Lake	48 acres	24 feet	13 feet	Seepage
Hart Lake	259 acres	54 feet	25 feet	Seepage
Half Moon Lake	106 acres	10 feet	6 feet	Seepage
Island Lake	27 acres	30 feet	n.a.	Seepage
Lost Lake	25 acres	25 feet	n.a.	Seepage
McCarry Lake	32 acres	21 feet	5 feet	Seepage
Millicent Lake	183 acres	53 feet	26 feet	Seepage
Moon Lake	41 acres	19 feet	10 feet	Seepage
Mullenhoff Lake	69 acres	15 feet	n.a.	Seepage
Perch Lake	25 acres	83 feet	n.a.	Seepage
Pike Lake	17 acres	23 feet	n.a.	Seepage
Peterson Lake	18 acres	46 feet	n.a.	Seepage

Lake Name	Size	Max. Depth	Mean Depth	Lake Type
Ruth Lake	66 acres	30 feet	15 feet	Seepage
Spider Lake	124 acres	20 feet	n.a.	Seepage
Twin Bear Lake	172 acres	59 feet	23 feet	Seepage

Source: Wisconsin Lakes, Wisconsin Department of Natural Resources, PUBL-FM-800 91, 1991.

Rare and Endangered Species

The Wisconsin Department of Natural Resources, Brule Office, reports the following listings of rare and endangered species in the study area and the date of the last recorded sighting:

Timber Wolf (<i>Canis Lupis</i>)	Sections 1 & 4	1978 & 1980
Lake Herring (<i>Coregonus Artedi</i>)	SW/SE Section 21	1908
White Ground Cherry (<i>Lemnophysaus Grandiflora</i>)	Section 17	1963

Source: Duane Lahti, WDNR, 1995.

Environmental Corridors

Environment corridors are areas within 1,000 feet of named lakes and their associated connected wetlands. The corridors do not include free-standing wetlands that are separated from open waters.

The environmental corridors are areas that are generally feeding and nesting habitats for waterfowl and many furbearing mammals. The intent of the environmental corridor delineations is to provide connecting linkages between habitat areas and provide buffer zones where land uses that are disruptive to wildlife habitats and natural areas should be discouraged.

While many of the recreational residences in the Iron River area are within environmental corridors, local land use regulations should require maintaining as much natural habitat as feasible, including maintaining native shoreline vegetation and preserving wetlands.

DEVELOPMENT CHARACTERISTICS

Residential Development

In 1990 there were a total of 928 housing units in the Town of Iron River, 430 of which were classified as seasonal or vacation homes. The majority of the residential development in the study area is recreational, seasonal, and retirement homes located on the larger lakes. The greatest concentrations of seasonal residences are on the Pike Chain of Lakes, Ruth Lake, Spider Lake, and Half Moon Lake. Residential development is proposed for the Crooked Lake area.

The precise number or types of residences within the study area is not known, but residents in the area report that there are increasing numbers of formerly seasonal residents who are making their properties permanent retirement homes.

Sand and Gravel Extraction Operations

There are approximately 8 active sand and gravel operations, some of which are operational intermittently based on contracts and need for material. The two most active operations in the area are the Frostman operation west of Crooked Lake in Section 26 and the Roffers Construction, Inc. operation southeast of Crooked Lake in Section 36. There have been intermittent temporary asphalt plants brought into the Crooked Lake sites.

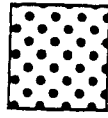
Bayfield County has an intermittently active pit in Section 31 off of County Highway A.

The third area with concentrated operations is in the central section of the Town east of Spider Lake, along both sides of County Highway H. This area also contains several abandoned sites that have not been reclaimed or restored.

Two new extraction sites have recently been proposed. The Johnson site, which is located west of County Highway H near Buskey Bay in Sections 28 and 29, was granted a permit in November 1994.

The conditional use permit application for the proposed Polkoski site in the NW 1/4 NW 1/4 of Section 35, east of Five Island Lake, has been tabled by the Bayfield County Zoning Committee, pending completion of this report and further recommendation from the Town Board.

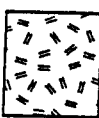
LAND USE ANALYSIS



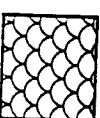
ACTIVE S/G PIT MINING



POTENTIAL S/G PIT MINING



KNOWN GRAVEL DEPOSITS



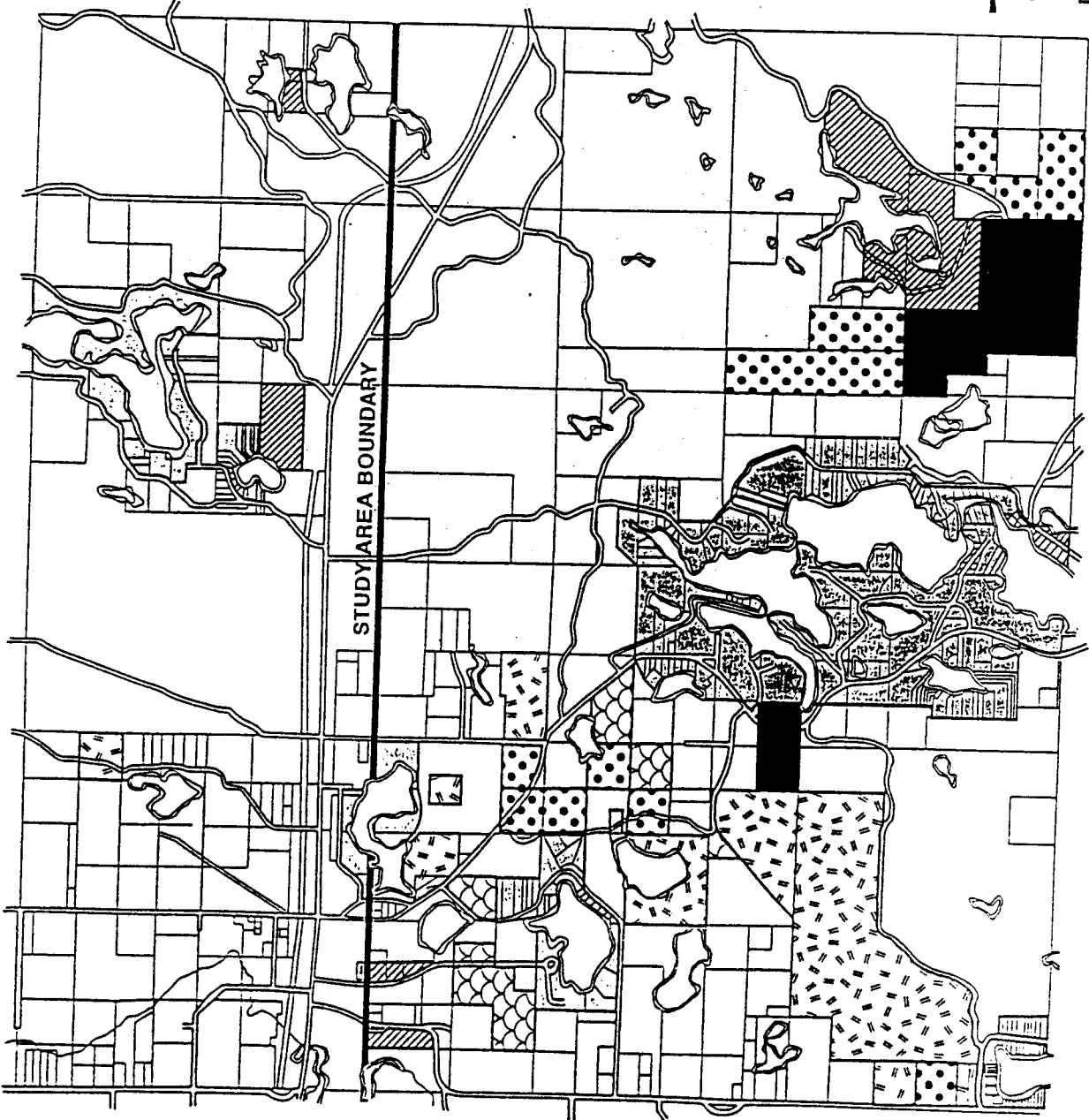
INACTIVE S/G PIT



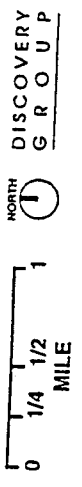
AREAS OF LAKESHORE RES. DEVELOPMENT EXISTING



AREAS OF LAKESHORE RES. DEVELOPMENT PROPOSED

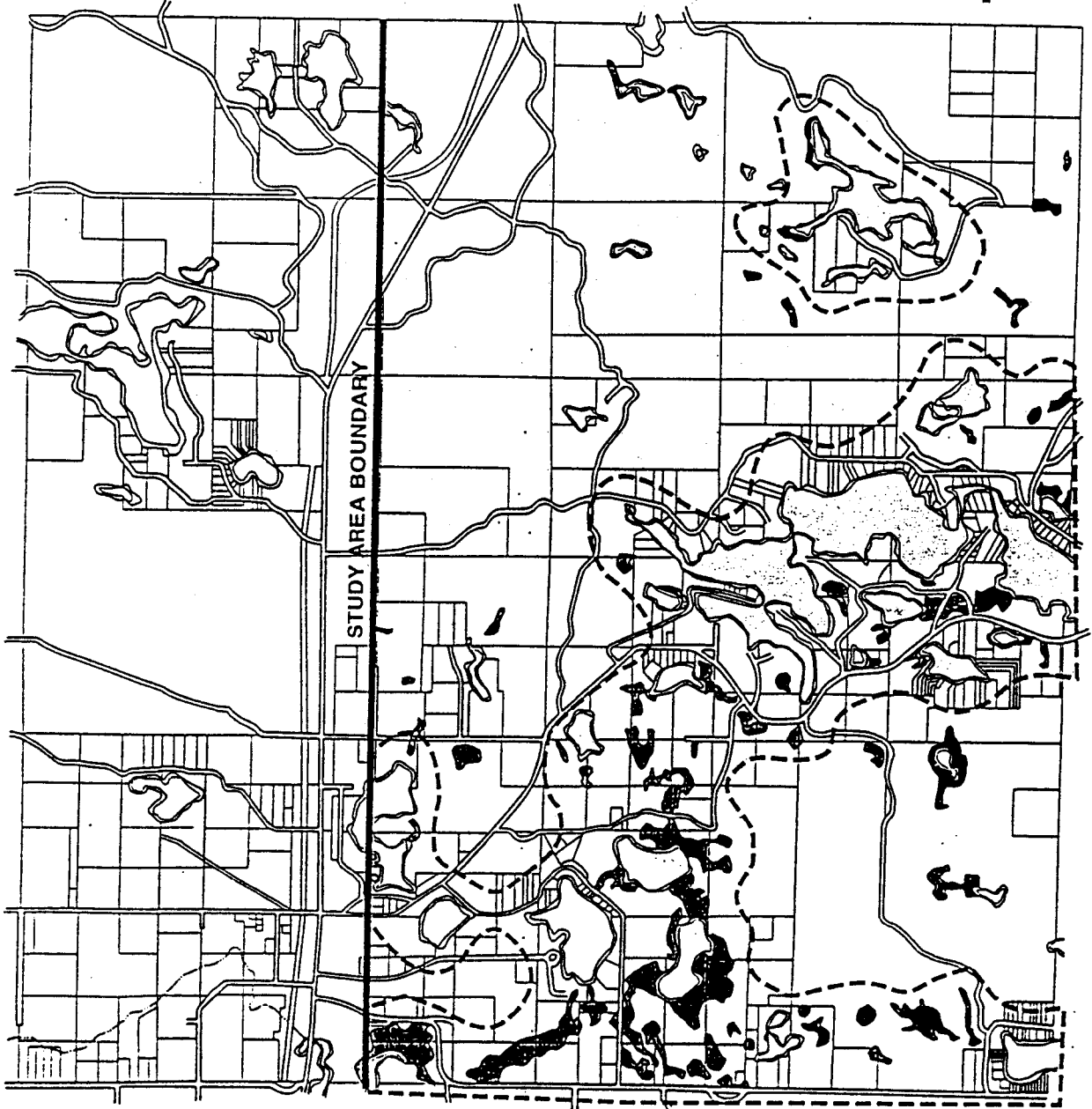


TOWN OF IRON RIVER



ENVIRONMENTALLY SENSITIVE AREAS

- WETLANDS
- LAKES
- ENVIRONMENTAL CORRIDORS

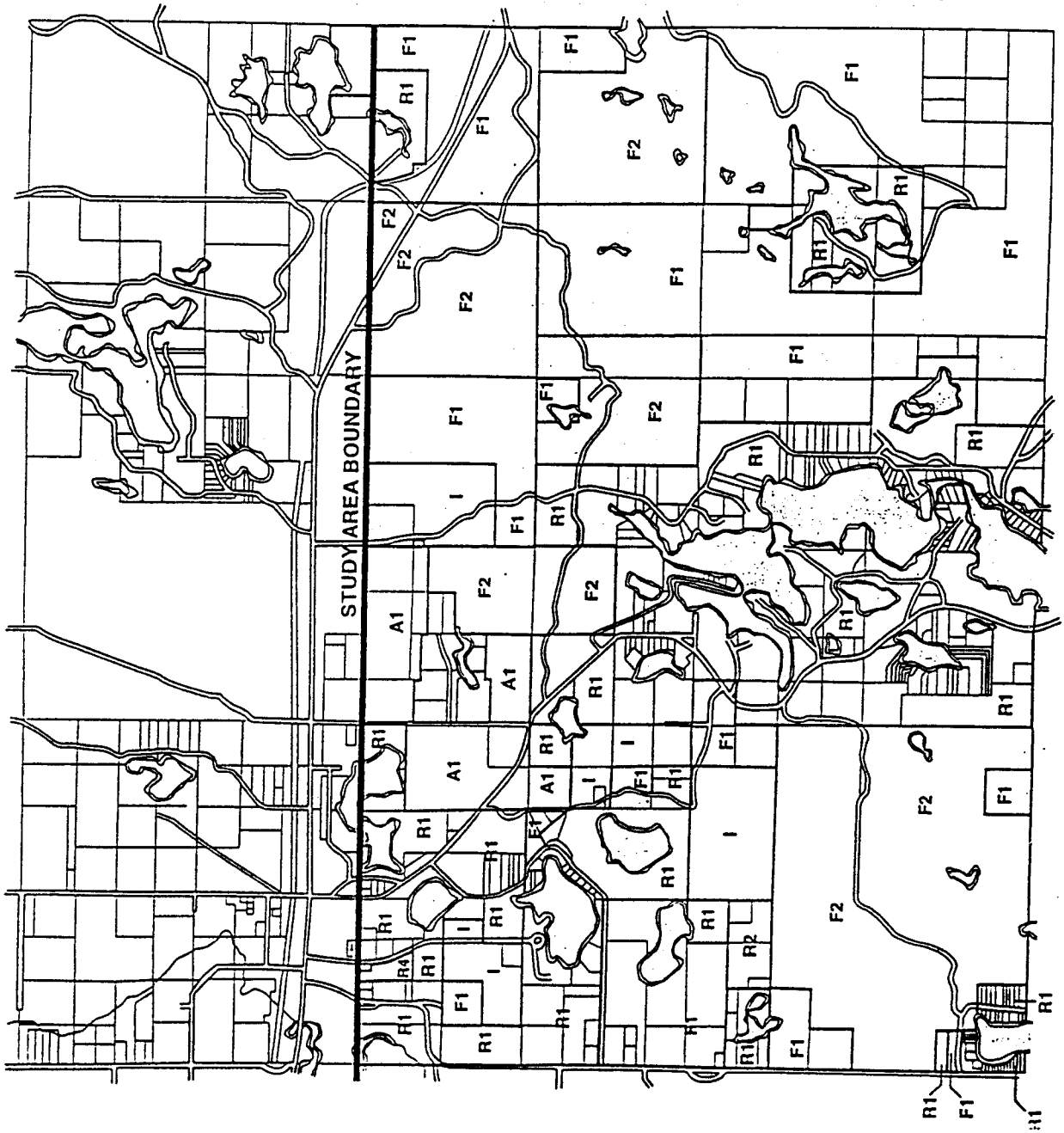


TOWN OF IRON RIVER

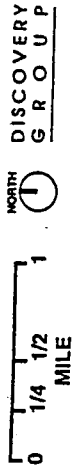
0 1/4 1/2 1 MILE
NORTH
DISCOVERY GROUP

EXISTING ZONING

- R1 - RESIDENTIAL 1
- R2 - RESIDENTIAL 2
- R3 - RESIDENTIAL 3
- R4 - RESIDENTIAL 4
- C - COMMERCIAL
- RR - RESIDENTIAL-RECREATIONAL
- BUSINESS
- A1 - AGRICULTURE 1
- A2 - AGRICULTURE 2
- F1 - FORESTRY 1
- F2 - FORESTRY 2
- I - INDUSTRIAL



TOWN OF IRON RIVER



3. LAND USE, OPERATIONAL, AND RECLAMATION ISSUES

The conflicts between the residential and recreational property owners and the sand and gravel operators revolve around land use and zoning designations, operational practices, and reclamation.

LAND USE AND ZONING ISSUES

The land use and zoning issues arise from the fact that two uses, with potential for conflict, are occurring in close proximity to each other. Both uses make substantial economic contribution to the community and are necessary and legitimate land uses. Both uses depend on finite resources that are not necessarily abundant in other locations.

While some of the conflicts between residential use and sand and gravel operations can be mitigated by operational practices, there are certain inherent characteristics of sand and gravel operations and other associated uses, such as asphalt batch plants, that require some distance buffering from residences.

Conditional Use Permit Process

The current Bayfield County Zoning ordinance permits sand and gravel operations as conditional uses in the A-1 Agricultural, A-2 Agricultural, I Industrial and in the F-1 and F-2 Forestry Districts. Related paving batch plants for asphalt, cement, and other building materials are permitted as conditional uses in the Commercial, Industrial, and F-1 Forestry Districts.

Homeowners, who have generally been represented by the Iron River Area Lakes Association, have complained that in the past they have not been notified of pending applications for conditional use permits for operations and have consequently not been able to voice their objections to the initial permitting. In response to these complaints, the Bayfield County Zoning Department now notifies the Iron River Area Lakes Association, as well as neighboring property owners of all conditional use applications.

Grandfathered Pits

A number of homeowners have objected to the "grandfathered" status that is granted to intermittently active pits that may be operational for as little as one week a year. These pits were started at a time when there were virtually no conditions imposed on operations and no required reclamation plans. The proposed new State regulations (NR 135) that require registration of active operations and payment of annual permit fees will clarify the definition of active operations and should help counties resolve the problem of inactive or intermittently active operations being "grandfathered."

Local Regulation Enforcement

Some homeowners have objected that there has been insufficient enforcement of Town and County regulations that are currently on the books.

OPERATIONAL ISSUES

The operational issues include noise, vibration, truck traffic, dust and fumes, and aesthetics.

Noise Issues

The most common and vociferous objections from residents to the sand and gravel operations are related to noise and vibration from stone-crushing equipment. Some homeowners have indicated that the sounds from crushing can be heard, at times, up to two miles from the crushing site.

An associated noise nuisance is the sound of the back-up alarms that are required as a safety feature by the Federal government. Since this equipment is required by Federal regulations, there is little that can be done at a local government level to control this type of noise, other than regulating the location of operations and the distance buffering.

Potential Solutions

a. *Limited Hours of Operation*

The most frequently suggested solution to the noise issues is limiting the hours and days of operation to times when homeowners will be less inconvenienced. The Noise Pollution Committee of the Lakes Association suggested restricting all sand and gravel operations to eight-hour weekday operations between the hours of 9:00 am to 5 pm. They propose no operations on the weekends. At public meetings, other individual homeowners have suggested less restrictive hours. The homeowners have also suggested stock-piling materials as a means of "flattening" the peak demand that operators experience in the summer construction season.

The sand and gravel pit operators have maintained that the hours of operation are dictated largely by market demand. When there is a large job, the operators need to respond immediately to the demand. It is often not feasible to anticipate demand for specific grades of materials sufficiently to allow stock-piling to meet all peak demand needs. It is also not feasible to crush stone during certain seasons due to moisture content and other weather-related constraints.

b. *Location of the Crushers*

Homeowners have suggested that the location of the crushers may be a major factor in the level of noise that is transmitted. Locating the crushers in natural depressions and in portions of the site most distant from residences is an issue that can be addressed as a condition of granting a conditional use permit.

c. *Maintaining and Enhancing Mature Vegetation*

Both homeowners and operators have maintained that mature vegetation has a sound dampening affect. While vegetation alone is generally not considered a sufficient sound barrier for most types of sound, when combined with a distance buffer and other mitigation it can have an beneficial affect. Vegetative screening is the most effective way to provide a visual screen.

d. *Technical Improvements in Crushing Machinery*

Modern crushers reportedly have some sound-reduction features that make them quieter than older models. It may also be feasible to partially enclose crushers within sound-reducing structures. At the conditional use permit hearings, operators should be required to specify the equipment and its sound-reduction features.

Heavy Truck Traffic

Heavy truck traffic from sand and gravel operations has been cited by homeowners as another nuisance associated with the pits. From a local unit of government point of view, trucks that use local roads can cause damage and shorten the life of road surfaces.

Potential Solutions

a. *Limited Hours of Operation*

Limiting the hours of operation of the pits would remove much of the truck traffic nuisance, as it affects homeowners and weekend visitors.

b. *Private Roads*

Private roads serving sand and gravel pits removes the truck traffic from Town roads and eliminates the potential cost to the Town for maintenance and repairs.

c. *Speed Limit Enforcement*

Speed limits of 30 MPH for truck traffic should be enforced on Town roads, with reduced speed limits enforced in residential areas and at potentially dangerous curves.

Fumes, Odors, and Ambient Particulate Matter

While fumes, odors, and ambient particulate matter have not been identified as major issues by homeowners, there is the potential for these impacts. The potential exists primarily with paving asphalt batch plants and other types of processing that could be associated with sand and gravel operations.

Monitoring and administering and enforcing ordinances related to alleged fumes, odors, and ambient particulate nuisances would be difficult and costly for either the Town or County. If these nuisance problems arise, local officials should request WDNR officials to investigate the situation and enforce any violations at a State level.

Aesthetics of Active Operations

The aesthetics of active operations can be most effectively addressed by maintenance of a buffer strip of mature vegetation 100' around that portion of any active operation adjoining a public right-of-way or adjoining an R-1 zoning district.

In situations where mature vegetation has been removed by prior clear-cutting, the operator should be required to install berms and new plantings according to specifications presented at the time a conditional use permit is issued. The berms and plantings should be of sufficient size to provide effective screening from any public right-of-way or R-1 zoned property.

RECLAMATION ISSUES

Reclamation of inactive pits is a major statewide issue that is being addressed by the Wisconsin Department of Natural Resources by the adoption of NR 135, which is a new State Administrative Code mandating local governments to adopt ordinances regulating the reclamation of new nonmetallic mining sites.

The local regulations must apply to all sites that are planned, currently being developed, and currently operating including reclaimed portions of continuously-operating mines affected by earlier ordinances that did not require reclamation. The new laws will not affect sites where mining permanently ceases before the expiration of 6 months following the effective date of the new law.

NR 135 is in the final stages of adoption by the WDNR Board. The draft rules have been extensively reviewed and revised by a 15-member Technical Advisory Committee, including both industry and nonindustry members.

In the Town of Iron River the primary area with unreclaimed pits is located in the central sections of the Town west of County Highway H and east of Spider Lake (Sections 20 and 21). One of the most obvious examples of an unreclaimed pit is the Hnath site.

Those sites that have permanently ceased operations will not be affected by the new regulations. Those sites that are by ordinance considered active will be affected by the new regulations.

In those mined areas that are no longer active, there is no readily available regulation to require reclamation. In those situations, the landowner must voluntarily initiate any reclamation. As an incentive, the Town or County may consider providing WCC crews or other forms of public assistance for reclamation or restoration projects.

4. RECOMMENDED TOWN POLICIES AND REGULATIONS

The Town of Iron River has the statutory authority to adopt and enforce a number of local regulations that can control operations of sand and gravel pits. This authority could potentially include noise level regulations, hours of operations, and use of Town roads. The Town also has an advisory role in making recommendations to the Bayfield County Zoning Committee on the issuance of conditional use permits, and to the Zoning Committee and County Board on changes to the Zoning Ordinance map or text.

As a practical matter, the Town is somewhat limited in its administrative capabilities and is not structured to effectively monitor and enforce extensive regulations. This would require an administrative staff and would entail expenditures for legal enforcement proceedings. Because of the practical administrative limitations, we recommend that the Town's regulations affecting operations be limited to easily enforceable rules regulating hours of operation.

The most effective way for the Town to influence sand and gravel operations is to work closely with the Bayfield County Zoning Committee and Zoning Administrator to assure that appropriate conditions are attached to any future operations. As a policy matter, the Town should adopt this report and request that the Bayfield County Zoning Committee take into consideration the Town's adopted land use guidelines, as reflected in this document.

TOWN REGULATIONS ON HOURS OF OPERATION

The Town should ask the Town Attorney to draft an Hours of Operations Ordinance setting forth the following limit on the hours of operations of any heavy mechanical equipment, including crushers, grinders, and hauling trucks, at registered sand and gravel pits, except during emergencies:

Friday before Memorial Day through Labor Day
(Approximately May 30 through September 6)

Monday - Friday
Saturday - Sunday

8:00 am to 6 pm
Closed

Remainder of the year

Monday through Friday
Saturday - Sunday

6 am to 8 pm
8 am to 6 pm

TOWN LAND USE GUIDELINES FOR REVIEWING CONDITIONAL USE PERMIT APPLICATIONS

The Town should apply the following guidelines to its review and comments regarding issuance of conditional use permits for sand and gravel operations or associated paving batch plants.

- a. New sand and gravel operations, including associated paving batch plants, stockpiles, or support structures, should not be located on any sites or portions of sites adjoining any residentially zoned land (R-1 through R-4 and R-RB Residential-Recreational Business) unless there is or will be at least a 100' buffer of mature vegetation that separates the

mining operation from the adjoining residential districts. Such buffer should be maintained as a permanent buffer and screening area for the active life of the operation.

- b. A 100' buffer strip of natural vegetation should be maintained along all portions of a sand and gravel operations site bordering a public right-of-way, except for a private access drive opening no wider than is necessary for the road surface and a vision triangle. Where there is no existing mature vegetation, a 100' bermed landscape strip should be installed that will provide effective screening of the operation from the public road. The specifications and planting plan for the buffer area should be included as one of the conditions attached to any conditional use permit.
- c. A 75' buffer of natural vegetation should be maintained around any lakes or wetland over 5 acres that is identified on the Wisconsin Department of Natural Resources Wetland Inventory. No ground disturbance should be allowed within this buffer area.
- d. Access to any conditionally permitted sand and gravel should be demonstrated by the applicant. Any proposed access across private property should be documented by recorded easements.
- e. Crushers, grinders, and other noise-generating equipment should be located on portions of the mining site furthestmost removed from residentially zoned land. Where feasible, such equipment should be located in depressions or behind stockpile areas where there will be further reduction of noise being transmitted to residentially zoned areas.
- f. The Town's Hours of Operations should be included as conditions within the conditional use permit issued to any operator.

Note: This requirement will provide for enforcement of hours of operations by the Bayfield County Zoning Administrator.

5. RECOMMENDED BAYFIELD COUNTY REGULATIONS

Bayfield County should amend Section 17.10 Quarries and Mines of the Zoning Ordinance to reflect the recommendations in this report (Attachment A). This section of the Ordinance pertains primarily to conditions for issuance of a conditional use permit.

Bayfield County should also adopt an Ordinance for Nonmetallic Mining Reclamation (Attachment B) after the final version of NR 135 is adopted and put into effect by the WDNR. The proposed reclamation ordinance is based on a model ordinance provided by WDNR, which will meet the requirement of NR 135 (Attachment C). Within six months of the effective date of passage of NR 135, which is expected to occur within the next year, all counties in Wisconsin will be mandated to adopt the model ordinance or a comparable ordinance approved by WDNR.

NR 135 requires Counties to establish annual permit fees, a portion of which is collected by the County and remitted to WDNR. The annual fees should be sufficient to cover all of the anticipated Bayfield County costs in administering the reclamation ordinance, plus the WDNR share of the fees. The mandated WDNR fee is a flat annual permit payment of \$25.00, plus \$5.00 for each unreclaimed acre within the site. The recommended Bayfield County share of the fee should be comparable to the WDNR share of fee. Thus, the total annual fee charged to operators should be a \$50.00 annual flat fee, plus \$10.00 per unreclaimed acre. For example, an unreclaimed 40-acre sand and gravel operation would be required to make a total annual payment of \$450.00 to maintain registration as an active operation.

It should be noted that all active operations, both new and pre-existing, must be registered and pay the annual fee in order to maintain their status as a permitted active operation. Any operator who fails to register annually and pay the required fees shall lose his/her "grandfathered" status as a pre-existing use. Failure to maintain an active operation status on all or any portion of a site for a 12-month period will mean revocation of operators nonconforming use status as defined in Section 11.0 of the Bayfield County Zoning Ordinance. The elimination may effectively reduce many of the operations that in the past have been considered "grandfathered" operations.

ATTACHMENT A

RECOMMENDED BAYFIELD COUNTY ZONING ORDINANCE AMENDMENTS

SECTION 17.10 QUARRIES AND MINES

- 17.10 QUARRIES AND MINES. The purpose of this section is to insure that all metallic and nonmetallic mining operations, including the removal of sand and gravel, are conducted at such locations and in such a manner so as to be compatible with the uses of neighboring lands and to minimize environmental degradation.
- (1) PERMIT. A conditional land use permit shall be required before the commencement of any excavation or exploratory drilling, and an additional conditional land use permit shall be required prior to any active mining or drilling operation in Bayfield County. Expressly allowed without a conditional land use permit shall be preliminary exploration of potential sand and gravel sites when exploratory excavation is minimal, provided that there shall be immediate site restoration following such exploration. Applications for the post-exploration phase of mining of mineral deposits, other than aggregates such as stone, sand and gravel, shall be accompanied with an Environmental Impact Analysis in accordance with S. 17.19 of this Ordinance.
 - (2) BASIS OF APPROVAL. In passing upon a conditional land use permit, the Zoning Committee shall consider the four stages of a mining operation: exploration, prospecting, ongoing commercial operation (extraction and processing), and reclamation *and* their effects upon the factors listed under Section 17.18, and whether or not they are consistent with the purpose of this section.

In order to facilitate such considerations, the following information shall be required by the Zoning Committee. *All required information shall be shown on a scaled site plan prepared at a scale not less than 1" = 100'.*

- (a) A legal description of the proposed site.
- (b) A detailed description of the topography and vegetative cover of the area to be mined.
- (c) *A site plan showing the proposed setbacks and nuisance mitigation improvements, including berming, vegetative screens, and fencing, that are to be observed and a description of the access to the area.*

- (d) A description of all phases of the contemplated operation, including types of equipment that may be used, the extent of vegetation removal, proposed dispositions of spoils, planned precautions against various types of pollution and plans for ongoing reclamation and erosion prevention where the operation is to include sand and gravel washing, the estimated daily quantity of water to be used, its source, and its disposition.
 - (e) ~~Require a~~ A site ~~restoration~~ reclamation plan which shall include detailed grading and revegetation plans, and a written statement indicating the timetable for such restoration. *For nonmetallic mining operations, including all aggregate, sand and gravel excavations, the reclamation plan shall be in full compliance with NR 135 and the Bayfield County Ordinance for Nonmetallic Reclamation.*
- (3) CONDITIONS OF APPROVAL. The Zoning Committee may attach conditions to a permit pursuant to S. 17.18 ~~and may attach conditions~~ which require:
- (a) That suitable landscaping, screening, and fencing be ~~required~~ *provided*.
 - (b) That appropriate setbacks and other dimensional requirements as set forth by the Zoning Committee be met.
 - (c) That appropriate measures be taken to avoid nuisances affecting surrounding uses, pollution of any sort, and erosion. *The Zoning Committee may set conditions related to screening and buffering, the location of mechanical equipment, the limits of excavation, the type of equipment allowed to be in operation at the site, hours of operations, and other actions and activities that may be related to mitigating or reducing the level of nuisance and effects on the surrounding area.*
 - (d) That a ~~restoration~~ reclamation plan be carried out according to the specifications set forth by the Zoning Committee *and in accordance with NR 135 and the Bayfield County Ordinance on Nonmetallic Mining Reclamation.*
 - (e) That a ~~surety bond~~ *financial assurance* be posted, *in accordance with NR 135 and the Bayfield County Ordinance on Nonmetallic Mining Reclamation* to assure compliance with the provisions of the conditional land use permit and to assure proper restoration or cleanup.
 - (f) That the applicant provide the Zoning Committee with all test methods and results, as well as company interpretations of the test data, including that obtained by drilling, coring, and excavating.
 - (g) That the applicant meet all ~~existing and subsequent~~ State and Federal government regulations, as well as such County requirements specified by the Zoning Committee, as may be reasonably necessary to accomplish the purpose of this section.
 - (h) *That a setback of a minimum of 75 feet shall be maintained along all borders of the subject property. Where feasible, an opaque vegetative screen shall be maintained within the setback area.*

- (i) *That where a proposed quarry or mining site adjoins a public right-of-way or a residentially zoned parcel, a setback of 100' shall be maintained. Within such setback area, the operator shall either maintain existing mature vegetation or install a berm and new landscaping sufficient to provide an effective visual buffer within a five-year period.*
 - (j) *That a setback of 75' shall be maintained between any excavation or land disturbance area and the ordinary high water mark of any lake or navigable body of water and any wetland over 5 acres in size, as delineated on the Wisconsin Wetland Inventory.*
- (4) DURATION OF CONDITIONAL ~~GRANT~~ LAND USE PERMIT. The initial ~~grant~~ conditional land use permit to carry on a mining operation shall be effective for a period of time to be specified by the Zoning Committee. *Such time limitations shall be stated in the conditional land use permit.* To extend the operation beyond the initial time period, a new conditional ~~grant~~ land use permit must be applied for and all new conditions must be met.
- (5) EXISTING QUARRY OPERATIONS. The owners of quarry, mining, and/or drilling sites shall submit to the Bayfield County Zoning Committee the names of the quarry, mining, and/or drilling owners and operators, including all parties to farm out contracts *and shall pay such annual fees as may be set forth by the Bayfield County Ordinance for Nonmetallic Mining Reclamation.*
- (6) PROHIBITED AREAS. Quarries, mining, and/or drilling for oil and gas shall not be allowed in the following areas:
- (a) Under lakes, rivers, creeks, or streams.
 - (b) Within one miles of Lake Superior or adjacent wetlands.
 - (c) Within one miles of any lake, river, creek, or stream.

NOTE: Sand, gravel, and soil excavation sites may be permitted within one mile of Lake Superior and adjacent wetlands and within one mile of any lake, river, creek, or stream, ~~but shall be excluded from under lakes, rivers, creek, or streams,~~ provided all other requirements of this section and other Bayfield County and State requirements are met.

ATTACHMENT B

ORDINANCE FOR NONMETALLIC MINING RECLAMATION

- SECTION 1 1.00 Title. Nonmetallic mining reclamation ordinance for Bayfield County, Wisconsin
- SECTION 2 2.00 Purpose. The purpose of this ordinance is to establish a local program to ensure the effective reclamation of nonmetallic mining sites and complies with Chapter NR 135, Wis. Admin. Code and Section 144.9407, Wisconsin Statutes.
- SECTION 3 3.00 Statutory Authority. This ordinance is adopted under authority of and pursuant to Sections 59.97 and 144.9407, Wisconsin Statutes and Chapter NR 135, Wis. Admin. Code.
- SECTION 4 4.00 Abrogation and Greater Restrictions. Except as provided in s. 144.9407(3), Wis. Stats., it is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing rules, regulations, ordinances, or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.
- SECTION 5 5.00 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wis. Adm. Code. Any future amendments, revisions, or modifications of the statutes or administrative rules incorporated herein are intended to be made a part of this ordinance in order to secure uniform statewide standards for reclamation of nonmetallic mining sites.
- SECTION 6 6.00 Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- SECTION 7 7.00 Applicability.
- 7.10 The requirements of this ordinance apply to all persons within Bayfield County, except persons in a city, village, or town that has adopted an ordinance pursuant to s. 144.9407(4), Wis. Stats., and has a state approved local program under Chap. NR 135, Wis. Adm. Code.

7.20 This ordinance applies to all existing and proposed nonmetallic mining sites and activities except as explicitly excluded by s. 144.9407(5), Wis. Stats. or Chap. NR 135, Wis. Adm. Code.

SECTION 8 8.00 Administration. The provisions of this ordinance shall be administered by the Bayfield County Zoning Department.

SECTION 9 9.00 Effective Date. The provisions of this ordinance shall take effect on _____.

SECTION 10 10.00 Definitions. All definitions for the purposes of this ordinance are those contained in s. 144.9407, Wis. Stats., And Chap. NR 135, Wis. Adm. Code.

SECTION 11 11.00 Standards. The standards for nonmetallic mining reclamation in Bayfield County shall be identical to the uniform statewide standards contained in Chapter NR 135, Wis. Admin. Code.

SECTION 12 12.00 Nonmetallic Mining Operation Plan Submittal. An operator who engages in or plans to engage in nonmetallic mining after the effective date of this ordinance shall submit an operation plan to the Bayfield County Zoning Department. The content of the plan and the procedures for submittal and review of the plan shall be in accordance with Chap NR 135, Wis. Adm. Code.

SECTION 13 13.00 Nonmetallic Mining Reclamation Plan Submittal. An operator who engages in or plans to engage in nonmetallic mining after the effective date of this ordinance shall submit a reclamation plan to the Bayfield County Zoning Department. The content of the plan and the procedures for submittal and review of the plan shall be in accordance with Chapter NR 135, Wis. Adm. Code.

SECTION 14 14.00 Nonmetallic Mining Permit

14.10 An operator who engages in or plans to engage in nonmetallic mining after the effective date of this ordinance shall submit a mining permit application to the Bayfield County Zoning Department. The content of the plan and the procedures for submittal, review, and issuance of the plan shall be in accordance with Chap. NR 135, Wis. Adm. Code.

14.20 Except as provided in s. 1430, no person may engage in nonmetallic mining unless an operation plan, a reclamation plan, and a mining permit application have been submitted; a mining permit has been issued; and the annual fees under this ordinance have been paid.

14.30 The Bayfield County Zoning Department may issue an interim mining permit in accordance with Chap. NR 135, Wis. Adm. Code, to allow an existing nonmetallic mining site to continue operations prior to the submittal of a nonmetallic mining operation plan, reclamation plan and permit application. An interim mining permit may be issued for a period of up to one year. The interim mining permit may be renewed by the Bayfield County Zoning Department for a period of up to 3 years.

14.40 An operator may obtain an expedited review of a mining permit application by paying the expedited review fee specified in this ordinance.

14.50 The Bayfield County Zoning Department shall comply with the requirements of Chap. NR 135, Wis. Adm. Code, in providing public notice in providing opportunity for public hearings and in conducting public hearings.

- SECTION 15 15.00 Annual Fees.** An operator of a nonmetallic mining site shall pay an annual fee to the Bayfield County Zoning Department, which shall be paid and collected in accordance with Chap. NR 135, Wis. Adm. Code. The annual fee shall consist of a State share established in Chap NR 135, Wis. Adm. Code, and a Bayfield County share. The combined Bayfield County and State fees shall be assessed by Bayfield County as an annual flat permit fee of \$50.00 and an annual unreclaimed acreage permit fee of \$10.00 per acre. The unreclaimed acreage shall be determined in accordance with Chap. NR 135, Wis. Adm. Code. The full annual permit fee shall apply to any nonmetallic mining site that operates during either a portion of or during the entire year.
- SECTION 16 16.00 Proof of Financial Responsibility.** An operator of a nonmetallic mining site shall provide and maintain proof of financial responsibility in accordance with Chap NR 135, Wis. Adm. Code.
- SECTION 17 17.00 Assuring Compliance with Reclamation Standards and Plans.** An operator of a nonmetallic mining site shall comply with the uniform statewide standards for nonmetallic mining reclamation contained in Chapter NR 135, Wis. Admin. Code, and all provisions of the nonmetallic mining operation plan, reclamation plan, and permit.
- SECTION 18 18.00 Prohibition on New Sites Not In Compliance With Standards.** If the Bayfield County Zoning Department determines that a proposed nonmetallic mining site that was not in existence before the effective date of this ordinance cannot be reclaimed in compliance with the standards for reclamation contained in Chap. NR 135, Wis. Adm. Code, the mining permit shall be denied.
- SECTION 19 19.00 Compliance with Conditional Use Permit.** For registration of nonmetallic mineral deposits or for permitting new sites, the proposed nonmetallic mining site shall be in full compliance with Section 17.10 Quarries and Mines of the Bayfield County Zoning Ordinance and shall meet all conditions set forth in the conditional use permit issued by the Bayfield County Zoning Department.
- SECTION 20 20.00 Procedures for Registration of Nonmetallic Mineral Deposits.** Any landowner registering or terminating the registration of a nonmetallic mineral deposit shall follow the procedures in Chap. NR 135, Wis. Adm. Code. The required notice of intent to seek registration shall be provided to the Bayfield County Zoning Department.
- SECTION 21 21.00 Right of Entry and Inspection.** For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee, or representative of the Bayfield County Zoning Department may inspect any nonmetallic mining site within the boundaries of Bayfield County. No person may refuse access to any authorized officer, employee, or representative who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

SECTION 22 22.00 Orders and Enforcement. The Bayfield County Zoning Department may issue orders and enforce this ordinance in accordance with s. 144.9407(8), Wis. Stats. A violation of this ordinance or an order or permit issued pursuant to this ordinance shall be considered a violation of s. 144.9407, Wis. Stats.

Any person who violates a provision of this ordinance may be issued a citation by the Bayfield County Zoning Department to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

SECTION 23 23.00 Penalties. Penalties for violation of this ordinance or an order or permit issued under authority of this ordinance shall be assessed in accordance with s. 144.9407(8)(c), Wis. Stats.

SECTION 24 24.00 Variances and Exemptions. Variances and exemptions from the requirements of this ordinance may be granted in writing in accordance with the provisions of Chap NR 135, Wis. Adm. Code. Variances may be granted only by the Bayfield County Board of Adjustment. Exemptions may be granted only by the Bayfield County Zoning Department.