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CHAPTER 12

LICENSES AND PERMITS

12.01.....License Fees

12.02.....General Provisions as to Licenses

12.03.....Alcoholic Beverages

12.04.....Dogs

12.05.....Mobile Homes and Mobile Home Parks

12.06.....Dealers of Used, Wrecked and Junked Motor Vehicles

12.08.....Wild Animals

12.09.....Nonmetallic Mining Operators License

12.10.....Nonmetallic Mining Reclamation

12.11.....Metallic Mining License

12.12.....Penalty

19 **12.01 LICENSE FEES.** Fees for licenses issued under this Chapter shall be as are
20 established from time to time by resolution of the Town Board.
21

22 **12.02 GENERAL PROVISIONS AS TO LICENSES.**
23

24 (1) **LICENSES OR PERMITS REQUIRED.** No person shall engage in any trade,
25 profession, business or privilege in the Town for which a license or permit is
26 required by any provision of this Code without first obtaining such license or
27 permit from the Town in the manner provided in this section, unless otherwise
28 specifically provided.
29

30 (2) **APPLICATION.** Unless otherwise provided, application for a license or permit
31 shall be made in writing to the Town Clerk upon forms provided by the Town,
32 and applicant shall state the location of the proposed activity and such other facts
33 as may be required for or be applicable to the granting of such a license or permit.
34

35 (3) **PAYMENT OF FEE.** The fees required for any license or permit shall be paid at
36 the office of the Town Clerk before the granting of the license or permit. No fee
37 paid shall be refunded unless the license or permit is denied.
38

39 (4) **BOND AND INSURANCE.** All required bonds shall be executed by 2 sureties or
40 a surety company and be subject to the approval of the Town Board. Where
41 policies of insurance are required, such policies shall be approved as to substance
42 and form by the Town Attorney. Satisfactory evidence of coverage by bond or
43 insurance shall be filed with the Town before the license or permit is issued.
44

45 (5) **APPROVAL OR DENIAL OF LICENSES.** Where the approval of any Town or
46 State officer is required prior to the issuance of any license or permit, such
47 approval shall be presented to the Town before any license or permit is issued.
48

49 (6) **CERTIFICATE.** Licenses or permit certificates shall show the name of the
50 licensee or permittee, the date of issue, the activity licensed and the term of the
51 license or permit and shall be signed in the name of the Town by the Chair and
52 Town Clerk and be impressed with the Town Seal. The Clerk shall keep a record
53 of all licenses and permits issued.
54

55 (7) **TERMS.**
56

57 (a) Unless otherwise provided, the license year shall end on June 30 of each year.
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59 (b) Where the issuance of licenses for a period of less than one year is permitted,
60 the effective date of such license shall commence with the date of issuance.
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62 (c) Permits shall be issued for the term set forth in the permit.
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- 64 (8) EXHIBITION OF CERTIFICATE. Every licensee or permittee shall carry the
65 license or permit certificate upon the person at all times when engaged in the
66 activity for which the license or permit was granted, except that where such
67 activity is conducted at a fixed place or establishment, the license or permit
68 certificate shall be exhibited at all times in some conspicuous place in the place of
69 business. The licensee or permittee shall exhibit the license certificate when
70 applying for a renewal and upon demand of any police officer or person
71 representing the issuing authority.
72
- 73 (9) TRANSFER. Unless otherwise provided, no license or permit shall be
74 transferable or assignable.
75
- 76 (10) DETERMINATIONS OF THE TOWN BOARD. All determinations made by the
77 Town Board shall be subject to the provisions of Wis. Stat. Chapter 68.
78
- 79 (11) INSPECTION. Town officials may enter upon the premises where any licensed
80 or permitted activity is being conducted for the purpose of inspection at any
81 reasonable time.
82
- 83 (12) REVOCATION AND SUSPENSION OF LICENSES.
84
- 85 (a) Except as otherwise provided, any license issued under this chapter may be
86 revoked for cause by the Town Board. No license shall be revoked except
87 upon written verified complaint filed with the Town Board by the Chair, a
88 member of the Town Board, or a resident of the Town. The licensee shall be
89 served with a written copy of the charges and shall be given an opportunity to
90 be heard before the Town Board. The licensee shall be given notice of such
91 hearing, which shall be not more than 20 nor less than 5 days after notice,
92 except as otherwise agreed between the parties.
93
- 94 (b) At such hearing, the licensee shall be entitled to be represented by counsel,
95 shall have the right to present and cross-examine witnesses and, upon request,
96 may have subpoenas issued by the Chair or presiding officer of the Board to
97 compel the attendance of witnesses.
98
- 99 (c) After hearing the evidence, the Board may revoke such license or impose a
100 limited period of suspension. The determination of the Board shall be final,
101 subject to review under Wis. Stats Ch. 68, provided the licensee shall not be
102 entitled to a further hearing unless granted by the Town Board.
103
- 104 (d) The Town Chair or designee shall repossess any license revoked hereunder.
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- 106 (e) If the licensee does not apply for a hearing within the time provided, the
107 license may be revoked by the Town Board.
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109 **12.03 ALCOHOLIC BEVERAGES.**

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- (1) STATE STATUTES ADOPTED. The provisions of Wis. Stat. Chapter 125, defining and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made a part of this section by reference. A violation of any of such provisions shall constitute a violation of this section.

- (2) LICENSES, PERMITS, AUTHORIZATION REQUIRED.
 - (a) When Required. Except as provided by Wis. Stat. §125.06, no person shall within the Town, serve, sell, manufacture, rectify, brew, or engage in any other activity for which this chapter or Wis. Stat. Chapter 125, requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See Wis. Stat. §125.04(1).

 - (b) Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See Wis. Stat. §125.04(9).

- (3) CLASSES OF LICENSES AND FEES. The following classes and denominations of licenses may be issued by the Town Clerk under the authority and direction of the Town Board upon compliance with law and payment of the fee herein specified. When so issued, the license shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the referenced State statute.
 - (a) Class “A” Retailer' License (Fermented Malt Beverage). See Wis. Stat. §125.25. The annual fee for a Class “A” license shall be established from time to time by resolution of the Town Board.

 - (b) Class “B” Retailer License (Fermented Malt Beverage). See Wis. Stat. §125.26. The annual fee for a Class “B” license shall be established from time to time by resolution of the Town Board and shall not exceed \$100.
 - 1. Six Months. A Class "B" license may be issued at any time for 6 months in any calendar year, for 3/4 of the applicable license fee. Such license shall not be renewable during the calendar year in which issued. See Wis. Stat. §125.26(5).

 - (c) Wholesaler's License (Fermented Malt Beverage). May not exceed \$25 per year or fraction thereof. See Wis. Stat. §125.28.

 - (d) Class “A” Retail License (Intoxicating Liquors). See Wis. Stat. §125.51(2). The annual fee for a “Class A” Retail License shall be established from time

155 to time by resolution of the Town Board in an amount of at least \$50, not to
156 exceed \$500.
157
158 (e) Class "B" Retail License (Intoxicating Liquors and Fermented Malt
159 Beverages). A "Class B" Retail Liquor License shall permit its holder to sell
160 liquor in the original packages or containers in multiples not to exceed 4 liters
161 at any one time to be consumed off the licensed premises. See Wis. Stat.
162 §125.51(3). The annual fee for a "Class B" license shall be established from
163 time to time by resolution of the Town Board in an amount of at least \$50, not
164 to exceed \$500.
165
166 1. A license may be issued after July 1 in any license year which shall expire
167 on the following June 30. The fee for the license shall be prorated
168 according to the number of months or fractions of months remaining until
169 the following June 30.
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171 2. The fee for such license shall be 50% of the annual license fee. The
172 license may not be renewed during the calendar year in which issued. See
173 Wis. Stat. §125.51(g).
174
175 (f) Class "C" Retailer License (Restaurant Wine). See Wis. Stat. §125.51(3m).
176 The annual fee for a Class "C" license shall be established from time to time
177 by resolution of the Town Board and shall not exceed \$100.
178
179 (g) Special Event (Picnic). See Wis. Stat. §125.26(6).
180
181 (h) Operator's License. See Wis. Stat. §125.17. The fee for an Operator's
182 License shall be the fee as is established from time to time by resolution of the
183 Town Board.
184
185 (4) LICENSE APPLICATION.
186
187 (a) Form. Application for a license to sell or deal in intoxicating liquor or
188 fermented malt beverages shall be made in writing on forms prescribed by the
189 Wisconsin Department of Revenue and filed with the Town Clerk at least 15
190 days prior to issuance. The premises shall be physically described, including
191 every room and storage space to be covered by the license and including all
192 rooms joined by connecting entrances or not separated by a solid wall.
193
194 (b) Application to be notarized. The application shall be signed and sworn to by
195 the applicant as provided by Wis. Stat. §887.01.
196
197 (c) Publication. Prior to issuance of a license under this section, the Town Clerk
198 shall publish notice of the application in a newspaper determined from time to
199 time by the Town Board as one likely to give notice in the area.
200

- 201 (d) Duplicate. Upon approval, a duplicate copy of each application shall be
202 forwarded by the Town Clerk to the State Department of Revenue.
203
- 204 (e) Initial Issuance. No reserve "Class B" license shall be issued until the
205 applicant has paid an initial issuance fee in the amount of \$10,000. This fee
206 shall be paid to the Town Clerk. This is a one-time fee payable only upon
207 initial issuance and not upon subsequent renewal.
208
- 209 (5) LICENSE RESTRICTIONS.
210
- 211 (a) Statutory Requirements. Licenses shall be issued only to persons eligible
212 therefor under Wis. Stat. §125.04.
213
- 214 (b) Location.
215
- 216 1. No retail "Class A" or "Class B" license shall be issued for premises the
217 main entrance of which is less than 300 ft. from the main entrance of any
218 established public school, parochial school, hospital or church. Such
219 distance shall be measured by the shortest route along the highway from
220 the closest point of the main entrance of such school, church or hospital to
221 the main entrance to the premises covered by the license.
222
- 223 2. This paragraph shall not apply to premises licensed as such on June 30,
224 1947, nor shall it apply to any premises licensed as such prior to the
225 occupation of real property within 300 ft. thereof by any school, hospital
226 or church building.
227
- 228 (c) Violators of Liquor or Beer Laws or Ordinances. No retail Class A or B
229 license shall be issued to any person who has been convicted of a violation of
230 any federal or State liquor or fermented malt beverage law or the provisions of
231 this section or whose license has been revoked under Wis. Stat. §125.12,
232 during one year prior to such application. A conviction of a member of a
233 partnership or the partnership itself shall make the partnership or any member
234 thereof ineligible for such license for one year.
235
- 236 (d) Health and Sanitation Requirements. No retail Class B license shall be issued
237 for any premises which does not conform to the sanitary, safety and health
238 requirements of the State Department of Industry, Labor and Human Relations
239 pertaining to buildings and plumbing, to the rules and regulations of the State
240 Department of Health and Social Services applicable to restaurants and to all
241 such ordinances and regulations adopted by the Town Board.
242
- 243 (e) License Quota. The number of persons and places that may be granted a retail
244 Class B liquor license under this section is limited as provided in Wis. Stat.
245 §125.51(4).
246

- 247 (f) Age Requirement. No license hereunder, except an operator's license, shall be
248 granted to any person who has not attained the legal drinking age. Operator's
249 licenses may be issued only to applicants who have attained the age of 18.
250
- 251 (g) Effect of Revocation of License. Twelve months shall elapse before another
252 license shall be granted to the person whose license was revoked.
253
- 254 (h) Delinquent Taxes, Assessments and Claims. No license shall be granted for
255 any premises for which taxes, assessments or other claims of the Town are
256 delinquent and unpaid, or to any person delinquent in payment of such claims,
257 including unpaid forfeiture judgments, to the Town.
258
- 259 (i) Issuance for Sales in Dwellings Prohibited. No license shall be issued to any
260 person for the purpose of possessing, selling or offering for sale any alcohol
261 beverages in any dwelling house, flat or residential apartment.
262
- 263 (j) Operator's License Required. No person other than the licensee or persons
264 having an operator's license issued by the Town shall be behind the bar in the
265 licensed premises for the purpose of serving, dispensing or mixing alcohol
266 beverages.
267
- 268 (k) Special Events.
269
- 270 1. Holders of picnic licenses and holders of licenses for occasions when beer
271 is to be dispensed by a number of vendors passing among participants in
272 events, shall provide for a licensed operator to be present at all times at the
273 central facility for dispensing beer during the time the premises are open.
274 There shall also be at least one additional licensed operator supervising all
275 persons dispensing beer in the outer area serviced by the central facility.
276
- 277 2. This rule shall not apply to golf courses for occasions such as stag nights
278 and ladies nights when events are participated in only by members and
279 their few invited guests.
280
- 281 (6) FORM AND EXPIRATION OF LICENSES. All licenses shall be numbered in
282 the order in which they are issued and shall state clearly the specific premises for
283 which granted, the date of issuance, the fee paid and the name of the licensee and,
284 unless sooner revoked, shall expire on June 30 thereafter except as otherwise
285 provided by law. The Town Clerk shall affix an affidavit as required by Wis.
286 Stat. §125.04(4).
287
- 288 (7) TRANSFER OF LICENSES.
289
- 290 (a) As to Person. No license shall be transferable as to licensee except as
291 provided by Wis. Stat. §125.04(12).
292

- 293 (b) As to Place. Licenses issued pursuant to this section may be transferred to
294 another premises once during any license year as provided in Wis. Stat.
295 §125.04(12). Application for such transfer shall be made on blanks furnished
296 by the State Department of Revenue. Proceedings for transfer shall be had in
297 the same manner and form as the original application. The fee for such
298 transfer shall be \$10.
299
- 300 (8) POSTING AND CARE OF LICENSES. Every license or permit required under
301 this section shall be framed and posted and at all times displayed as provided in
302 Wis. Stat. §125.04(10). No person shall post such license, or allow any other
303 person to post it, upon premises other than those mentioned in the application, or
304 knowingly deface or destroy such license.
305
- 306 (9) REGULATION OF LICENSED PREMISES AND LICENSEES.
307
- 308 (a) Gambling and Disorderly Conduct Prohibited. Each licensed and permitted
309 premises shall at all times be conducted in an orderly manner; and no
310 disorderly, riotous or indecent conduct or gambling shall be allowed at any
311 time on any such premises.
312
- 313 (b) Employment of Underage Person. No licensee shall employ any person who
314 does not have a valid operator's license to serve, sell, dispense or give away
315 any alcohol beverage.
316
- 317 (c) Safety and Sanitation Requirements. Each licensed premises shall be
318 maintained and conducted in a sanitary manner and shall be a safe and proper
319 place for the purpose for which used.
320
- 321 (10) CLOSING HOURS. No premises for which an alcohol beverage license has been
322 issued shall remain open for the sale of alcohol beverages:
323
- 324 (a) If a retail Class A fermented malt beverage license, between midnight and 8
325 a.m.
326
- 327 (b) If a retail Class A intoxicating liquor license, between 9 p.m. and 8 a.m.
328
- 329 (c) If a retail Class B license, between 2 a.m. and 6 a.m. on weekdays and
330 between 2:30 a.m. and 6 a.m. on Saturdays and Sundays. On January 1
331 premises operating under a Class B license are not required to close. No
332 package, container or bottle sales may be made after midnight.
333
- 334 (d) Hotels and restaurants whose principal business is the furnishing of food or
335 lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities,
336 curling clubs and golf courses may remain open for the conduct of their
337 regular business, but no intoxicating liquors or fermented malt beverages shall
338 be sold during prohibited hours.

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(11) REVOCATION AND SUSPENSION OF LICENSES.

- (a) Procedure. Whenever the holder of any license under this section violates any portion of this section, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Wis. Stat. §125.12, and the provisions therein relating to granting a new license shall likewise be applicable.
- (b) Effect of Revocation. See Section 12.02(5)(h).

(12) NONRENEWAL OF LICENSES. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of any charges or violations or the reasons for non renewal and a copy of any proposed motion for non renewal and shall have an opportunity to be heard before the Town Board. The Board shall follow the procedure set forth in Wis. Stat. §125.12(3).

(13) VIOLATIONS BY AGENTS AND EMPLOYEES. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(14) SELLING OR GIVING BEER TO UNDERAGE PERSONS PROHIBITED. No person shall sell, dispense, give or furnish any fermented malt beverage to any underage person when not accompanied by parent, guardian or spouse of legal drinking age.

(15) PURCHASE OR POSSESSION OF INTOXICATING LIQUOR OR FERMENTED MALT BEVERAGES BY UNDERAGE PERSONS PROHIBITED. No underage person shall purchase or receive from any person, or have in his possession, any intoxicating liquor or wine. No underage person shall purchase or receive from any person, or have in his possession, any fermented malt beverages unless accompanied by his parent, guardian or spouse of legal drinking age.

(16) UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE.

- (a) Underage persons may enter or remain in a room on a Class B licensed premises separate from any room where alcohol beverages are sold or served, provided no alcohol beverages are furnished or consumed by any person in the room where the underage persons are present. Before underage persons may so enter licensed premises as provided in the preceding sentence, the licensee shall obtain, from the law enforcement agency responsible for enforcing local ordinances (Pierce County Sheriff's Department), a written authorization permitting underage persons to be present under this subsection on the dates specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage

385 persons on the licensed premises will not endanger their health, welfare or
386 safety or that of other members of the community. The licensee shall obtain a
387 separate authorization for each date on which underage persons will be
388 present on the premises. In the event the Pierce County Sheriff is unwilling or
389 unable to issue such authorization, then the authorization shall be issued by
390 the Town Board prior to entry by underage persons upon the licensed
391 premises.

392
393 (b) An underage person may enter or remain on a Class B licensed premises on a
394 date specified by the licensee during times when no alcohol beverages are
395 consumed, sold or given away. During such times, the licensee, the agent
396 named in the license if the licensee is a corporation or a person who has an
397 operator's license shall be on the premises, unless all alcohol beverages are
398 stored in a locked portion of the premises. The licensee shall notify the local
399 law enforcement agency (Pierce County Sheriff's Department) in advance of
400 the times underage persons will be allowed on the premises under this
401 subsection.

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403 **12.04 DOGS.**

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405 (1) LICENSE REQUIRED.

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407 (a) Pursuant to the provisions of Wis. Stat. §174.05, the Town does hereby levy a
408 dog license tax on every dog more than five (5) months of age on January 1 of
409 any year, or becoming five (5) months of age within any license year. Every
410 owner of a dog more than five (5) months of age on January 1 of any year, or
411 five (5) months of age within any license year, shall annually or within 30
412 days from the date that each dog shall become five (5) months of age, at the
413 time and in the manner provided by for the payment of personal property
414 taxes, pay a dog license tax and obtain a license therefor. The word "owner"
415 as used in this section includes every person who owns, harbors, or keeps a
416 dog.

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418 (b) If the metallic license tag issued for a dog shall be lost, the owner may obtain
419 a new tag upon the payment of \$1 for each license tag that needs replacement.

420
421 (c) If there is a change in ownership of a dog during the license year, the new
422 owner may have the license transferred to his/her name upon payment of a
423 transfer fee as established from time to time by the Town Board for male or
424 spayed female dogs and for non-spayed female dogs.

425
426 (d) Every dog specially trained to lead blind persons shall be exempt from the
427 taxes herein levied and every owner of such a dog shall annually receive a free
428 dog license upon application therefore.

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430 (2) REGULATION OF DOGS.

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- (a) Running at Large Prohibited. No owner of any dog shall permit such dog to run at large within the Town. A dog shall not be considered to be at large if accompanied by the owner while hunting, walking or is secured to a leash, chain or rope, under the control of any person, or if confined within a fenced enclosure. Every law enforcement officer shall apprehend any dog running at large contrary to this section, and shall confine the same to the dog pound. The owner of any dog so confined in the dog pound may reclaim the same upon the payment of all costs and charges incurred by the Town in apprehending and keeping said dog. Every dog so apprehended shall be kept at the dog pound for three days, and if not reclaimed within that time by the owner, such dog may be disposed of.
- (b) The Town of River Falls may contract for the services of an animal warden who shall be designated as Animal Control Officer (ACO) of the Town of River Falls. Said contract may include provisions for using facilities owned or maintained by said animal control officer as and for Town dog pound. Such dog pound shall not necessarily be within the Town of River Falls and shall be at some location, either within the Town of River Falls or at some location not more than ten miles from the Town of River Falls.
- (c) Unlicensed Dogs. Any law enforcement officer or the Town ACO may kill and destroy in a summary manner all unlicensed dogs, and all dogs running at large unmuzzled, provided, however, that any such killing and destruction be done in a proper place and manner and pursuant to the Statutes of the State of Wisconsin.
- (d) Vicious Dogs. No person shall knowingly keep or harbor a vicious dog within the Town. "Vicious Dog," as used in this section means a dog that may suddenly assault a person or their property while peacefully walking or riding on the public roadways or while lawfully on the premises of the owner of such dog.
- (e) Barking Dogs. No person shall harbor any dogs or any other animals within his care or custody which shall continuously bark or create a continuous or intermittent noise or disturbance, or allow such animals to make any unusual or unnecessary noise to the disturbance of the neighborhood, or to people passing upon the roadways.
- (f) Dogs Infected with Rabies.
 - 1. Any law enforcement officer or the Town ACO may kill or impound any dog which he believes, from the appearance or conduct of such dog, to be infected with the disease known as rabies.

- 476 2. Any person who shall suspect that any dog is infected with rabies shall
477 report his suspicion to a law enforcement officer or the Town ACO,
478 describing the dog and giving the name of the owner, if known; any such
479 dog shall, upon demand of any law enforcement officer or Town ACO, be
480 delivered to such officer or Town ACO; if upon examination by the
481 authorities the dog shall prove in fact to be infected with rabies, the dog
482 may be killed by any such officer.
483
- 484 3. No person shall knowingly harbor or keep any dog infected with rabies or
485 any dog known to have been bitten by a dog known to have been infected
486 with rabies, or fail to report to a law enforcement officer or Town ACO
487 the existence of a dog which he knows to be infected with rabies.
488
- 489 (g) Dog Which Bites Persons. Every owner or keeper of a dog and every other
490 person who knows that a dog has bitten any person shall immediately, in
491 writing, report such fact to an Town ACO and such owner, or keeper, shall
492 immediately confine such dog for a period of at least 14 days thereafter and
493 shall not release such dog except with the written approval of the Town ACO.
494 Any such dog shall be surrendered to the Town ACO upon demand.
495

496 (3) CANINE CONTROL.

497 (a) Definitions. The following terms shall mean:
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- 499 1. ABUSED DOG. Any dog which is:
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501 a. Mistreated, beaten, tormented, or teased.
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503 b. Deprived of potable water, food or shelter.
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505 c. Is kept under unhealthy conditions.
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507 d. Is trained for fighting other animals.
508
509 e. Is unable to escape the elements (sun, rain, wind, snow, cold, etc.)
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- 511 2. ANIMAL CONTROL OFFICER (ACO). The person or persons employed
512 by or designated by the Town, County, or State shall be the enforcement
513 officer of this Section. This term includes humane officers duly appointed
514 and qualified to perform such duties under the laws of the State of
515 Wisconsin.
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- 517 3. ANIMAL SHELTER. Any premises designated by action of the Town
518 Board for the purposes of impounding and caring for all animals found in
519 violation of this Section.
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4. AT LARGE. A dog is "at large" when it is off the property of its owner and not under restraint.
5. COMMERCIAL DOG KENNEL.
 - a. The term "commercial dog kennel" means a place where over ten (10) dogs over the age of five (5) months are kept by a corporate or individual owner; lessor; breeder of dogs who trains, grooms, boards, breeds and/or sells dogs for resale, individually or in litter lots for any purposes other than companion animals or for guides for the blind or public service dogs.
 - b. A place where the dog kennel business may be the primary source of income of the occupant or owner of the property.
 - c. A commercial dog kennel shall be allowed only on a parcel of five (5) acres or more. No such kennel shall be allowed except upon issuance of a special use permit from the Town Board.
6. DANGEROUS DOG.
 - a. Any dog which constitutes a physical threat to human beings or other domestic animals, by virtue of a known history to endanger life by an unprovoked assault or bite, so as to cause bodily harm.
 - b. A dog trained, owned or harbored for the purpose, primarily or in part, of dog fighting.
 - c. A dog shall not be deemed dangerous if:
 - i. It bites, attacks or menaces anyone assaulting the owner.
 - ii. It bites, attacks or menaces a trespasser on the property of the owner.
 - iii. It bites, attacks or menaces any person or other animal who has tormented or abused it.
 - iv. It is otherwise acting in defense of an attack from a person or other animal upon the owner or other person.
 - v. It is protecting or defending its young or other animals.
7. DOG. The term "dog" shall apply to a canine animal, male or female, altered or unaltered.

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8. GUARD DOG. Any dog which has been trained to attack persons independently or upon command.
9. HUMANE SOCIETY. Any premises (or owner) designated, licensed or regulated by the State which cares for dogs, and may care for other animals as well such as, but not limited to, cats, horses, mules, goats, squirrels, etc., and including animal rescue and rehabilitation centers and shelters.
10. INDIVIDUAL DOG OWNER. An individual is deemed an "individual dog owner" with respect to any dogs kept on the premises, even if the dogs are only there temporarily.
11. NUISANCE DOG. Any dog which is at large or by frequent and habitual howling, yelping, barking, or other, shall cause serious annoyance or disturbance to persons or to a neighborhood or habitually pursues any vehicle upon any public street or highway. The provisions of this Section shall not apply to duly authorized hospitals or clinics conducted for the treatment of small animals.
12. OWN. The term "own" unless otherwise specified shall be deemed to mean keep, harbor, have control, charge or custody of a dog. This term shall not apply to veterinarians temporarily maintaining on their premises dogs owned by others. This term shall apply to kennel operators when determining whether an applicant needs a kennel license and whether the license should be for a private dog kennel or a commercial dog kennel. In other words, each dog on the premises, even if there only temporarily and not owned by the kennel operator, shall be counted as a dog for the purpose of determining how many dogs are "kept" on the premises.
13. OWNER. The term "owner" shall mean any person, group of persons or corporation owning, keeping, harboring, having charge or control of, or permitting any dog to habitually be, or remain on, or be lodged or fed within such persons residence, yard or premises for a period of five (5) days or longer. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises animals owned by others.
14. PET ANIMAL. Pet animal means dogs or other species of wild or domestic or hybrid canine sold, transferred, or retained for the purpose of being kept as a household pet. Pet animal does not include an animal that is used for working purposes on a farm or ranch.
15. PRIVATE DOG KENNEL.

- 614 a. The term "private kennel" means a place where more than five (5) but
615 fewer than eleven (11) dogs over the age of five (5) months are kept;
616 where breeding is conducted to produce two (2) litters or less per year;
617 where the business of selling, breeding, or training dogs is conducted;
618 and where the keeping of such dogs is incidental to the occupancy of
619 the premises for residential purposes, and is not the primary source of
620 income of the occupant or owner of the property.
621
- 622 b. A private dog kennel shall be allowed only on a parcel of two (2) acres
623 or more. No such kennel shall be allowed except upon issuance of a
624 special use permit from the Town Board.
625
- 626 16. PROPER ENCLOSURE. A fence or structure of suitable height, forming
627 or causing an enclosure suitable to prevent the entry of any young
628 children. Such enclosure shall be locked and shall be designed to be
629 secure to prevent an animal from escaping from the enclosure.
630
- 631 17. RESTRAINT. An animal is under "restraint", within the meaning of this
632 Section, if it is controlled by a leash, cord, chain or similar physical
633 restraint, or by a competent person and immediately obedient to that
634 person's command, or within a vehicle being driven or parked on the
635 streets or roads, or within the property limits of its owner.
636
- 637 18. STRAY. Any unlicensed dog, which is at large, the owner of which is
638 unknown.
639
- 640 19. TOWN. The term "Town" as used in this Section shall mean the Town of
641 River Falls, Pierce County, Wisconsin.
642
- 643 (b) Restraint. The owner shall keep his/her dog under restraint at all times.
644
- 645 (c) Licensing of Dogs. No person shall own any dog within the Town limits
646 unless such dog is licensed, except as provided under "Exceptions". Written
647 application shall be made to such person or persons as designated by the
648 Town and shall include all pertinent documentation as required for such
649 license.
650
- 651 1. Exceptions.
652
- 653 a. Hospitals, clinics and other premises operated by licensed
654 veterinarians exclusively for the care and treatment of dogs are exempt
655 from the provisions of this section, except where such duties are
656 expressly stated.
657
- 658 b. The licensing requirement of this section shall not apply to any dog
659 belonging to a non-resident and kept within the Town for less than

660 thirty (30) days, provided that all such dogs shall at all times be kept
661 under restraint.

662

663 c. Any dog owned, kept or harbored by an individual or corporation
664 holding either a Private or Commercial Kennel license need not be
665 individually licensed.

666

667 d. Every dog specially trained to lead blind or deaf persons or to provide
668 support for mobility impaired persons is exempt from the dog license
669 fee and every person owning such a dog shall annually receive a free
670 dog license.

671

672 (d) Types of Licenses and Fees.

673

674 1. Individual Dog.

675

676 a. Written application shall be made on a form to be furnished by the
677 Town. As a condition for the issuance of said license, the owner shall
678 submit current certification of rabies vaccination for the dog(s). At the
679 time of application, a numbered, durable tag(s) shall be issued to the
680 owner. At the time of application for a license a fee shall be paid. The
681 amount of the fee shall be set by the Town Board from time to time.

682

683 b. The individual annual license fees for each dog over the age of five (5)
684 months that is “whole” or unspayed or unneutered.

685

686 c. The individual annual license fee for each dog over the age of five (5)
687 months that is either spayed or neutered.

688

689 d. Replacement Fee. In the event that the durable license tag issued for a
690 dog shall be lost, the owner may obtain a duplicate tag.

691

692 e. Change of ownership. If there is a change of ownership of a dog, the
693 new owner must, within thirty (30) days, apply for a license and pay
694 the fee prescribed by this Section as if for a new license. All fees will
695 be set by the Town Board and reviewed from time to time.

696

697 f. Any dog owner upon becoming a resident of the Town shall be
698 allowed thirty (30) days to obtain a dog license.

699

700 g. Tags. Upon complying with the provisions of this Section, there shall
701 be issued to the owner a durable tag, stamped with a number and the
702 year for which it was issued. Every owner is required to keep a valid
703 tag securely fastened to the dog's collar or harness, which must be
704 worn by the dog at all times except when the dog for which the license

705 is issued is indoors or on the premises of the owner or covered by an
706 Exception.

707

708 2. Private Dog Kennel.

709

710 a. A private dog kennel license shall not be issued unless the application
711 for such license is accompanied by the written approval thereof by the
712 occupants of all privately owned real estate abutting the premises on
713 which such kennel is to be located or unless the applicants kennel is
714 300 feet or more from any adjacent owner's property line. Approval of
715 abutting property owners is necessary only for the initial licensing.

716

717 b. The Town Board may grant a Private Kennel License only upon
718 approval of a Conditional Use Permit after a public hearing.

719

720 c. A yearly license fee shall be required.

721

722 d. No licenses are transferable. A new license must be obtained by any
723 new owner of the kennel.

724

725 3. Commercial Dog Kennel.

726

727 a. A commercial dog kennel license shall not be issued unless the
728 application for such license is accompanied by the written approval
729 thereof by the occupants of all privately owned real estate abutting the
730 premises on which such kennel is to be located or unless the
731 applicant's kennel is 700 feet or more from any adjacent owner's
732 property line. Approval of abutting property owners is necessary only
733 for the initial licensing.

734

735 b. The Town Board may grant a commercial dog kennel license only
736 upon approval of a Conditional Use Permit after a public hearing.

737

738 c. The provisions of Sections 12.04(3)3.a. and 3.b. shall not be required
739 for kennels lawfully operated prior to the passage of this Section.

740

741 d. A yearly license fee shall be required. Such fee shall be set by the
742 Town Board from time to time.

743

744 e. No licenses are transferable. A new license must be obtained by any
745 new owner of the kennel.

746

747 f. Any facility defined as a Humane Society, including a Humane
748 Society Shelter, animal shelter, animal rescue shelter, or animal
749 rehabilitation center, whether privately owned or publicly owned,

750 whether non-profit or profitable in nature, shall require a commercial
751 dog kennel license.

752

753 4. Provisions of Dog Kennel Licenses.

754

755 a. No person shall operate a dog kennel without first obtaining a dog
756 kennel license as herein provided. All dog kennel licenses shall be
757 issued for one (1) year beginning on January 1. Application for
758 licenses may be made sixty (60) days prior to the start of the licensing
759 year and thereafter during the licensing year.

760

761 b. A dog kennel license may be revoked by reason of any violation of
762 this Section or by reason of the violation of any health or nuisance
763 ordinances, order, law or regulation as may be determined by the
764 Town Board. The Town Board shall set a deadline as to when the
765 violation must be corrected and the waiting period before reapplication
766 on a case by case basis.

767

768 c. Before revoking a dog kennel license, the licensee shall be given
769 notice of the meeting at which such revocation shall be considered and
770 a copy of the complaint. If the licensee is present at such meeting
771 he/she shall be first given an opportunity to be heard. Notice of such
772 meeting shall be given to the licensee in writing, mailed to the address
773 of the licensee as set forth in the licensee application for the dog
774 kennel license at least ten (10) working days prior to the date of the
775 meeting.

776

777 d. All dog kennels shall be kept in a clean and healthful condition and at
778 all reasonable times shall be open to inspection by any health officer,
779 animal control officer or other person or persons charged with the
780 enforcement of this section or any health or sanitary regulation order,
781 rule or statute of the Town.

782

783 (e) Impoundment and Redemption of Dogs.

784

785 1. Any dog found in violation of this section may be taken by the Town ACO
786 and impounded in the designated animal shelter and there confined in a
787 humane manner for a period of not less than seven (7) days. If not
788 claimed prior thereto by its owner, it shall thereafter become the property
789 of the Town and may be disposed of in a humane manner or sold to an
790 individual desiring to purchase the dog as a pet. The new owner must sign
791 an agreement to spay or neuter the animal.

792

793 2. Immediately upon the impounding of a dog wearing a current license,
794 tattoo or other identification, the Town ACO shall make reasonable effort
795 to notify the owner of such dog of the impoundment and of the conditions

796 whereby the owner may regain custody of the dog. Any verbal notices
797 shall be confirmed in writing by the Town ACO.
798

799 3. Notwithstanding anything contained herein to the contrary, if a critically
800 injured dog is at large pursuant to this Section, it may be destroyed by the
801 Town ACO but only after reasonable efforts have been made to contact its
802 owner.
803

804 4. Any dog impounded hereunder being held for suspected disease (except
805 rabies) may be reclaimed by the owner within ten (10), days upon
806 payment of the owner to the Town any applicable forfeitures in addition to
807 the costs for keeping such dog during the impoundment, providing that the
808 licensing requirements of this Section are complied with.
809

810 5. Impoundment and Redemption Fines and Forfeitures shall be set by the
811 Town Board.
812

813 (f) Quarantine
814

815 1. Any dog that has bitten a person shall immediately be impounded for at
816 least ten (10) days and kept apart from other animals, under the
817 supervision of a veterinarian or at the Town designated animal shelter,
818 until it is determined whether such dog had or has a disease which might
819 have been transmitted by such bite. Wis. Stats. §95.21 5(a) & (b)
820

821 2. Such impounding may be done by the owner, and need not be at the
822 designated Town animal shelter, but if it is not at the designated Town
823 animal shelter, the owner shall notify the Town Animal Control Officer
824 immediately and shall furnish proof in writing that such animal has been
825 so impounded. Wis. Stat. §95.21(5)(a)
826

827 3. Upon the expiration of ten (10) days, if it is determined the dog does not
828 have a disease, the dog may be released and the Town ACO shall be
829 notified. If the dog was impounded to the designated Town animal
830 shelter, it may be reclaimed in ten (10) days if it is determined the dog
831 does not have a disease and all costs of shelter and care are paid by the
832 owner. Wis. Stats. §95.21(5)(c)1. & 2
833

834 4. Any dog owned, harbored, or kept in the Town of River Falls which has
835 been bitten by a rabid or suspected rabid animal shall be impounded and
836 kept in the same manner for a period of six (6) months, unless the animal
837 has been vaccinated for rabies within the previous year, then the
838 impoundment period shall be sixty (60) days. The owner of any animal
839 which has been bitten by a rabid animal shall notify the Town Animal
840 Control Officer in the event of the animal's illness or death during
841 quarantine. Wis. Stats. §95.21(5)(c)1. & 2

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(g) Records.

1. It shall be the duty of the Town Treasurer to keep, or cause to be kept, accurate and detailed records of the licensing of all dogs owned, harbored or kept in the Town of River Falls. He/she shall also keep accurate records of all monies belonging to the Town pursuant to this Section.
2. It shall be the duty of the Town Animal Control Officer to keep, or cause to be kept, accurate and detailed records of all impoundments and their dispositions, and all bite cases reported and the investigation of the same. A copy of the report shall be given to the Town Clerk.
3. All fees and fines shall be paid to the Town Treasurer or designated animal shelter during normal office hours. All checks and money orders shall be made payable to the Town of River Falls.

(h) Confinement of Certain Dogs.

1. Every female dog in "heat" shall be maintained in such a manner that such female dog cannot come in contact with another dog except for intentional breeding purposes.

(i) Investigation.

1. The Town ACO shall cooperate and assist any law enforcement officer in the discharge of their duties with respect to dog control.

(j) Interference.

1. No person shall interfere with, hinder or molest the Town ACO in the performance of the duties of his/her office or seek to release any dog in the custody of the Town ACO.

(k) Organized Dog Fighting.

1. Organized canine or canine hybrid fighting is prohibited.

(l) Abandonment or Abuse of Dogs.

1. It shall be unlawful for anyone to knowingly abandon or abuse any dog. Each person who does abandon or abuse, knowingly or willingly permits this abandonment or abuse, or aids in the abandonment or abuse of any dog shall be in violation of this Section and shall be subject to the penalties as herein provided.

888 (m) Dangerous Dogs.

889

890 1. Dangerous dogs will not be allowed in the Town.

891

892 (n) Duties of all Dog Owners.

893

894 1. It shall be the duty of every owner of any dog or anyone having any dog in
895 their possession or custody, to exercise reasonable care and to take all
896 necessary steps and precautions to protect other people, property, and
897 animals from injuries or damage which might result from their dog's
898 behavior, regardless of whether such behavior is motivated by
899 mischievousness, playfulness, or ferocity.

900

901 2. It shall be the duty of every owner of any dog, or anyone having any dog
902 in their possession or custody, to ensure that the animal is kept under
903 restraint and that reasonable care and precautions are taken to prevent the
904 dog from leaving, while unattended, the real property limits of its owner,
905 possessor or custodian.

906

907 3. It shall be the duty of the owner of any dog or anyone having a dog in
908 their possession to keep the animal under restraint and control at all times
909 while the animal is off the real property limits of the owner, possessor or
910 custodian.

911

912 4. Failure to keep any dog confined or under restraint as provided for in this
913 Section shall be unlawful and shall be punishable as herein provided.

914

915 **12.05 MOBILE HOMES AND MOBILE HOME PARKS.**

916

917 (1) STATUTE ADOPTED. The provisions of Wis. Stat. §66.058, and the definitions
918 Stats., and the definitions therein set forth are herewith adopted by reference. The
919 term "space", as defined in the statutes is herein also further defined as being a
920 plot of ground within a mobile home park designed for the accommodation of one
921 mobile home unit, not less than 5,000 sq. ft. in area and not less than 40 ft. in
922 width (width being its shortest dimension). In addition to any applicable statutory
923 definition of mobile home adopted by reference hereunder, the term "mobile
924 home", shall include and the restrictions and prohibitions concerning parking,
925 location and use of same shall apply to any recreational vehicle, motor home, tiny
926 homes on wheels, converted bus, van or automobile, pickup topper or pickup
927 camper unit, tent trailer, pop-up trailer or other similar unit designed or modified
928 or now so used to provide shelter or sleeping quarters for persons or animals and
929 which unit was designed or modified or now so used for transportation upon
930 highway or roadway, either as an independent unit, a unit to be towed by a motor
931 vehicle or a unit attached to a motor vehicle.

932

933 (2) LOCATION OUTSIDE MOBILE HOME PARK.

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- (a) Parking Restricted. Except as provided in this section, no person shall park any mobile home on any street, alley, highway, Town road or other public place or on any tract of land owned by any person within the Town.
- (b) Emergency or Temporary Stopping or Parking. Emergency or temporary stopping or parking is permitted on any street, alley, highway or Town road, but for not longer than one hour, subject to any other and further regulations, prohibitions or limitations imposed by the traffic and parking regulations or ordinances for that street, alley, highway or Town road.
- (c) Prohibited Parking.
 - 1. No person shall park or occupy any mobile home on any premises which is situated outside of an approved mobile home park. The parking of only one unoccupied mobile home in an accessory private garage building or in a rear yard is permitted provided that:
 - a. No living quarters shall be maintained or any business practiced while it is so parked or stored.
 - b. The provisions of this section shall not be construed to prohibit the parking, occupation and use of mobile homes presently lawfully parked or situated outside an approved mobile home park as of September 17, 1970.
 - c. The parking, occupation and/or use of such mobile home outside of a mobile home park in accordance with the last provisions of this section shall be considered a nonconforming use under the provisions of all ordinances of the Town.
 - d. The provisions of this subsection shall not be construed to prohibit the parking of a non-occupied travel trailer, pickup camper or tent type trailer, provided such parking does not conflict with or violate any other provisions of this General Code, including Chapter 17. The term “occupy” or “occupied” shall refer to the regular use of such unit as sleeping quarters, living quarters or quarters used in connection with the operation of a business. It shall be prima facie evidence of occupancy if any such unit is occupied for a period of 30 consecutive days or longer.
 - 2. Discontinuance of such parking, occupation or use of such mobile home shall constitute a discontinuance of a non-conforming use and there shall be no replacement, improvements or substantial alterations to such mobile homes parked, occupied and/or used outside of mobile home parks, except:

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- a. In accordance with the provisions of those ordinances of the Town relating to replacement, discontinuance of use and substantial alterations of non-conforming uses.
 - b. That any mobile home presently lawfully situated on any premises outside of an approved mobile home park may be replaced on the same site with a mobile home having a more recent date of manufacture (i.e., new or newer mobile homes) in the same or better state of repair as the one replaced.
 - c. A mobile home may be used as a temporary substitute in the event of a fire, storm or other casualty causing destruction or substantial damage to any single family dwelling in the Town, which damage of destruction is sufficient to render such dwelling uninhabitable. Such temporary substitute use of a mobile home shall continue only until repairs are made or a new dwelling is constructed and in no event shall such temporary substitute use of a mobile home continue for a period of not more than one year after it is placed on site. Upon revocation of such temporary use, such mobile home shall be immediately removed from the premises where used.
 - d. A mobile home may only be used as a temporary residence by the landowner for not more than one year after it is placed on site. No permanent structures may be attached to the mobile home. The mobile home must have wheels attached, be licensed as a mobile home, and have self-contained sanitary services (water and septic). The mobile home must not be rented to a non-family member. The intent of this provision is to allow landowners to “camp” on their own property provided that sanitary services are available.
 - e. Temporary Family Care Dwelling means a mobile residential dwelling providing an environment facilitating a caregiver’s provision of care for a limited time or condition as set by the Town Board.
 - f. Registration. Owners of any mobile home located outside of a mobile home park shall register with the Town Clerk. All provisions of this section governing the location, use and sanitation of mobile homes located in mobile home parks shall, so far as they are applicable, apply to any mobile home located outside of a mobile home park.
- (3) MOBILE HOME PARKING FEE. Mobile homes parked in mobile home courts will be assessed as a building on leased land and will be taxed through the personal property tax system.

- 1025 (4) LOCATION. Mobile home parks are allowed only in the R2 zoning district and
1026 must meet R2 zoning requirements
1027
- 1028 (5) REVOCATION AND SUSPENSION. The Town Board is hereby authorized to
1029 revoke any license or permit issued under the terms of this section.
1030
- 1031 (6) NOTICE OF HOMES ADDED. Licensees of mobile home parks and owners of
1032 land on which are parked any occupied, nonexempt mobile homes shall furnish
1033 information to the Town Clerk and the Town Assessor on such homes added to
1034 their park or land within five (5) days after arrival of such homes on forms
1035 furnished by the Town Clerk in accordance with Wis. Stats. §66.058(3)(c) and (e),
1036 Mobile homes parked in mobile home courts will be assessed as a building on
1037 leased land and will be taxed through the personal property tax system.
1038

1039 **12.06 DEALERS OF USED, WRECKED AND JUNKED MOTOR VEHICLES.**
1040

- 1041 (1) REGULATED. No person shall establish or operate upon any property owned or
1042 controlled by him/her within the Town:
1043
- 1044 (a) a used motor vehicle establishment without first obtaining a license from the
1045 State under Wis. Stat. Chapter 218 and a permit from the Town; or
1046
- 1047 (b) a wrecking establishment or conduct motor vehicle junking without first
1048 obtaining a permit from the Town.
1049
- 1050 (c) Permits are issued annually by the Town.
1051
- 1052 (2) APPLICATION. The applicant shall comply with all pertinent provisions of
1053 Section 12.02 of the General Code. The application shall include the name of the
1054 owner of the premises if the owner is not the applicant; shall describe the manner
1055 of storing and transporting junked vehicles and junk vehicle parts; and shall
1056 declare the number of junked vehicles and the quantity of junked vehicle parts
1057 projected to be stored, accumulated, or otherwise kept upon the premises together
1058 with the projected number of years there shall be such accumulation, storage, and
1059 removal of such junked vehicles and junk vehicle parts.
1060
- 1061 (3) JUNK VEHICLE (SALVAGE YARD) PERMIT. The applicant/permittee shall
1062 comply with the provisions of Wis. Stat. §§84.31, 175.25, and 342.40, all of
1063 which are hereby adopted by reference including as from time to time amended.
1064 In addition, the Town Board may impose one or more of the following permit
1065 conditions upon the applicant/permittee and the premises to address the following:
1066
- 1067 (a) Installation and maintenance of fences.
1068
- 1069 (b) Provision and maintenance of adequate fire safety equipment.
1070

- 1071 (c) Removal or draining of all vehicle tanks and engines.
1072
1073 (d) Installation and maintenance of adequate sanitary facilities.
1074
1075 (e) Operational hours.
1076
1077 (f) Installation and maintenance of adequate and necessary physical structures
1078 and equipment and provision of necessary personnel.
1079
1080 (g) Rules and safeguards to prevent public nuisances and to protect the public
1081 health and safety of persons residing near the premises or persons entering the
1082 premises, including public nuisances associated with vermin, noise, dust,
1083 odors, fires, explosions, water pollution, air pollution, and erosion.
1084
1085 (h) Prohibition of open fires or open burning of solid waste.
1086
1087 (i) Prohibition of the disposition, storage or keeping of any hazardous waste.
1088
1089 (j) Installation and maintenance of adequate landscaping upon and surrounding
1090 the premises.
1091
1092 (k) Provision and maintenance of adequate security and operational personnel to
1093 prevent trespassing onto the premises.
1094
1095 (l) The maximum number of junked vehicles and junked vehicle parts authorized
1096 to be kept.
1097
1098 (m) Installation and maintenance of adequate physical structures and operational
1099 controls to prevent trespassing, littering, and private nuisances on adjacent
1100 private and public land.
1101
1102 (n) Any other condition determined by the Town Board to be necessary and
1103 appropriate.
1104
1105 (4) **MAINTAINING PREMISES.** Each of the premises upon which the business of
1106 junk dealer is to be carried out on shall be enclosed by a solid, painted fence or
1107 other structure not less than 7' in height, constructed so that no dust or other
1108 material may pass through. Such enclosure shall be maintained in good condition
1109 at all times. No articles shall be piled so as to protrude above such enclosures.
1110
1111 (5) **NON-ISSUANCE OR REVOCATION OF PERMIT.** No person shall be issued
1112 or reissued a junked vehicle permit, and a permittee may have the permit revoked
1113 after a public hearing by the Town Board, if the applicant for the junked vehicle
1114 permit or permittee has done any of the following:
1115
1116 (a) Violated any condition stated in the junked vehicle permit.

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(b) Failed to comply, as determined by the Town Board, with any Town or County Zoning Ordinances.

(c) Failed to allow physical access to the premises by the Town Board or its designee for inspection purposes upon twenty-four hours' notice to the applicant or permittee.

12.08 WILD ANIMALS. The Town of River Falls prohibits possession or selling of wild animals according to Wis. Stat. §169.43.

12.09 NON-METALLIC MINING OPERATORS LICENSE

(1) FINDINGS, PURPOSE AND AUTHORITY

(a) Findings.

1. Nonmetallic mining operations, while a vital component of our state and local economy, can have both direct and indirect adverse impacts.
2. Studies have documented that nonmetallic mining operations can have adverse impacts on groundwater and surface water, and can generate harmful levels of dust, noise and flyrock particularly if blasting and crushing operations are undertaken.
3. Nonmetallic mining sites can have negative impacts on the landscape and aesthetics if not properly screened, and can present safety concerns to members of the public if not properly secured.
4. Truck traffic from such operations can also generate off-site impacts including infrastructure damage, safety concerns for children and other residents.
5. While certain aspects of mining operations are subject to state or federal regulation, there is no comprehensive state or federal regulation of nonmetallic mining operations.
6. Many aspects of nonmetallic mining operations are left unregulated with potential adverse impacts to the public health, safety and welfare of the residents of the Town.

(b) Purpose. The purpose of this section is to require licenses for nonmetallic mining operators in order to:

1. Supplement federal, state, and county regulations.

- 1163 2. Provide minimum standards to protect the health, safety, and welfare of
1164 the public.
1165
1166 3. Preserve the scenic beauty of the Town's landscapes and environment.
1167
1168 4. Protect the public from damage to both the quantity and quality of ground
1169 and surface waters.
1170
1171 5. Minimize or prevent adverse impacts from on-site and off-site operations.
1172
1173 6. Promote the general welfare of the people within the Town.
1174

1175 (c) Authority.
1176

- 1177 1. This Ordinance is adopted by the powers granted to the Town of River
1178 Falls by the Town's adoption of Village powers under Wis. Stat. §60.10
1179 and §61.34, its authority under §66.0415, and other authority under the
1180 statutes.
1181
1182 2. Any amendment, repeal or recreation of the statutes relating to this Section
1183 made after the effective date of this Section is incorporated into this
1184 Section by reference on the effective date of the amendment, repeal or
1185 recreation.
1186

1187 (2) APPLICABILITY AND SCOPE
1188

1189 (a) This section shall apply to all nonmetallic mining operations and mine sites
1190 within the Town of River Falls except as set forth in Section 12.09(2)(b)
1191 below.
1192

1193 (b) This Section shall not apply to the following nonmetallic mining operations:
1194

- 1195 1. Excavations or grading by a person solely for domestic or farm use at that
1196 person's residence or farm.
1197
1198 2. Excavations or grading conducted for the construction, reconstruction,
1199 maintenance or repair of a highway, railroad, or any other transportation
1200 facility where the excavation or grading is entirely within the property
1201 boundaries of the highway, railroad or other transportation facility.
1202
1203 3. Grading conducted for preparing a construction site or restoring land
1204 following a flood or natural disaster.
1205
1206 4. Excavations for building construction purposes conducted on the building
1207 site.
1208

- 1209 5. Nonmetallic mining at nonmetallic mining sites where less than ten (10)
1210 acres of total affected acreage occur over the life of the mine.
1211
1212 6. Removal from the earth of products or commodities that contain only
1213 minor or incidental amounts of nonmetallic minerals, such as commercial
1214 sod, agricultural crops, ornamental or garden plants, forest products,
1215 Christmas trees or plant nursery stock.
1216

1217 (3) DEFINITIONS
1218

1219 (a) NONMETALLIC MINERALS means a product, commodity or material
1220 consisting principally of naturally occurring, organic, inorganic, nonmetallic,
1221 non-renewable material. Nonmetallic minerals include but are not limited to
1222 stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat
1223 and talc.
1224

1225 (b) NONMETALLIC MINING means any or all of the following:
1226

- 1227 1. Extraction from the earth of mineral aggregates or nonmetallic minerals
1228 for off-site use or sale, including drilling and blasting as well as associated
1229 activities such as excavation, grading and dredging of such materials.
1230
1231 2. Manufacturing or processing operations that may involve the use of
1232 equipment for the crushing, screening, separation, washing, drying or
1233 blending of the mineral aggregates or nonmetallic minerals obtained by
1234 extraction from the mining site or with materials transferred from off-site.
1235
1236 3. Manufacturing processes aimed at producing nonmetallic products for sale
1237 or use by the operator.
1238
1239 4. Stockpiling of nonmetallic products for sale or use off-site and stockpiling
1240 of waste materials.
1241
1242 5. Transport of the extracted nonmetallic materials, finished products or
1243 waste materials to or from the extraction site.
1244
1245 6. Disposal of waste materials.
1246
1247 7. Reclamation of the extraction site.
1248

1249 (c) WASTE MATERIAL means the non-marketable natural by-products
1250 (overburden or interburden) that results directly from or is displaced by
1251 extraction or that is a by-product (tailings) of a manufacturing process that is
1252 scheduled for disposal at the extraction site or some other site as part of a
1253 reclamation plan.
1254

1255 (d) MINE SITE or SITE means land from which mineral aggregates or
1256 nonmetallic minerals will be extracted for sale or use by the operator
1257 including:
1258
1259 1. All land on which is or will be located any structures, equipment, storage
1260 facilities, stockpiles, washing or screening facilities, private roads or
1261 haulage ways associated with nonmetallic mining operation.
1262
1263 2. All contiguous lands to the nonmetallic mining operation under common
1264 ownership or control of the owner or operator.
1265
1266 3. Where any distance from the mine site is made reference to herein, the
1267 distance shall be measured from the point of the nearest exterior boundary
1268 of the mine site to the point at which measurement is taken.
1269
1270 (e) LANDOWNER means the person or entity who has title to land in fee simple
1271 or who holds a vendee's interest in a land contract for the sale of the land.
1272
1273 (f) ADJOINING LANDOWNER means any property within 1 mile of the
1274 proposed mine site regardless of whether there is a residence or structure on
1275 the property.
1276
1277 (g) AFFECTED LANDOWNER means any property within 3-1/2 miles of the
1278 proposed mine site regardless of whether there is a residence or structure on
1279 the property.
1280
1281 (h) TOWN means the Town of River Falls.
1282
1283 (i) TOWN BOARD means the Town Board of the Town of River Falls.
1284
1285 (j) Operator means any person or entity who is engaged in, or who has applied
1286 for a license to engage in nonmetallic mining, whether individually, jointly or
1287 through subsidiaries, agents, employees, contractors, or subcontractors.
1288
1289 (k) OPERATOR'S LICENSE or LICENSE means the license required of mining
1290 operators in this Chapter to undertake nonmetallic mining in the Town of
1291 River Falls.
1292
1293 (l) APPLICATION FEE is the fee established from time to time by resolution of
1294 the Town Board for original application or renewal application, as the case
1295 may be.
1296
1297 (m)HAUL ROUTE means any public road, street or highway used for transport
1298 by company employees and/or independent truckers conveying non-metallic
1299 material or heavy loads on a regular basis as a course of operation.
1300

1301 (n) AFFECTED PERSON OR ENTITY means any person, resident, lessee or
1302 land owner whose domicile or land lies within ½ mile of the Haul Route.

1303
1304 (o) BERM means an earthen wall used to control surface runoff, conceal the
1305 mining operation from view, or act as an obstacle to entry.

1306
1307 (4) LICENSE REQUIREMENT

1308
1309 (a) License Requirement. No person shall operate a nonmetallic mine within the
1310 scope of this Chapter in the Town without first obtaining an operator's license
1311 from the Town Board.

1312
1313 (b) License Term.

1314
1315 1. Except as noted in Section 12.09(4)(b)2 below, all licenses shall be issued
1316 for one year or less and shall commence on July 1st. For those whose
1317 license was issued after July 1st of the license year, the license fee will be
1318 prorated for the number of weeks the license is in force prior to the July 1
1319 renewal.

1320
1321 2. In the case where the license is issued during the 90 days prior to July 1st
1322 renewal date, reapplication will not be required though the additional
1323 prorated fee still must be paid.

1324
1325 3. An operator's license may be renewed as set forth in Section 12.09(8)(b).

1326
1327 (c) License Amendment. If the Town has issued an operator's license, the
1328 operator may request an amendment to that license during the license term,
1329 using the same process as the original license application.

1330
1331 (d) License Transfer. The remaining portion of a current operator's license may
1332 be transferred to a new operator, after a public hearing and notice to
1333 surrounding landowners, if the new operator provides identity information and
1334 financial assurances to the Town, as may be required by the Town, County or
1335 State.

1336
1337 1. This information and financial assurances shall be completed, in writing,
1338 no later than 30 days prior to the date of change of operator.

1339
1340 2. If not supplied within the prior 30 days period, license will be revoked as
1341 of 1st day following 30 day period, as per Section 12.09(12)(b)4 and 5.

1342
1343 3. If above transfer information is not completed in the above timeframe, a
1344 new and complete application will be required.

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4. All unpaid fines and other judgments shall be paid prior to approval of Transfer of License.
 5. The new operator assumes full financial assurances as listed in Section 12.09(9).
 6. The new operator is authorized to do business in Wisconsin.
 7. A written statement is presented that acknowledges any existing obligations of the licensed operator and requires the new operator to assume all obligations of the licensed operator.
 8. The new operator is of comparable credit worthiness as the licensed operator.
 9. The new operator has obtained the transfer of any reclamation permit.
 10. The new operator assumes every responsibility under Town, County or State agreements related to nonmetallic mining.

1366 (e) License Revocation. An operator's license may be revoked under the
1367 procedures in Section 12.09(12).
1368

1369 (f) Temporary Operator Licenses. The Town Board will not grant a temporary
1370 operator's license.
1371

1372 (5) PROCEDURES FOR APPLYING FOR A LICENSE TO MINE 1373

1374 (a) Application Form. The Application Form for a license to mine in the Town
1375 shall be available from the Town Clerk.
1376

1377 (b) Application Submittal.
1378

1379 1. The applicant shall submit fifteen (15) copies of the Application Form and
1380 all required documentation required under Section 12.09(6) to the Town
1381 Clerk.
1382

1383 2. The application shall be accompanied by the payment of both the
1384 application fee and the base administrative fee established for the
1385 administration of this Section in amounts set forth in the Town of River
1386 Falls Schedule of Fees and Forfeitures.
1387

1388 3. The fees shall be made payable to "Treasurer, Town of River Falls."
1389

1390 4. The Application Form shall be signed by the operator and by the
1391 landowner, provided the landowner is a person other than the operator.

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(c) Application Review.

1. Preliminary Review. The Town Clerk shall forward the application to the Town Board for initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary the Town Board shall refer the application to the Plan Commission for review.
 - a. Additional Information. The Town Board may request the applicant to submit additional information if the Town Board determines that the application is incomplete.
 - b. The Town Board may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Town Board whether additional information is required for review of the application and to determine whether the application meets the standards of this Section.
 - c. Additional fees. If the Town Board determines that additional expertise is required to evaluate and review the application, the Town Board may authorize and retain the services of an engineering firm or other qualified person with appropriate expertise to review the application, recommend supplementation and addenda as necessary, and otherwise advise the Town. The Town Clerk shall give written notice to the applicant of the additional administrative fee to be charged the applicant, in addition to the license application or renewal application fee, to cover the cost of the services of any such retained expert of the Town's choice.
 - d. All engineering, legal and other review expenses, charges and fees incurred by the Town in reviewing the application shall be paid by the applicant. The Town Board shall determine the estimated amount of such costs and give notice thereof to the applicant. The applicant shall pay the costs to the Town Treasurer prior to further review of the application.
 - e. In the event the Town Board determines such costs shall be greater, or likely to be greater, than previously anticipated, the applicant shall be so notified of the additional review cost advance necessary before review continues.
 - f. In the event any review cost advance made by the applicant is not used for engineering, legal or other review expenses by the Town, such advance review costs shall be refunded to the applicant.

1438 2. Where the services of an expert are retained by the Town the expert may
1439 require that the applicant furnish additional information. After any such
1440 additional information has been obtained, and the expert has completed
1441 their review and report, the report shall be submitted to the Town Board,
1442 with a copy to the applicant. The report shall advise the Town Board
1443 whether the application meets the requirements of the Section or whether
1444 the application should be modified to comply with the minimum standards
1445 of operation and other requirements established in this Section.
1446

1447 (d) Decision by the Town Board.
1448

1449 1. Notice and Hearing.
1450

- 1451 a. After the application is submitted to the Town Board, and modified
1452 following recommendation of any expert retained by the Town, and
1453 any report by a retained expert has been completed, the Plan
1454 Commission shall review the application, and if found complete,
1455 recommend that the Town Board place the application on the agenda
1456 for a public hearing at a regular meeting of the Town Board.
1457
- 1458 b. If a special meeting is requested by the applicant or deemed necessary
1459 by the Town Board (because of time constraints or otherwise), the
1460 applicant shall pay the additional fees incurred for the special meeting.
1461
- 1462 c. The Town Clerk shall post notice of the meeting at which the public
1463 hearing shall be held at least fourteen (14) days prior to the date
1464 scheduled for the hearing, with a copy of the notice mailed to all
1465 affected landowners together with a notice where a copy of the
1466 application may be reviewed.
1467
- 1468 d. At the public hearing the Town Board shall take public comment on
1469 the proposed mine license.
1470

1471 2. Town Board Decision.
1472

- 1473 a. At the public hearing, following public comment, the Town Board
1474 may approve or deny the application, or table the application pending
1475 receipt of additional requested information, or set a date for the Town
1476 Board meeting at which time the Board shall make a final decision on
1477 the application.
1478
- 1479 b. If a special meeting is requested by the applicant or deemed necessary
1480 by the Town Board (because of time constraints or otherwise), the
1481 applicant shall pay the additional fees incurred for the special meeting.
1482

- 1483 c. The Town Board shall review the retained expert's report as well as
1484 public comments made at the public hearing.
1485
1486 d. The Town Board shall issue the license if it determines the application
1487 (as amended or supplemented) meets the requirements of this Section
1488 and that the operation of the mine will be consistent with the minimum
1489 standards and the purposes of this Section.
1490
1491 e. The Town Board may issue the license subject to restrictions and
1492 conditions.
1493
1494 f. If the Town Board denies the license, the applicant shall be notified in
1495 writing. The applicant then may request a hearing under the provisions
1496 of Section 12.09(12)(c).
1497

1498 (6) LICENSE APPLICATION. All applicants for a nonmetallic mining license shall
1499 submit the following information:

1500
1501 (a) Ownership Information.

- 1502
1503 1. The name, address, phone number(s), and e-mail address of the operator of
1504 the nonmetallic mining operation.
1505
1506 2. The name, address, phone number(s), and e-mail address of all owners or
1507 lessors of the land on which the nonmetallic mining operation will occur.
1508
1509 3. The names of all previous owners and names of Doing Business As
1510 (DBA).
1511
1512 4. If the operation is subject to a lease, a copy of a fully executed lease
1513 and/or agreement between the landowner and the operator who will
1514 engage in nonmetallic mining operations on the proposed site.
1515
1516 5. Proof of current Tax status, Lien Status, previous locations of nonmetallic
1517 mines or processing plants.
1518
1519 6. Any other information deemed necessary by the Town Board.

1520
1521 (b) Site Information and Maps.

- 1522
1523 1. A certified survey map(s) and parcel identification number(s) of the
1524 property on which the nonmetallic mining operation will be located.
1525
1526 2. An Environmental Impact Statement and a search for any endangered
1527 species and the number contained on the site during the months of April,

- 1528 May and June, as inventoried by an expert chosen by the Town and paid
1529 for by the applicant.
1530
- 1531 3. An aerial photo of the proposed site at a scale of 1 inch equals 660 feet
1532 signed by both the operator and the landowner.
1533
- 1534 4. A topographic map of the mine site extending 1 mile beyond the site
1535 boundaries at contour intervals no wider than 10 feet showing the
1536 boundaries of the site, the location and total acreage of the site, and the
1537 name of all roads within one mile of the site.
1538
- 1539 5. The location within the site of all existing buildings and other structures,
1540 equipment, stockpiles, storage and parking areas.
1541
- 1542 6. A map on which all residential, agricultural and municipal wells within 1
1543 mile of the boundaries of the site in all directions are marked and given a
1544 numerical identification of the location.
1545
- 1546 a. Prior to commencement of the nonmetallic mining operation all wells
1547 within 1 mile of the site shall be tested for water quality and condition.
1548
- 1549 b. The cost of such testing shall be paid for by the applicant.
1550
- 1551 c. Results of all tests shall be submitted to the Town Board prior to
1552 commencement of the nonmetallic mining operation.
1553
- 1554 d. The nonmetallic mining operation may not commence until the Town
1555 Clerk has issued to the applicant (licensee) a written statement
1556 confirming receipt of all such well water quality and condition reports
1557 and instructs the applicant (licensee) in writing that nonmetallic
1558 mining may commence.
1559
- 1560 7. The location including present levels and names of all surface waters,
1561 including lakes, private or public ponds, streams (including intermittent
1562 streams and headwaters), drainage ditches, wetlands, drainage patterns and
1563 other water features on the site and within 1 mile of the site.
1564
- 1565 8. A description of the distribution, depth and type of topsoil on the site as
1566 well as the geological composition and depth and width of the nonmetallic
1567 deposit.
1568
- 1569 9. A map identifying the location of all other non-contiguous sites within the
1570 Town of River Falls and adjacent towns, if any, that will contribute
1571 extracted material to the same manufacturing facility to which the site for
1572 which the applicant seeks a license will also contribute.
1573

- 1574 a. In addition, the applicant shall identify the roads traveled, and
1575 frequency of transport on said roads, so that the Town has information
1576 available to determine how such travel may affect Town roads.
1577
- 1578 10. A copy of the soil borings report or any documentation and analysis
1579 containing a description of the distribution, depth and type of topsoil on
1580 the site as well as the geological composition and depth and width of the
1581 nonmetallic deposit.
1582
- 1583 11. An outdoor lighting plan shall be submitted that shows the location,
1584 mounting height, types of luminaries, accessory equipment such as shades
1585 and deflectors, beam direction, and manufacturer's photometric data.
1586
- 1587 (c) Operation Plan.
1588
- 1589 1. Dates of the planned commencement and cessation of the operation.
1590
- 1591 2. Description of mining methods, chemicals, machinery and equipment to
1592 be used for extraction and processing of the extracted material, and the
1593 sequence of operations.
1594
- 1595 3. Estimated volume of material to be extracted over the life of the mine and
1596 for the next calendar year.
1597
- 1598 4. Location of road access points.
1599
- 1600 5. The proposed location within the site of all buildings and other structures,
1601 equipment, stockpiles, storage and parking areas.
1602
- 1603 6. Identification of all proposed off-site trucking routes, together with the
1604 frequency of traffic and the common schedule of travel to be used for
1605 transporting extracted materials or products to or from the site.
1606
- 1607 7. A water budget, including an estimate of the amount of daily water use,
1608 water sources, and methods for disposing of water including methods used
1609 for infiltration and control of run-off.
1610
- 1611 8. A listing of any hazardous materials, all chemicals (including Material
1612 Safety Data Sheets, which must be kept current) including fuel supplies
1613 that will be stored on site and a description of measures to be used for
1614 securing and storing these materials.
1615
- 1616 9. A listing of all chemicals (including Material Safety Data Sheets, which
1617 must be kept current) used in the manufacturing or processing operations
1618 or in controlling dust.
1619

- 1620 10. A listing of all chemical and materials used in the maintenance of
1621 equipment or facility (including Material Safety Data Sheets, which must
1622 be kept current). Any mishap or spill that releases a chemical or material
1623 to the ground must be cleaned up immediately and procedures established
1624 to control any pollution. These mishaps include, but are not limited to,
1625 blown hydraulic hose, gasoline or diesel fuel, battery acid and aluminum
1626 sulphate spills, etc. Operating procedures will require that such a mishap
1627 be reported to the Town within 12 hours followed by a written report
1628 detailing the nature of the mishap, action taken, and the extent of possible
1629 contamination. Failure to comply could result in immediate revocation of
1630 the Operator's License.
1631
- 1632 11. Measures to be taken to screen the mining site from public view.
1633
- 1634 12. Measures to be taken to minimize noise, fugitive dust, vibrations, and light
1635 pollution.
1636
- 1637 13. Security measures to be employed on the mining site.
1638
- 1639 14. A plan to control flooding on the mining site.
1640
- 1641 (d) Information Demonstrating Compliance with Minimum Standards.
1642
- 1643 1. The operator shall provide the information necessary to demonstrate that
1644 the mining operation will comply with the minimum standards in Section
1645 7.
1646
- 1647 2. For mining operations commencing after the effective date of this Section,
1648 the operator shall also provide information establishing baseline
1649 conditions at the site before mining operations commence, including:
1650
- 1651 a. Groundwater elevation across the site;
1652
- 1653 b. Groundwater quality at the site showing levels of lead, arsenic and any
1654 other toxic metals or chemicals the Town Board, based on advice of its
1655 retained expert or otherwise, reasonably believes may be present in the
1656 area or in the type of deposit from which the extraction will be made;
1657
- 1658 c. The base flow of surface water within one (1) mile of the site.
1659
- 1660 (e) Special Exceptions. The applicant may request a special exception from the
1661 application requirements of this Section.
1662
- 1663 1. The applicant shall bear the burden of demonstrating to the satisfaction of
1664 the Town Board that the conditions, minimum standards and information
1665 required can and will be provided or assured by alternative means, or is
not necessary for an evaluation of the particular mining operation, and that

1666 the alternative means provide protection for public health, safety and
1667 welfare and be at least equal to the provisions contained in this Section.
1668
1669 2. All expense incurred by the Town in connection with the evaluation of a
1670 special exception request shall be at the applicant's expense.
1671
1672 (f) Additional Requirements. The Town Board may impose requirements in
1673 addition to or exceeding the minimum standards of this section when it is
1674 determined that public health, safety and welfare will not be adequately
1675 protected without the imposition of additional measures.
1676
1677 (7) MINIMUM STANDARDS OF OPERATION. The Town Board shall grant a
1678 license to mine if the application is complete and the applicant can demonstrate
1679 that the following minimum standards of operation will be met:
1680
1681 (a) General Standards.
1682
1683 1. The operator shall stake or otherwise mark the borders of the entire site
1684 and shall secure the site by fencing or other appropriate measures, as
1685 deemed satisfactory to the Town Board.
1686
1687 2. The operator shall demonstrate compliance with all of the other provisions
1688 of this Section.
1689
1690 3. The operator shall have obtained a blasting permit from the Town for any
1691 blasting operations. Setbacks for blasting shall be included in the Blasting
1692 Permit.
1693
1694 4. The operator shall demonstrate that all other applicable federal, state and
1695 local permits and approvals required for the nonmetallic mining operation
1696 have been obtained prior to commencement of operation.
1697
1698 5. The operator shall provide notice to the Town of any notices of violation,
1699 citations, or other enforcement actions taken or issued within the past six
1700 (6) years prior to the date of the application by any other governmental
1701 body against the mining operation proposed to be undertaken within the
1702 Town, or with respect to any other mining operation of the applicant or its
1703 principles doing business under any name.
1704
1705 6. The operator and landowner shall allow any member of the Town Board,
1706 or any agent or employee of the Town, to access and inspect the mine site
1707 and operational records upon reasonable notice.
1708
1709 7. The operator shall keep the mine site in a neat and orderly condition.
1710 Equipment and buildings at the site shall be maintained in good
1711 appearance and working order.

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(b) Standards Regarding Off-Site Impacts.

1. The operator shall undertake all measures necessary for the control of surface water runoff from nonmetallic mining operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under NR 216 and NR 151 or other standards as defined by the Town Engineering consultant.
2. In the event that the mine site contains areas adjacent to the nonmetallic mining operations that are being used for agricultural, commercial or residential purposes, the operator shall undertake all measures necessary to control surface water runoff from those areas from entering mining operations or otherwise causing contamination of surface water and groundwater.
3. The operator shall provide a natural, at grade, buffer area of a minimum of 50 feet along bordering property lines and public roadways.
4. The operator shall screen the mining operations from public view to the maximum standards as defined by the Town Engineering Consultant through the use of berms, additional setbacks or other measures.
5. The operator shall limit normal hours of operations to 10 hours a day Monday through Friday during daylight hours and not earlier than 6:00 am or later than 6:00 pm to minimize off-site impacts to residents. The operator may request extended hours as a special exception to the restrictions imposed by this Section. In order to obtain such special exception the operator shall submit a plan for extended hours as a special exception. The operator shall demonstrate to the satisfaction of the Town Board that additional hours are necessary for the mining operation and the plan and extended hours are consistent with public, health safety and welfare concerns and requirements as determined by the Town Board. The request for additional operating hours or days will require a Public Hearing prior to any decision being made. All expenses for the Public Hearing will be at the operator's expense.
6. The operator shall ensure that vehicular traffic to and from the mining site shall not and does not interfere with the safety of children being taken to or returned from school, or the safety of residents and commuters at times when traffic volume is higher from commuters going to and from work.
7. The operator shall limit night lighting on site, to that which is minimally necessary for security and, wherever possible, shall be shielded from illuminating off-site areas. Such shield shall include appropriate non-

1758 transparent shields which direct lighting earthward, limited as reasonably
1759 as possible to the mining site, and do not cause light pollution. Every
1760 effort, consistent with legal requirements for aerial safety, shall be made to
1761 minimize illumination of the night sky.

- 1762
- 1763 8. The operator shall utilize all relevant dust control measures specified in
1764 Wis. Admin. Code § NR 415.075 and the standards as defined by the
1765 Town Engineering Consultant.
- 1766
- 1767 9. The Operator shall use best management practices to keep noise from
1768 nonmetallic mining activity at or below 60 (sixty) decibels (dBA) at the
1769 property boundary. Exceptions to this section are blasting activities
1770 permitted by the Town Blasting Section, haul trucks entering and leaving
1771 the site, and work projects done on the screening berms and drainage
1772 ditches.
- 1773
- 1774 10. The Operator shall use back-up signals creating the least offensive noise
1775 audible to persons residing near the property consistent with legal
1776 requirements.
- 1777
- 1778 11. The nonmetallic mining operation, including accessory buildings and uses,
1779 shall have the following minimum setbacks.
- 1780
- 1781 a. Blasting operations: Public roadways – 100 feet to right of way,
1782 Property boundaries – 100 feet, Existing Residences – 1500 feet.
- 1783
- 1784 b. Non Blasting Operations: Public Roadways and property boundaries –
1785 100 feet, Existing Residences – 1000 feet.

1786

1787 (c) Standards Regarding Groundwater and Surface Water.

1788

- 1789 1. Impact on Groundwater Quality.
- 1790
- 1791 a. Mining operations shall have at least one monitoring well for every 5-
1792 acre sector of the mine site, and the operator shall take quarterly
1793 samples on a schedule approved by the Town Board for lead, arsenic
1794 and any other toxic metals or materials that may reasonably be
1795 believed to be present in the area or in the type of deposit from which
1796 the extraction will be made. Results of tests will be promptly
1797 submitted to the Town Board for review.
- 1798
- 1799 b. The minimum groundwater quality standards established under Wis.
1800 Admin. Code ch. NR 140. shall not be compromised or violated by the
1801 mining operation on the mining site or within one mile from the
1802 nearest boundary of the site.
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2. Impacts to Groundwater Quantity.
 - a. Mining operations shall not extract materials at a depth below that point which is 5 feet above the highest recorded groundwater table.
 - b. Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one (1) mile of the mine site.
 - c. A “significant reduction” shall be deemed to have occurred where the volume, flow or quality of the groundwater is reduced such as to appreciably affect residential, agricultural or other groundwater usage by land owners within one (1) mile of the mine site.
 3. Impacts to Surface Water Base Flow. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one (1) mile of the mine site, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operation.
 4. Impacts to Surface Water Use. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural or municipal functions such as fire protection within one (1) mile of the mine site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operation.
- (d) Hazardous materials.
1. All hazardous chemicals shall be stored, used and disposed of in accordance with applicable state and federal law.
 2. The operator shall not dispose of waste materials containing any hazardous chemicals at the mining site, or residuals declared to be hazardous by a government agency. All such materials shall be disposed of at a licensed facility approved for the disposal of such materials.
 3. The operator shall have a plan for responding to spills of any hazardous materials on the site. Said plan shall be given to the Town prior to commencing operations and shall be updated any time any change or addition is made to the hazardous materials used on the site. The Town Chair must be notified immediately of any hazardous material spills. Notification should be by phone followed by written documentation within 48 hours detailing corrective action taken.

- 1850 4. The cost of hazardous waste cleanup shall be the responsibility of the
1851 operator and done to the satisfaction of the Town designated consultant.
1852
1853 5. A plan that shows that teams have been trained on how to respond to
1854 hazardous material emergencies.
1855

1856 (e) Special Exceptions.
1857

- 1858 1. The applicant can request a special exception from the minimum standards
1859 of this Section. The applicant shall bear the burden of demonstrating to the
1860 satisfaction of the Town Board that the conditions, minimum standards or
1861 information required can and will be provided or assured by alternative
1862 means, or is not necessary for an evaluation of the particular mining
1863 operation, and that the alternative means provides protection for public
1864 health, safety and welfare and be at least equal to the provisions contained
1865 in this Section. All expense incurred by the Town in connection with the
1866 evaluation of a special exception request shall be at the applicant's
1867 expense. The Town may require the applicant to post additional full
1868 coverage bond for any future damage caused as a result of any exceptions
1869 granted.
1870
1871 2. The Town Board may impose conditions or requirements in addition to or
1872 exceeding these minimum standards where the Town Board determines
1873 that the public health safety and welfare will not be adequately protected
1874 without the imposition of such additional conditions or requirements.
1875

1876 (8) ANNUAL REPORT AND LICENSE RENEWAL
1877

1878 (a) Annual Report.
1879

- 1880 1. No later than February 1 of each calendar year, the operator shall submit
1881 an annual report to the Town Board for all active and intermittent mining
1882 sites for which the operator has a license in the Town of River Falls.
1883
1884 2. The annual report shall include the following information:
1885
1886 a. An identification of the operator, per Section 12.09(3)(j), and location
1887 of the mining site.
1888
1889 b. A map or drawing accurately showing the area of excavation, the
1890 unclaimed area and any reclaimed area including a calculation of the
1891 number of acres for each type.
1892
1893 c. A description of activities and operations on the site for the previous
1894 calendar year including the estimated volume of material to be

- 1895 extracted in the ensuing calendar year and any modifications to
1896 Ownership or Operation Plan.
1897
1898 d. A description of activities and operations on the site anticipated for the
1899 following calendar year including the estimated volume of material to
1900 be extracted in the ensuing calendar year, and any modifications to
1901 Ownership or the Operation Plan.
1902
1903 e. A written report demonstrating how the operator has been in
1904 compliance with all terms and conditions of its license and this
1905 Section. The report shall also include any groundwater, surface water
1906 and other monitoring results, as well as a copy of all annual reports
1907 submitted to all other agencies.
1908
1909 f. A summary of all areas of non-compliance, and a plan for bringing
1910 non-compliant areas into compliance.
1911
1912 g. A copy of all blasting records to be included in the annual report.
1913
1914 (b) License Renewal.
1915
1916 1. The operator shall make written request to the Town Clerk for a renewal
1917 of the license to operate the mine no later than March 1 of the year in
1918 which the license will expire. The application shall be accompanied by the
1919 payment of both the renewal application fee and the base administrative
1920 fee established for the administration of this Section in such amount as is
1921 established, from time to time, by resolution of the Town Board.
1922
1923 2. The written request for renewal shall include the annual report from the
1924 previous calendar year in accordance with the provisions of Section
1925 12.09(8)(a)1.
1926
1927 3. The Town Clerk shall review the renewal application within 30 days of
1928 receipt to determine whether the application is complete and upon a
1929 determination that it is complete shall forward it to the Town Board.
1930
1931 4. The Town Board shall review the application to determine if additional
1932 information or expertise is necessary to properly evaluate the application.
1933 The Town shall retain an engineer or other qualified person with
1934 appropriate expertise to inspect the mine site and issue a report to the
1935 Town Board unless the applicant certifies the site has been entirely
1936 inactive during the preceding calendar year, in which case a member of
1937 the Town Board may be assigned to inspect the site. If no additional
1938 information or expertise is deemed necessary the Town Board shall
1939 schedule the application for review.
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5. Additional fees. If the Town Board determines that additional expertise is required to evaluate and review the application, the Town Board may authorize and retain the services of an engineering firm or other qualified person with appropriate expertise to review the application, recommend supplementation and addenda as necessary, and otherwise advise the Town. The Town Clerk shall give written notice to the applicant of the additional administrative fee to be charged the applicant, in addition to the license application or renewal application fee, to cover the cost of the services of any such retained expert. All engineering, legal and other review expenses, charges and fees incurred by the Town in reviewing the application shall be paid by the applicant. The Town Board shall determine the estimated amount of such costs and give notice thereof to the applicant. The applicant shall pay the costs to the Town Treasurer prior to further review of the application. In the event the Town Board determines such costs shall be greater, or likely to be greater, than previously anticipated, the applicant shall be so notified of the additional review cost advance necessary before review continues. In the event any review cost advance made by the applicant is not used for engineering, legal or other review expenses, such advanced review costs shall be refunded to the applicant.
6. Once the applicant has submitted any additional information and has paid the additional administrative fee in the amount charged, the retained expert shall report to the Town Board on whether the renewal application meets the requirements of this Chapter. The Town Chair shall place the request on the agenda of the next regular meeting or a special meeting of the Town Board prior to the expiration of the license.
7. The Town Board shall grant the request for renewal if it finds:
 - a. There have been no material violations of the Section or the license which have not been appropriately remedied, and
 - b. The operator has not received multiple or recurring citations or orders for violations of the operator's license or this Section, and
 - c. All applicable fees have been paid and financial responsibility requirements have been met, and
 - d. All ownership changes and modifications to the operation plan have been approved by the Town Board.
8. If the Town Board denies the request for renewal, the Town Board shall notify the applicant in writing and provide the applicant with an opportunity for a hearing.

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(9) FINANCIAL ASSURANCE

- (a) Financial assurance shall be provided to the Town as a condition of license approval or renewal in the amount determined by the Town's consultants to be one hundred and fifty percent (150%) of all amounts retained necessary for the following:
 - 1. Road repair. An amount deemed necessary by the Town Board for the repair and maintenance of Town roads used for vehicular traffic transporting materials to or from the site.
 - 2. Water Supply. An amount deemed necessary by the Town Board to provide an alternative water supply to residences or agricultural operations within 1 mile of the site, or such other area shown to have been adversely affected by the mining operations, where the quantity or quality of water to such residences or agricultural operations has been adversely affected by the mining operation.
- (b) The form of financial assurance furnished the Town of River Falls shall be in such form as required by the Town Board and may include, but is not limited to, performance bonds, irrevocable letters of credit or other measures or assurances as determined by the Town Board.
- (c) In the event the Town Board determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been substantially reduced or otherwise dedicated to specific needs, the Town Board shall notify the operator of the additional amount required and the basis for the request. The operator shall thereafter have a period of 30 days to provide the additional financial assurance.
- (d) The operator shall provide the Town proof that it has provided the financial assurance for reclamation required under Wisconsin law. It shall maintain such financial assurance for reclamation throughout the license period.

(10) DAMAGES TO PRIVATE WATER SUPPLY

- (a) A property owner within 1 mile of the mine site may seek remedies from the licensee under Section 12.09(10)(b-e) for any of the following damages to private water supply caused by the mining operation:
 - 1. A preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property.

- 2032 2. There is a substantial adverse impact on the quantity of water from a
2033 private well on the owner's property, including but not limited to the
2034 inability of any such well to provide water on a continuous basis.
2035
- 2036 3. There is a lowering of surface waters which serve as a source of water for
2037 personal, residential, agricultural or municipal functions on the owner's
2038 property to levels below base flow levels for more than 5 days.
2039
- 2040 (b) Any property owner seeking a remedy under this section shall
2041 simultaneously file a notice with the Town and the mine operator of the
2042 occurrence of the event under Section 12.09(10)(a) explaining the nature
2043 and extent of the problem.
2044
- 2045 (c) Within 24 hours of receipt of such notice under Section 12.09(10)(b), the
2046 Town may use funds provided under Section 12.09(9) to provide an
2047 adequate interim water supply. The Town shall also use funds under
2048 Section 12.09(9) to indemnify the Town for any claims filed under Wis.
2049 Stat. §281.77(4). Any interim water supply shall continue until the Town
2050 has approved the report or plan under Section 12.09(10)(d).
2051
- 2052 (d) Within 20 days of receipt of notice under Section 12.09(10)(b), the mine
2053 operator shall provide to the property owner and to the Town a report which
2054 demonstrates that the impact to the property owner was not attributable to
2055 the mining operation or shall present a plan for a permanent alternative
2056 water supply which shall be paid by the operator.
2057
- 2058 (e) In consultation with the property owner the Town shall review the report or
2059 plan and approve or deny such plan. If the Town determines that the mine
2060 operator was not the cause of damage to the private water supply, the
2061 operator may elect to be reimbursed by the property owner for the costs of
2062 supplying water during the preceding period not exceeding one year.
2063
- 2064 (f) A property owner beyond one (1) mile of the mine site may apply to the
2065 Town for use of funds under Section 12.09(9) to remedy damages to a
2066 private water supply identified in Section 12.09(10)(a), provided that the
2067 property owner can demonstrate to the Town that the damage to the private
2068 water supply was caused by the mine. If the Town determines that the
2069 damage was caused by the mine operation, the property owner can utilize
2070 the remedies in Section 12.09(10)(b-d).
2071

2072 (11) MINING AGREEMENT
2073

- 2074 (a) Any of the provisions of this Section including the license term, may be
2075 modified by agreement between the Town and the Operator if the Town Board
2076 determines that the agreement provides protections for the public at least
2077 equal to those of this Section.

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(b) No such modification shall be made without first referring the matter to the Town Plan Commission for recommendation following a public hearing to be conducted by the Plan Commission.

(c) All land owners within one (1) mile of the exterior boundary of the mine site shall receive notification of the public hearing at least 14 days prior thereto.

(12) INSPECTION, ENFORCEMENT. PROCEDURES AND PENALTIES

(a) Inspection. In addition to an annual report pursuant to Section 12.09(8)(a)2, the Town Board or other authorized representative of the Town, may make inspections to determine the condition of nonmetallic mining sites in the Town of River Falls in order to safeguard the health and safety of the public and determine compliance with the minimum standards under this Section upon showing proper identification, and upon reasonable notice. When the mine is ready to start operations and every three (3) months thereafter during the first year, the Town authorized representative shall inspect the mine at the operator's expense.

(b) Violations. The following are violations under this section:

1. Engaging in nonmetallic mining without an operator's license granted by the Town Board.
2. Failure to comply with the minimum standards and other terms of this Section.
3. Making an incorrect or false statement in the information and documentation submitted during the licensing process or during inspection of the operation by the Town or its duly appointed representative.
4. Failure to timely file the reports required under Section 12.09(7).
5. Failure to timely file the annual operational report and other reports under Section 12.09(8).
6. Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance under Section 12.09(9) or other order issued by the Town.
7. Failure to comply with all State, County and Town regulations that govern or affect the operator's nonmetallic operation.

(c) Hearings.

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1. Any person or entity affected by a notice and order issued in connection with the enforcement of this Section under 12.09(12)(d) Remedies, or upon denial of an application for a license or license renewal, may request and shall be granted a hearing on the matter before the Town Board, provided such person shall file with the Town Clerk a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty days of the date the notice and order are served or upon 30 days upon denial of an application for a renewal. Upon receipt of the petition, the Town Clerk shall set a time and place for a hearing before the Town Board and shall give the petitioner written notice thereof.
 2. After the hearing, the Town Board by a majority vote, shall sustain, modify or withdraw the notice under Section 12.09(12)(d), or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Section have been complied with, and the petitioner shall be notified within ten days in writing of such findings.
 3. The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore shall be summarized in writing and filed in the office of the Town Clerk. Such record shall also include a copy of every notice and order issued in connection with the hearing.
 4. Any cost incurred by the Town for the hearing and evaluation (consultants, engineers, attorneys, etc.) shall be at the petitioner's expense. Prior to the hearing the Petitioner shall submit to the Town Clerk such amount as the Town Board reasonably deems necessary to pay for the cost of such consultants, engineers, attorneys or other experts as the Town Board deems reasonably necessary to prepare for and conduct the hearing and evaluation.
- (d) Remedies. The Town Board may take any appropriate action or proceeding against any person or entity in violation of this Section, including the following:
1. Issue a stop work order.
 2. Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
 3. Issue a citation in accord with the Town of River Falls citation ordinance. The citation may be issued by the Town Chair or Town Attorney.
 4. Refer the matter to legal counsel for consideration and commencement of legal action under Section 12.09(12)(f) to obtain injunctive relief and/or to

2170 advise the Town considering the issuance of a citation under Section
2171 12.09(12)(d)3 above.

2172
2173 5. Suspend or revoke the operator's license under Section 12.09(12)(e).

2174
2175 (e) License Suspension or Revocation. After giving written notice and providing
2176 the licensee with an opportunity for a hearing, the Town Board may suspend
2177 or revoke an operator's license for a violation of this Section or any conditions
2178 or requirements imposed as a license condition.

2179
2180 (f) Penalties.

2181
2182 1. Any person or entity adjudicated guilty of a violation of this Section shall
2183 pay a forfeiture of not less than \$1000 per violation nor more than \$10,000
2184 per violation, and/or be subject to injunctive relief. Each day a violation
2185 exists is a separate violation.

2186
2187 2. Any person or entity adjudicated guilty of a violation of this Section shall
2188 pay court costs and reasonable attorney's fees and any other associated
2189 fees and costs.

2190
2191 3. The remedies provided herein shall not be exclusive of other remedies.

2192
2193 4. The Town may suspend, rescind, cancel or determine not to issue or
2194 reissue a license based upon a violation of any of the provisions of this
2195 Section 12.09 and may seek and obtain injunctive relief to prohibit any
2196 violation.

2197
2198 5. A failure by the Town to take action with respect to any past violation(s)
2199 shall not constitute a waiver of the Town's right to take action on any
2200 present violation(s).

2201

2202 **12.10 NON-METALLIC MINING RECLAMATION.**

2203

2204 (1) PURPOSE. The purpose of this chapter is to establish a local program to ensure
2205 the effective reclamation of nonmetallic mining sites on which nonmetallic
2206 mining takes place in the Town of River Falls after the effective date of this
2207 chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and
2208 Subchapter 1 of Wis. Stat. §295.

2209

2210 (2) STATUTORY AUTHORITY. This chapter is adopted under authority of Wis.
2211 Stat. §295.14(1), Section NR 135.32, Wisconsin Administrative Code, and Wis.
2212 Stat. §60.22.

2213

2214 (3) RESTRICTIONS ADOPTED UNDER OTHER AUTHORITY. The purpose of
2215 this chapter is to adopt and implement the uniform statewide standards for

2216 nonmetallic mining required by Wis. Stat. §295.12(1)(a), and contained in
2217 Chapter NR 135, Wisconsin Administrative Code. It is not intended that this
2218 chapter repeal, abrogate, annul, impair or interfere with any existing rules,
2219 regulation, ordinances or permits not concerning nonmetallic mining reclamation
2220 previously adopted pursuant to other Wisconsin law.
2221

2222 (4) INTERPRETATION. In their interpretation and application, the provisions of
2223 this chapter shall be held to be the applicable requirements for nonmetallic mining
2224 reclamation and shall not be deemed a limitation or repeal of any other power
2225 granted by the Wisconsin Statutes outside the reclamation requirements for
2226 nonmetallic mining sites required by subchapter 1 of Wis. Stat. §295, and Chapter
2227 NR 135, Wisconsin Administrative Code. Where any terms of this chapter may
2228 be inconsistent or conflicting, the more restrictive requirements or interpretation
2229 shall apply. Where a provision of this chapter is required by Wisconsin Statutes,
2230 or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where
2231 the provision is unclear, the provision shall be interpreted to be consistent with the
2232 Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin
2233 Administrative Code.
2234

2235 (5) APPLICABILITY.
2236

2237 (a) Overall Applicability. The requirements of this chapter apply to all operators
2238 of nonmetallic mining sites within the Town of River Fall operating on or
2239 commencing to operate after August 1st, 2001 and as provided in Section NR
2240 135.02(1) and (2), Wisconsin Administrative Code.
2241

2242 (b) Exemptions. This chapter does not apply to the exempt activities listed in
2243 Section NR 135.02(3), Wisconsin Administrative Code.
2244

2245 (6) ADMINISTRATION. The provisions of this chapter shall be administered by the
2246 Town Board.
2247

2248 (7) EFFECTIVE DATE. The provisions of this chapter shall take effect on
2249 September 15, 2003.
2250

2251 (8) DEFINITIONS. All definitions for the purposes of this chapter are those
2252 contained in Section NR 135.03, Wisconsin Administrative Code.
2253

2254 (9) STANDARDS. All nonmetallic mining sites subject to this chapter shall be
2255 reclaimed in conformance with the standards contained in Subchapter II of
2256 Chapter NR 135, Wisconsin Administrative Code.
2257

2258 (10) NONMETALLIC MINING RECLAMATION PERMIT APPLICATION.
2259

2260 (a) Required Submittal. The operator of all nonmetallic mining sites that operate
2261 on or after August 1st, 2001, shall apply for a reclamation permit from the

2262 Town of River Falls. All reclamation permit applications under this section
2263 shall be accompanied by the information required by Section NR 135.18(3),
2264 Wisconsin Administrative Code.

2265
2266 (b) New Mines. The operator of any nonmetallic mine site that engages in or
2267 plans to engage in nonmetallic mining that will operate after August 1st, 2001
2268 shall submit an application that meets the requirements of Sections NR
2269 135.18(2), Wisconsin Administrative Code and the submittals required under
2270 Section 12.10(10)(a) to the Town Clerk prior to beginning operations. This
2271 application shall be accompanied by a plan review fee as is set from time to
2272 time by resolution of the Town Board.

2273
2274 (11) RECLAMATION PLAN.

2275
2276 (a) Reclamation Plan Requirements. All operators of nonmetallic mining sites
2277 subject to this chapter shall prepare and submit a reclamation plan that meets
2278 the requirements of Section NR 135.19, Wisconsin Administrative Code.

2279
2280 (b) The operator of any nonmetallic mining site that applies for a permit shall
2281 submit the reclamation plan required by Section 12.10(11)(a) with its
2282 application for a reclamation permit.

2283
2284 (c) Existing Plans and Approvals. To avoid duplication of effort, the reclamation
2285 plan required by Section 12.10(11)(a) may, by reference, incorporate existing
2286 plans or materials that meet the requirements of this chapter.

2287
2288 (d) Approval of Reclamation Plan. The Town of River Falls shall approve,
2289 conditionally approve, or deny the reclamation plan submitted under this
2290 section in writing as part of permit issuance pursuant to Section 12.10(14)(b)
2291 for existing mines and Section 12.10(14)(d) for expedited review. **Conditional**
2292 **approvals of reclamation plans shall be made according to Section**
2293 **12.10(14)(g).** The operator shall keep a copy of the reclamation plan required
2294 by this section, once approved by the Town Board under this chapter, at the
2295 mine site or, if not practicable, at the operator's nearest office or place of
2296 business. Such approval shall be reviewed by the Town Engineer for his/her
2297 recommendation.

2298
2299 (12) FINANCIAL ASSURANCE.

2300
2301 (a) Financial Assurance Requirements. All operators of nonmetallic mining sites
2302 in the Town of River Falls shall prepare and submit a proof of financial
2303 assurance of successful reclamation that meets the requirements of Section
2304 135.40, Wisconsin Administrative Code.

2305
2306 (b) The operator of any nonmetallic mining site that applies for a reclamation
2307 permit in conformance with Section 12.10(10) shall submit the proof of

2308 financial assurance required by Section 12.10(12)(a) of the General Code as
2309 specified in the reclamation permit issued to it under this chapter.

2310

2311 (c) Public Nonmetallic Mining. The financial assurance requirements of this
2312 section do not apply to nonmetallic mining conducted by the State of
2313 Wisconsin, a state agency, board, commission or department, or a
2314 municipality.

2315

2316 (13) PUBLIC NOTICE AND RIGHT OF HEARING.

2317

2318 (a) The Town of River Falls shall provide public notice and the opportunity for a
2319 public informational hearing as set forth in Section NR 135.20(1) and (2),
2320 Wisconsin Administrative Code for any nonmetallic mining site for which a
2321 complete reclamation permit application is received.

2322

2323 (b) Local Transportation-related Mines. No public notice or informational
2324 hearing is required for a nonmetallic mining reclamation permit issued to a
2325 local transportation-related mine pursuant to Section 12.10(14)(e) of the
2326 General Code.

2327

2328 (14) ISSUANCE OF A NONMETALLIC MINING RECLAMATION PERMIT.

2329

2330 (a) Permit Required. Every operator of a nonmetallic mining site in the Town of
2331 River Falls who engages in or plans to engage in nonmetallic mining after
2332 September 1st, 2001, shall obtain a reclamation permit issued under this
2333 section, except nonmetallic mining sites exempt from this chapter as provided
2334 in Section 12.10(5)(b). No person may engage in nonmetallic mining or
2335 nonmetallic mining reclamation after September 1st, 2001, without a
2336 reclamation permit issued pursuant to this chapter.

2337

2338 (b) Permit Issuance. Applications for reclamation permits for nonmetallic mining
2339 sites that satisfy Section 12.10(10) shall be issued a reclamation permit or
2340 otherwise acted on as provided in Section NR 135.21(2), Wisconsin
2341 Administrative Code. The permit shall require compliance with a reclamation
2342 plan submitted by the applicant that conforms with Section 12.10(11)(c), and
2343 provision by the applicant of financial assurance that conforms with Section
2344 12.10(12)(c) payable to the Town of River Falls prior to beginning mining.

2345

2346 (c) Automatic Permit for Local Transportation-related Mines. The Town Board
2347 shall issue an automatic permit under this subsection for any borrow site
2348 operated to provide material for a locally-administered transportation project
2349 that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative
2350 Code. This automatic permit shall be issued according to the provisions of
2351 Sections NR 135.23(1)(b) through (i), Wisconsin Administrative Code.

2352

- 2353 (d) Expedited Review. Any operator of a nonmetallic mining site may obtain an
2354 expedited review of a reclamation permit application by paying the expedited
2355 review fee specified in Section 12.10(23)(b). The expedited review shall be
2356 carried out according to the provisions of Section NR 135.23(2), Wisconsin
2357 Administrative Code. Such expedited review shall not waive, shorten or
2358 otherwise affect the public notice and right of hearing pursuant to Section
2359 12.10(13).
2360
- 2361 (e) Permit Conditions. Permits issued under this section may include conditions
2362 as provided in Section NR 135.21(3), Wisconsin Administrative Code. One
2363 required condition shall be that mines shall obtain financial assurance prior to
2364 beginning mining pursuant to Section NR 135.40, Wisconsin Administrative
2365 Code.
2366
- 2367 (15) PERMIT DENIAL. An application for a nonmetallic mining reclamation permit
2368 shall be denied if any of the factors specified in Section NR 135.22, Wisconsin
2369 Administrative Code exist.
2370
- 2371 (16) ALTERNATIVE REQUIREMENTS.
2372
- 2373 (a) Scope of Alternative Requirements Approvable. An operator of a nonmetallic
2374 mining site may request an alternative requirement to any reclamation
2375 standard established in Section 12.10(9). Such a request may be made only on
2376 the basis of the criteria set forth in Section NR 135.26(1), Wisconsin
2377 Administrative Code.
2378
- 2379 (b) Procedures. The operator of a nonmetallic mining site requesting an alternate
2380 requirement in Section 12.10(16)(a) shall demonstrate all the criteria in
2381 Section NR 135.26(1), Wisconsin Administrative Code. This shall be
2382 submitted in writing to the Town Board.
2383
- 2384 (c) Transmittal of Decision on Request for Alternate Requirements. The decision
2385 on a request for alternative reclamation requirements shall be in writing to the
2386 applicant and shall include documentation of why the alternative requirement
2387 was or was not approved.
2388
- 2389 (d) Notice to Wisconsin Department of Natural Resources. The Town Board of
2390 River Falls shall provide notice to the Wisconsin Department of Natural
2391 Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative
2392 Code.
2393
- 2394 (17) PERMIT DURATION. A nonmetallic mining reclamation permit issued under
2395 this chapter shall last through operation and reclamation of the nonmetallic
2396 mining site, unless suspended or revoked pursuant to Section 12.10(29)(b), or as
2397 limited under Section NR 135.27, Wisconsin Administrative Code where the mine
2398 operator is not the landowner.

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- (18) PERMIT TRANSFER. A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.
- (19) REVIEW. Any permitting decision or action made by Town of River Falls under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.
- (20) PERMIT MODIFICATION.
 - (a) By the Town of River Falls. A nonmetallic mining reclamation permit issued under this chapter may be modified by Town Board if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this chapter. Such modification shall be by an order conforming with the procedures in Section 12.10(29) of the General Code and as provided in Section NR 135.24(1), Wisconsin Administrative Code.
 - (b) At the Operator's Option. If operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, it may request such modification by submitting a written application for such modification to the Town Clerk. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.
 - (c) Required by the Operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit is required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.
 - (d) Review. All actions on permit modifications requested or initiated under this section are subject to review under Section 12.10(19).
- (21) PERMIT SUSPENSION OR REVOCATION.
 - (a) Grounds. Town of River Falls Board may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.
 - (b) Procedures. If the Town of River Falls finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in Section 12.10(22)(a), it may issue a special order suspending or revoking such permit as set forth in Section 12.10(29)(b).

2444 (c) Consequences. The consequences of a reclamation permit suspension or
2445 revocation order under Section 12.10(21)(b) of the General Code shall be as
2446 set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.
2447

2448 (22) ANNUAL OPERATOR REPORTING.
2449

2450 (a) Contents and Deadline. Annual reports shall be submitted by the operators of
2451 nonmetallic mining sites that satisfy the requirements of Section 135.36,
2452 Wisconsin Administrative Code. These reports shall be for reclamation
2453 during a calendar year, and submitted in writing within 60 days of the end of
2454 each calendar year to the Town Clerk on forms provided. Annual reports shall
2455 be submitted until reclamation at each nonmetallic mining site is certified as
2456 complete under Section 12.10(26)(c).
2457

2458 (b) Inspection in Lieu of Report. The Town Board may, at its discretion, obtain
2459 the information required in Section 12.10(22)(a) of the General Code by
2460 written documentation of an inspection it completes during a calendar year, as
2461 set forth in Section NR 135.36(4), Wisconsin Administrative Code.
2462

2463 (c) Retention of Annual Reports. Annual reports submitted under this section or
2464 inspection records that replace them shall be retained by the Town Clerk for at
2465 least 10 years after the calendar year to which they apply. These records, or
2466 accurate copies of them, shall be made available to the Wisconsin Department
2467 of Natural Resources upon written request or during its inspection or audit
2468 activities carried out pursuant to Chapter NR 135, Wisconsin Administrative
2469 Code.
2470

2471 (23) PLAN REVIEW FEES.
2472

2473 (a) Amount and Applicability. A person who intends to operate a nonmetallic-
2474 mining site for which a permit application has been submitted under Section
2475 12.10(10) shall submit a non-refundable plan review fee as set by the Town
2476 Board from time to time. No plan review fee may be assessed under this
2477 section for any nonmetallic mine site for which an application for an
2478 automatic reclamation permit is submitted that meets the requirements of
2479 Section 12.10(10)(b) or for any local transportation related mine issued an
2480 automatic permit under Section 12.10(14)(e). A separate plan review fee shall
2481 be paid under this section for any modification to an existing reclamation plan
2482 submitted pursuant to Section 12.10(20).
2483

2484 (b) Expedited Plan Review Fee. A person who intends to operate a nonmetallic
2485 mining site for which a permit application has been submitted under Section
2486 12.10(10) may obtain expedited reclamation plan review by paying a fee as
2487 set by the Town Board from time to time. Such fee shall be in addition to that
2488 required in Section 12.10(23)(a).
2489

2490 (c) Relation to Annual Fee. Any reclamation plan review fee or expedited
2491 reclamation plan review fee collected under this section shall be added to and
2492 collected as part of the first annual fee collected under Section 12.10(24).
2493

2494 (24) ANNUAL FEES.
2495

2496 (a) Areas Subject to Fees, Procedures and Deadline. Operators of all nonmetallic
2497 mining sites subject to reclamation permits issued under this chapter to the
2498 Town of River Falls. Fees paid under this section shall include both a share
2499 for the Wisconsin Department of Natural Resources under Section
2500 12.10(24)(b) and a share for the Town of River Falls under Section
2501 12.10(24)(c) that equals as closely as possible the costs of examination and
2502 approval on nonmetallic mining reclamation plans and the inspection of
2503 nonmetallic mining reclamation sites. These fees shall be calculated based on
2504 amount of unreclaimed acres of each site, as defined in Section NR 135.39(1),
2505 Wisconsin Administrative Code and according to its provisions. Such fees
2506 apply to a calendar year or any part of a year in which nonmetallic mining
2507 takes place, until final reclamation is certified as complete under Section
2508 12.10(26). Fees shall be paid no later than December 31 before the year for
2509 which they apply.
2510

2511 (b) Wisconsin Department of Natural Resources Share of Fee. Fees paid under
2512 this section shall include a share for the Wisconsin Department of Natural
2513 Resources equal to the amount specified in Section NR 135.39(3), Wisconsin
2514 Administrative Code. For sites on which no nonmetallic mining has taken
2515 place during a calendar year, fees to be paid under this section for the
2516 following year shall be the current fee as required by DNR.
2517

2518 (c) Town of River Falls Fees. Fees will be as set by the Town Board from time to
2519 time.
2520

2521 (25) REGULATORY REPORTING AND DOCUMENTATION.
2522

2523 (a) Reporting. The Town Board shall send an annual report to the Wisconsin
2524 Department Resources including the information required by Section NR
2525 135.37, Wisconsin Administrative Code.
2526

2527 (b) Documentation. The Town Board shall, to the best of its ability, maintain the
2528 information set forth in Section NR 135.47(3), Wisconsin Administrative
2529 Code, and make it available to the Wisconsin Department of Natural
2530 Resources for that agency's audit of the Town of River Falls' reclamation
2531 program pursuant to Section NR 135.47, Wisconsin Administrative Code.
2532

2533 (26) COMPLETED RECLAMATION – REPORTING, CERTIFICATION AND
2534 EFFECT.
2535

- 2536 (a) Reporting. The operator of a nonmetallic mining site may certify completion
2537 of reclamation for a portion or all of the nonmetallic mining site pursuant to a
2538 reclamation plan prepared and approved pursuant to this chapter and Chapter
2539 NR 135, Wisconsin Administrative Code. Such certification to be filed with
2540 the Town Clerk on forms provided.
2541
- 2542 (b) Reporting of Interim Reclamation. The operator of a nonmetallic mining site
2543 may report completion of interim reclamation as specified in the reclamation
2544 plan for the site prepared and approved pursuant to this chapter and Chapter
2545 NR 135, Wisconsin Administrative Code. Reporting of Interim reclamation
2546 shall be done according to the procedures in Section 12.10(26)(a).
2547
- 2548 (c) Certification of Completed Reclamation. The Town Board shall inspect a
2549 nonmetallic mining site for which reporting of reclamation or interim
2550 reclamation has been submitted pursuant to this subsection within 60 days of
2551 receipt, and make a determination in writing in accordance with Section NR
2552 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim
2553 or final reclamation is complete, including revegetation as specified in a plan
2554 that conforms with Section 12.10(11), the Town Board shall issue the mine
2555 operator a written certificate of completion.
2556
- 2557 (d) Effect of Completed Reclamation. If reclamation is certified by the Town
2558 Board as complete under Section 12.10(26)(c) for part or all of a nonmetallic
2559 mining site, then:
2560
- 2561 1. No fee shall be assessed under Section 12.10(24) for the area so certified.
 - 2562
 - 2563 2. The financial assurance required by Section 12.10(12) shall be released.
 - 2564
 - 2565 3. For sites which are reported as interim reclaimed under Section
2566 12.10(26)(b), and so certified under Section 12.10(26)(c), financial
2567 assurance for reclaiming the certified area shall be reduced.
2568
- 2569 (e) Effect of Inaction Following Report of Completed Reclamation. If no written
2570 response as required by Section 12.10(26)(c) for an area of the mine site
2571 reported as reclaimed or interim reclaimed is given within 60 days of
2572 receiving such request, any annual fee paid to the Town of River Falls Board
2573 for it under Section 12.10(24) shall be refunded.
2574
- 2575 (27) PERMIT TERMINATION. When all final reclamation required by a reclamation
2576 plan conforming to Section 12.10(11) and required by this chapter is certified as
2577 complete pursuant to Section 12.10(25), the Town of River Falls Board shall issue
2578 a written statement to the operator of the nonmetallic mining site, thereby
2579 terminating the reclamation permit.
2580

- 2581 (28) RIGHT OF ENTRY AND INSPECTION. For the purpose of ascertaining
2582 compliance with the provisions of Subchapter I of Chapter 295, Wisconsin
2583 Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any
2584 authorized officer, agent, employee or representative of the Town Board may
2585 inspect any nonmetallic mining site subject to this chapter as provided in Wis.
2586 Stat. §295.17(1), and Section NR 135.42, Wisconsin Administrative Code.
2587
- 2588 (29) ORDERS AND CITATIONS.
2589
- 2590 (a) Enforcement Orders. The Town Board may issue orders as set forth in
2591 Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter
2592 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code,
2593 this chapter, a permit issued pursuant to this chapter or a reclamation plan
2594 required by Section 12.10(11) of the General Code and a permit issued under
2595 this chapter. A violation of this chapter, an order or permit issued pursuant to
2596 this chapter or a reclamation plan required by Section 12.10(11) and a permit
2597 issued under this chapter shall be considered a violation of Subchapter I of
2598 Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin
2599 Administrative Code.
2600
- 2601 (b) Special Orders. The Town Board may issue a special order as set forth in
2602 Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a
2603 nonmetallic mining reclamation permit pursuant to Section 12.10(21), or
2604 directing an operator to immediately cease an activity regulated under
2605 Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin
2606 Administrative Code or this chapter until the necessary plan approval is
2607 obtained.
2608
- 2609 (c) Review of Orders. An order issued under Section 12.10(29)(a) or (b) may be
2610 reviewed as provided in Section NR 135.43(2), Wisconsin Administrative
2611 Code.
2612
- 2613 (d) Citations. The Town of River Falls Board may issue a citation under Wis.
2614 Stat. §66.119 to collect forfeitures or require any action needed to enforce
2615 Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin
2616 Administrative Code, this chapter, a permit issued pursuant to this chapter or a
2617 reclamation plan required by Section 12.10(11) and a permit issued under this
2618 chapter. The issuance of a citation under this subsection shall not preclude
2619 proceeding under any other ordinance or law relating to the same or any other
2620 matter. Proceeding under any other ordinance or law relating to the same or
2621 any other matter shall not preclude the issuance of a citation under this
2622 subsection.
2623
- 2624 (e) Enforcement. The Town Board may submit any order issued under Section
2625 12.10(29) to the district attorney, the corporation counsel, the municipal

2626 attorney or the attorney general for enforcement as provided in Wis. Stat.
2627 §295.19(1)(d),
2628

2629 (30) PENALTIES. Any violation of Subchapter I of Wis. Stat. §295, , Chapter NR
2630 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this
2631 chapter or a reclamation plan required by Section 12.10(11) and a permit issued
2632 under this chapter may result in forfeitures as provided in Section 295.19(3),
2633 Wisconsin Statutes and the Town Board.
2634

2635 **12.11 METALLIC MINING LICENSE**

2636 (1) FINDINGS, PURPOSE AND AUTHORITY

2637
2638
2639 (a) Findings. Metallic mining constitutes a permissible activity in the State’s
2640 economy and has the potential to both beneficially or adversely impact Town
2641 residents, environments and economies. Metallic mining may provide
2642 employment opportunities, needed industrial materials and significant
2643 economic benefits to local communities. Metallic mining operations,
2644 however, have the potential to create nuisance conditions, negatively impact
2645 property values and present health and safety impacts to Town residents if not
2646 properly designed and operated. While many aspects of metallic mining
2647 operations are subject to state or federal regulation, some are not.
2648

2649 (b) Purpose. The purpose of this Section is to establish local minimum standards
2650 for Mining Operations conducted within the Town, and a process by which to
2651 systematically consider metallic mineral licenses in a manner that promotes
2652 the health, safety, welfare, and convenience of the Town and its residents.
2653 The general intent of this Section is to minimize or prevent any adverse on- or
2654 off-site impacts flowing from and as a result of metallic mining operations.
2655 The objectives of this Section are to set forth rules and procedures to govern
2656 metallic mining within the Town, establish procedures for the administration
2657 and enforcement of this Section, and provide penalties for its violation.
2658

2659 (c) Authority. This Section is adopted by the powers granted to the Town of
2660 River Falls by the Town’s adoption of village powers under Wis. Stat.
2661 §§ 60.10, 60.22(3) and 61.34, its authority under Wis. Stat. §66.0415, and
2662 other authority granted to it under the statutes.
2663

2664 (2) DEFINITIONS. Any term not expressly defined in this Section shall have the
2665 meaning set forth in Wis. Stat. Ch. 293 and if not defined therein then as defined
2666 in Wisconsin Administrative Code Ch. NR 132, and if not defined therein then as
2667 defined in Wisconsin Administrative Code Ch. Chapter 182.
2668

2669 (a) “Buffer” means an undisturbed vegetated area measured from the property
2670 line of the Mining Site into the Mining Site, in which no Mining Operations,

- 2671 structures or roads can occur or be constructed except for the construction and
2672 maintenance of a vegetated berm.
2673
- 2674 (b) “Dwelling” means a structure or part of a structure that is used or intended to
2675 be used and occupied for human habitation as a home or residence by one or
2676 more persons.
2677
- 2678 (c) “Mining” or “Mining Operation” means all or part of the process involved in
2679 the mining of nonferrous metallic minerals, other than for exploration, bulk
2680 sampling, or prospecting, including, but not limited to, commercial extraction,
2681 agglomeration, beneficiation, construction of roads, removal of overburden
2682 and the production of refuse.
2683
- 2684 (d) “Mining License” means a license issued by the Town which is required of all
2685 Mining Operations as a condition precedent to commencing Mining at a
2686 Mining Site.
2687
- 2688 (e) “Mining Site” means the surface area disturbed by a mining operation,
2689 including, but not limited to, the surface area from which the nonferrous
2690 metallic minerals or refuse or both have been removed, the surface area
2691 covered by the refuse, all lands disturbed by the construction or improvement
2692 of haulageways, and any surface areas in which processing facilities,
2693 structures, equipment, materials and any other things used in the Mining
2694 Operation are situated, operated, conducted or otherwise utilized.
2695
- 2696 (f) “Person” means any person, individual, owner, operator, corporation, limited
2697 liability company, partnership, association, municipality, interstate agency,
2698 state agency or federal agency.
2699
- 2700 (g) “Operator” means any person who is engaged in, or who has applied for and
2701 been granted a Mining License to engage in Mining, whether individually,
2702 jointly or through subsidiaries, agents, employees or contractors.
2703
- 2704 (h) “Section” means this metallic mining section of the Town’s codebook.
2705
- 2706 (i) “Retained expert” means professional consultants, including, but not limited
2707 to, engineers, attorneys, planners, environmental specialists, and other
2708 consultants with skills relevant to reviewing, processing and acting upon
2709 applications for an Mining License or to issues associated with the inspection,
2710 monitoring and enforcing of approvals arising under this Section.
2711
- 2712 (j) “Town” means the Town of River Falls.
2713
- 2714 (k) “Town Board” means the Town Board of the Town of River Falls.
2715

- 2716 (3) APPLICABILITY, EXEMPTIONS, INTERPRETATION, AND EFFECTIVE
2717 DATE
2718
- 2719 (a) Applicability. This Section shall apply to the use and proposed use of land
2720 within the Town for the purpose of metallic mining and any proposed Mining
2721 Operation regardless of when such use is commenced and regardless of where
2722 such use is proposed within the Town.
2723
- 2724 (b) Exemptions. This Section does not apply to:
2725
- 2726 1. Exploration, bulk sampling or prospecting activities as defined under Wis.
2727 Stat. §293.01.
2728
- 2729 2. The lawful use of a building, structure or lot for Mining Operations which
2730 existed at the time this Section, or an applicable amendment to this
2731 Section that took effect and which is not in conformity with the provisions
2732 of this Section, subject to the following conditions:
2733
- 2734 a. if a preexisting use is discontinued for 12 consecutive months, any
2735 future use of the building, structure or property shall conform to this
2736 Section;
2737
- 2738 b. uses which are nuisances shall not be permitted to continue.
2739
- 2740 3. Mining Operations where the Town has entered into a local agreement
2741 with the Operator under Wis. Stat. §293.41, and the local agreement
2742 specifically states that this Section, or any portion of this Section, is
2743 inapplicable to that particular Mining Operation.
2744
- 2745 (c) Interpretation. The provisions of this Section shall be held to be minimum
2746 requirements and shall be liberally construed in favor of the Town.
2747
- 2748 (d) Effective Date. Following passage by the Town Board, this Section shall take
2749 effect the day after the date of publication as provided by Wis. Stat. §60.80.
2750
- 2751 (4) MINING LICENSE REQUIRED
2752
- 2753 (a) License Requirement. No person may commence construction of a Mining
2754 Site or engage in any Mining Operations in the Town except in conformance
2755 with a valid Mining License issued by the Town pursuant to this Section or as
2756 otherwise authorized by a mining agreement as set forth in the Section or a
2757 local agreement under Wis. Stat. §293.41.
2758
- 2759 (b) Compliance. Conditions established by any Mining License pursuant to this
2760 Section must be met at all times or the Operator may be found in violation and

2761 subject to enforcement, fines, penalties and Mining License revocation as
2762 provided in this Section.

2763

2764 (c) Effective Date. Except as provided in this Section, a Mining License issued
2765 pursuant to this Section shall become valid on the date the Operator is
2766 awarded a State of Wisconsin Metallic Mineral Mining Permit for the same
2767 mining site.

2768

2769 (d) Duration of License. The Mining License issued in accordance with this
2770 Section shall last through operation and reclamation of the Mining Site
2771 provided the Operator complies with all conditions of the Mining License, all
2772 provisions of this Section, all required state and local licenses, permits,
2773 approvals and financial assurances are maintained, and suspension or
2774 revocation of the Mining License does not occur pursuant to this Section.

2775

2776 (e) Major License Modifications. If a Mining License has been issued, both the
2777 Town and the Operator may pursue an amendment to that Mining License
2778 during the Mining License term pursuant to this section.

2779

2780 1. The Town reserves the right to reopen and modify any Mining License if
2781 it is determined by the Town Board, upon the basis of newly discovered
2782 evidence, including, but not limited to, evidence presented by
2783 governmental or other regulatory bodies for the same Mining Operation,
2784 such mining activity pursuant to the Mining License would, without
2785 further conditions placed on the Mining License, substantially endanger
2786 the environment, public health, safety or welfare of the community. Any
2787 action to reopen a Mining License shall be done by hearing with at least
2788 30 days' notice to the Operator. In order to reopen the Mining License
2789 and modify any terms and conditions, the Town Board must determine
2790 that there is reasonable cause to believe that the newly discovered
2791 evidence demonstrates a substantial threat to the environment, public
2792 health, safety or welfare.

2793

2794 2. The Town reserves the right to reopen and modify any Mining License if
2795 newly discovered evidence shows that there is new science or technology
2796 that would substantially decrease the impact of the Mining Operations on
2797 human health, safety, welfare or the environment or would substantially
2798 and cost-effectively allow the required outcome of the planned
2799 reclamation to be accomplished in less time or with greater certainty. Any
2800 action to reopen a Mining License shall be done by hearing with at least
2801 30 days' notice to the Operator. In order to reopen the Mining License
2802 and modify any terms and conditions under this section, the Town Board
2803 must determine that there is reasonable cause to believe that the newly
2804 discovered science or technology substantially decreases the impact of the
2805 Mining Operations on human health, safety, welfare or the environment or

2806 would substantially and cost-effectively allow the planned reclamation to
2807 be accomplished in significantly less time or with greater certainty.

2808

2809 3. For the Town to reopen a Mining License, the Town Board shall identify
2810 the specific terms of the Mining License subject to reopening and shall
2811 hold a public hearing and issue a report that considers the specific
2812 reason(s) for reopening the license before voting on the proposed
2813 modification. The Town Board shall consider the report's findings and
2814 vote to either reopen or not to reopen the Mining License based on the
2815 report's findings and in accordance with the procedures established by this
2816 Section. A decision to reopen and modify a Mining License must be
2817 adopted by a vote of two-thirds of the entire membership of the Town
2818 Board.

2819

2820 4. Should the Operator desire to modify the Mining License in any way, it
2821 may request modification by submitting a written application and evidence
2822 supporting such modification to the Town Clerk. Such application shall
2823 be in substantially the same form as the original application for the Mining
2824 License, with the same level and substance of information required,
2825 although it shall be permissible to incorporate by reference any portions of
2826 the original Mining License application that still pertain to the re-opening
2827 request. Upon receipt of the application to modify the Mining License, the
2828 Town Clerk and Town Board shall follow the procedures outlined in this
2829 Section for review of an application for a Mining License.

2830

2831 (f) Minor License Modifications. The Town Board has the discretion to
2832 determine that a proposed Mining License modification is so inconsequential
2833 in scope or limited in proposed duration that the Mining License modification
2834 procedures outlined under Section 12.11(4)(e) are unnecessary and therefore
2835 inapplicable. If such a determination is made, the Town Board may act on the
2836 proposed minor Mining License modification at a properly noticed Town
2837 Board meeting following the procedure set forth in Section 12.11(4)(f)2
2838 below. If a modification is approved, the Town Clerk shall issue written
2839 notice of the modification to the Operator within 30 days of approval.

2840

2841 1. If the Operator is requesting a Mining License modification that it believes
2842 is minor in nature, the Operator may file a written request describing the
2843 proposed minor Mining License modification with the Town Clerk.
2844 Within 45 days of receipt of such a written request, the Town Board shall
2845 grant the request in whole or in part, deny the request in whole or in part,
2846 or notify the Operator in writing that, in its determination, the requested
2847 modification is not minor in nature and the procedures to be used for
2848 requesting a major Mining License modification as outlined under Section
2849 12.11(4)(e) must be followed.

2850

- 2851 2. If the Town is proposing the minor Mining License modification, the
2852 Town Clerk shall provide the Operator with the following at least 30 days
2853 prior to the Town Board meeting at which the modification will be
2854 considered:
- 2855
- 2856 a. a written explanation of the proposed modification which shall include
2857 a description of the Town Board’s rationale for determining that the
2858 proposed modification is warranted; and,
2859
- 2860 b. written notice of the time, date, and location of the Town Board
2861 meeting at which the modification will be considered.
2862
- 2863 (g) Transfer of License. When one entity succeeds to the interest of another in a
2864 Mining Site, the Town shall release the current Operator of the responsibilities
2865 imposed by the Mining License only if the following conditions are met,
2866 pursuant to the Town’s reasonable discretion:
2867
- 2868 1. Both the Operator and the successor Operator are in compliance with the
2869 requirements and standards of this Section and all other applicable State,
2870 Federal and local laws, requirements, regulations, permits, and licenses.
2871
- 2872 2. The successor Operator assumes the responsibility of the current Operator
2873 in writing and agrees to operate, complete, and reclaim the Mining
2874 Operations in accordance with the Mining License and all other applicable
2875 laws, requirements, regulations, permits, and approvals.
2876
- 2877 3. The successor Operator shows proof of financial responsibility in
2878 substantially the same manner and amount as the current Operator and the
2879 successor Operator agrees to maintain any instrument of financial
2880 assurance at the same level as the current Operator.
2881
- 2882 4. The Town Board makes a written finding that all conditions of the existing
2883 Mining License will be complied with by the successor Operator.
2884
- 2885 (5) PROCEDURES FOR APPLYING FOR A MINING LICENSE
2886
- 2887 (a) Application. An application for a Town of River Falls Mining License shall
2888 be filed with the Town Clerk and shall include an electronic copy and 15
2889 paper copies of the Mining License application requirements. The
2890 Application shall include the information set forth in Section 12.11(6) and as
2891 otherwise reasonably required by the Town.
2892
- 2893 (b) Reimbursement of Fees and Costs.
- 2894
- 2895 1. At the time an application for approval of a Mining License is filed with
2896 the Town, the applicant shall execute for the benefit of the Town an

2897 agreement agreeing to pay and provide adequate security guaranteeing
2898 payment of the cost of the investigation, review and processing of the
2899 application, including, but not limited to, any Retained Experts and Town
2900 staff administrative costs. The agreement and the security shall be in form
2901 and substance acceptable to the Town. The Town shall not begin
2902 processing the application until the preliminary cost reimbursement
2903 agreement is approved and signed and until the required security is
2904 provided to the Town. The Town may accept an initial deposit to begin
2905 license processing and to provide an estimate to the applicant of
2906 anticipated costs, but it shall not be required to incur any processing costs
2907 beyond that for which a deposit or other security has been approved.
2908

- 2909 2. The fees provided by an applicant when submitting a Mining License
2910 application, and for deposit upon being granted a Mining License and
2911 other administrative fee deposits received from the applicant or Operator
2912 shall be placed by the Town in an assigned account, for which statements
2913 shall be issued at least annually, and shall be used as necessary to pay the
2914 Town's reasonable administrative expenses associated with the evaluation
2915 of the Mining License application, including, but not limited to, Retained
2916 Expert fees, legal fees and administrative costs and expenses for holding
2917 required hearings, and other matters compelled by the need to review and
2918 respond to the application for Mining License as provided by this Section,
2919 including environmental monitoring. At the request of an applicant or
2920 Operator that is attempting to transfer its interest in any application or
2921 Mining License, upon any such transfer any monies on deposit in the
2922 assigned account shall be held and applied for the benefit of the transferee,
2923 provided the transferee meets all requirements of this Section and further
2924 provided that if Town approval is required for the applicant or Operator to
2925 transfer such interest then such transfer must first meet with the Town's
2926 approval and satisfaction.
2927

2928 (c) Preliminary Review by Plan Commission.
2929

- 2930 1. Notice and Preliminary Review. Within fifteen (15) days after receiving a
2931 complete Mining License application, the Town Clerk shall forward the
2932 Mining License application to the Plan Commission for initial review to
2933 determine if additional information or expertise is necessary to properly
2934 evaluate the application. Within 30 days of receipt of the application, the
2935 Town Clerk shall also publish or post a class 2 notice under Chapter 985
2936 of the Wisconsin Statutes indicating that a metallic mining application has
2937 been filed and transmitted to the Plan Commission. A copy of the
2938 application shall be made available for public review.
2939
- 2940 2. Additional Information. The Plan Commission may request the applicant
2941 to submit additional information if the Plan Commission determines that
2942 the application is incomplete, or if the Plan Commission determines that

2943 additional information is needed to determine whether the proposed
2944 Mining Operation will meet the standards of this Section. The Plan
2945 Commission may also retain the services of Retained Experts to review
2946 the application and report to the Plan Commission whether additional
2947 information is required for review of the application and to determine
2948 whether the application meets the standards of this Section. The Plan
2949 Commission shall make a determination regarding the need for additional
2950 information or expertise within 90 days after receiving the initial
2951 application. If no additional information or expertise is deemed necessary,
2952 the Plan Commission shall proceed to schedule a final review.

2953
2954 3. Retained Expert Reports. Any Retained Experts shall report to the Plan
2955 Commission on whether the application meets the requirements of this
2956 Section within 90 days of the Retained Expert's receipt of a complete
2957 Mining License application. A complete Mining License application shall
2958 include the following:

- 2959
- 2960 a. the initial application which shall contain all of the information
2961 required by Section 12.11(6);
 - 2962
 - 2963 b. any applicable fees; and
 - 2964
 - 2965 c. any additional information that is provided by the Operator during the
2966 application process to assist the Retained Experts with reviewing the
2967 application.
 - 2968

2969 4. Recommendation to the Town Board. Within 45 days of receipt of any
2970 Retained Expert reports, or if there are no such reports, within 120 days of
2971 receipt of the complete Mining License application, applicable fees and
2972 any additional information, the Plan Commission shall make findings of
2973 fact and either recommend that the Town Board grant the applicant a
2974 license to operate a metallic mine with or without conditions, or
2975 recommend that the Town Board deny the application.

2976
2977 (d) Decision by the Town Board.

2978
2979 1. Notice and Hearing. Upon Recommendation by the Town Plan
2980 Commission, the Town Clerk shall place the Plan Commission's
2981 recommendation on the agenda for the next regular meeting of the Town
2982 Board, provided it can be practically done. At that meeting, the Town
2983 Board shall set a date for a public hearing. At least 15 days prior to the
2984 public hearing, the Town Clerk shall publish or post a class 1 notice under
2985 Chapter 985 of the Wisconsin Statutes and shall provide written notice of
2986 the hearing via U.S. Mail to all landowners immediately adjacent to the
2987 proposed Mining Site. At the public hearing, the Town Board shall take
2988 public comment on the proposed Mining Operation and Mining License.

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2. Town Board Decision. Within 30 days following the public hearing, the Town Chairperson shall set a date for a Town Board meeting to consider a final decision on the Mining License application. At that meeting, the Town Board shall review the complete application, any Retained Experts' reports, and public comments made and information provided at the public hearing. The Town Board shall grant the Mining License if it determines that the Operator and Mining Operation will adhere to and comply with the minimum standards and purposes of this Section and with all conditions, requirements and terms set forth in the Mining License.
3. Remedies on Denial. If the Town Board denies the Mining License request, the applicant may request a hearing before the Town Board by filing a written request for a hearing with the Town Clerk within 30 days of denial. Following the hearing, the Town Board may, in its discretion, reconsider its previous decision on the application. In addition, the applicant may re-submit its Mining License application in accordance with this Section, and re-submittal shall constitute a new application in conformance with all provisions of this Section, provided that any differences between the original Mining License application and the new Mining License application shall be summarized by the applicant in a document entitled "Explanation of Reasons for Re-Submittal." A Mining License application received by re-submittal may be denied for any reason that any original Mining License application may be denied.

(6) MINING LICENSE APPLICATION REQUIREMENTS

- (a) General Requirements. All applicants for a Mining License shall submit the information required in this Section 12.11(6). The applicant may provide this information by reference to other documents submitted to other governmental agencies, but in such cases shall provide a copy of the referenced document and a specific cross reference identifying where the information required by this Section 12.11(6) is located in any referenced material.
- (b) Ownership Information.
 1. The name, address, phone number, and email address of the Operator.
 2. The name, address, phone number, and email address of all owners or lessors of the land on which the Mining Operation will occur.
 3. If the Operator does not own the proposed Mine Site, a copy of a fully executed lease and/or agreement between the landowner and the Operator who will engage in Mining Operations on the proposed Mining Site.

3034 4. Proof that all local taxes, special charges, special assessments, fees, and
3035 forfeitures (and any interest or penalties thereon) owed by the landowner
3036 and/or Operator of the proposed Mining Site are current.
3037

3038 (c) Site Information and Maps.
3039

3040 1. Survey maps and parcel identification numbers of all contiguous parcels
3041 owned by the same landowner/lessor on which the Mining Operation will
3042 be located and any additional contiguous parcels on which the
3043 landowner/lessor has secured a right of first refusal.
3044

3045 2. An aerial photo of the proposed site at a scale of not less than 1 inch
3046 equals 660 feet.
3047

3048 3. A topographic map of the metallic Mining Site extending one mile beyond
3049 the site boundaries at contour intervals no wider than 10 feet showing the
3050 boundaries of the site, the location and total acreage of the site, and the
3051 name of all roads within one mile of the site.
3052

3053 4. A site plan for the metallic Mining Site showing the location of all
3054 existing and proposed buildings and other structures, equipment,
3055 stockpiles, storage and parking areas, road access points, driveways, and
3056 buffer areas along bordering properties and public roads.
3057

3058 5. A plan for staking or marking the borders of the entire Mining Site and for
3059 securing the site by appropriate measures, which may include fencing or
3060 alternative measures consistent with mine safety and security and in
3061 accordance with all applicable laws and regulations.
3062

3063 6. A map on which all residential, agricultural and municipal wells within
3064 one mile of the boundaries of the Mining Site in all directions are marked
3065 and given a numerical identification of the location.
3066

3067 7. The location and name of all surface waters, including, but not limited to,
3068 lakes, private or public ponds, streams (including intermittent streams and
3069 headwaters), drainage ditches, wetlands, drainage patterns, and other water
3070 features on the site and within one mile of the Mining Site.
3071

3072 8. The applicant shall place sufficient test wells to verify the groundwater
3073 elevations, gradient and depth of the groundwater on the Mining Site. In
3074 addition, the applicant shall install sufficient wells to conduct adequate
3075 pump tests to determine the amount of drawdown estimated to occur from
3076 the mining operation. Results of any testing described in this paragraph
3077 shall be provided to the Town Board within 30 days.
3078

- 3079 9. A description of the distribution, depth and type of topsoil for the Mining
3080 Site. The description shall include the geological composition, depth and
3081 width of the metallic deposit and the location of slopes greater than 20%
3082 and highly erodible soils.
3083
- 3084 10. A map identifying the location of all other non-contiguous sites within the
3085 Town or adjacent towns, cities, or villages, if any, that will contribute
3086 material to the Mining Operation for which the applicant seeks a Mining
3087 License.
3088

3089 (d) Operation Plan.
3090

- 3091 1. Dates of the planned commencement and cessation of the operation of the
3092 mine.
3093
- 3094 2. Description of hours of operation of the Mining Site, including all times
3095 when any vehicles will enter or leave any portion of the Mine Site.
3096
- 3097 3. Description of mining methods, machinery and equipment to be used for
3098 extraction and processing of the extracted material, and the sequence of
3099 operations.
3100
- 3101 4. Estimated volume of material to be extracted over the life of the mine and
3102 for the next calendar year.
3103
- 3104 5. Identification of all proposed off-site trucking routes, if any, together with
3105 the frequency of traffic and the common schedule of travel to be used for
3106 transporting extracted materials or products to or from the Mining Site; a
3107 description of the types of vehicles to be used on town roads and their
3108 respective weights, lengths, widths, axle numbers and spacing, and ESAL
3109 ratings both when empty and legally loaded; an assessment, which shall
3110 include core sampling, of the adequacy of roads within proposed off-site
3111 trucking routes and a description of any proposed alterations or
3112 improvements to such roads, and a description of any traffic control or
3113 other measures needed to protect public safety.
3114
- 3115 6. A water budget, including an estimate of the amount of daily water use,
3116 water sources, and methods for disposing of water used or falling on the
3117 Mining Site, including, but not limited to, methods used for infiltration
3118 and control of run-off.
3119
- 3120 7. A listing of any hazardous materials, including, but not limited to, stored
3121 or operational fuel supplies that will be used or located on the Mining Site
3122 and a description of measures to be used for securing and storing these
3123 materials. The operation plan shall also include a written plan for the use
3124 of any hazardous materials at the Mining Site and procedures for

3125 responding to spills of these materials and fuels on the site and the
3126 frequency of regular drills for responding to spills on the site.

3127

3128 (e) Town Impact Summary. The Mining License application shall include a
3129 Town impact summary report, which shall include a thorough narrative
3130 description of the Mining project in sufficient detail to allow the Town to
3131 assess probable physical, environmental and developmental impacts of the
3132 proposed mine and assess and summarize the potential and estimated impacts
3133 on the human health, safety and welfare of residents of the Town, based on the
3134 potential environmental, socioeconomic and other impacts of the proposed
3135 Mining Operation. The report shall include, but shall not be limited to, the
3136 likely and potential impacts of the proposed Mining Operations with respect
3137 to each of the following baselines:

3138

3139 1. A life-of-Mine analysis of impacts upon social and environmental baseline
3140 parameters through completion of reclamation, including any impact
3141 market conditions may have on the operation of the Mine.

3142

3143 2. A traffic impact analysis that discusses all reasonably foreseeable roadway
3144 construction and maintenance needs arising in the Town from the
3145 proposed Mining Operation and reasonably foreseeable secondary impacts
3146 of the Mining Operation that may result in the demand for additional
3147 roadway or other infrastructure improvements, repairs or additional
3148 maintenance needed as a result of the Mining Operations, including a
3149 description of the anticipated needs for roadway modifications resulting
3150 from the likely Mine-related traffic impacts, both primary and secondary,
3151 and shall fully describe the existing reasonably foreseeable Mine-related
3152 changes to traffic patterns, traffic volume, the class of roadways associated
3153 with those patterns, and any load-related needs and restrictions.

3154

3155 3. The impacts of the mine on employment, economic activity and tax base
3156 within the Town.

3157

3158 4. The impacts of the mine on the Town's population and housing stock,
3159 including the availability of such housing stock.

3160

3161 5. The impacts of the mine on the need for additional government services,
3162 including, but not limited to, infrastructure, utilities, schools, fire
3163 protection, emergency medical services, and police.

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3165 6. The expected changes in land use within the Town, including the
3166 percentage of lands devoted to each use currently and in the future.

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3168 7. The impacts of the mine on air quality within the Town.

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8. A description of the current environmental characteristics of the Mining Site, including wildlife, vegetation and physical parameters of groundwater quality and quantity, and surface water quality and quantity, including wetlands as compared to the same environmental characteristics after the mine becomes operational.
 9. A description of the environmental characteristics within the Town, including, but not limited to, air, groundwater, surface water and acres of disposal facilities for any waste as compared to the same environmental characteristics after the mine becomes operational.
 10. A description of the topographical and aesthetic features of the proposed Mining Site, including other geographical vegetative conditions.
 11. A description of the cultural features of the proposed Mining Site, including, but not limited to, an inventory and analysis of all historical and cultural sites and landmarks.
 12. A description and analysis of the ambient noise audible in half-mile increments within a five (5) mile radius of the proposed mining site.
- (a) Information Demonstrating Compliance with Minimum Standards. The Operator shall provide such additional information the Town deems necessary to determine whether the mining operation will comply with the minimum standards in Section 12.11(7).
- (b) Compliance with all Applicable Laws and Regulations. The Mining License application shall include a description of all other governmental or other regulatory permits, licenses, approvals, or other approvals necessary for the Mining Operation. The Mining License application shall also include a timeline of dates when such approvals were granted, or the expected date of approvals.
- (7) MINIMUM OPERATIONAL STANDARDS
- (a) General Standards.
1. The borders of the entire Mining Site will be appropriately staked or marked, and the Mining Site will be secured by appropriate measures which may include fencing or other alternative measures consistent with mine safety and security as set forth by governmental or other regulatory authorities.
 2. The Mining Operation will comply with all applicable Town Sections.

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3. The Operator shall demonstrate, to the sole satisfaction of the Town that all other applicable and required federal, state and local permits and approvals required for the Mining Operation have been or will be obtained prior to commencement of any Mining Operation. The applicant shall further demonstrate compliance with this sub-section by submitting a copy of all permits, approvals, or waivers of permits to the Town prior to commencing operations.
 4. The Operator shall provide proof that it has provided the financial assurances as required under Wis. Stat. Chapter 293 or any other applicable codes or regulations.
 5. The Operator shall agree to comply with all other applicable federal, state and local permits and approvals once issued.
- (b) Buffer Areas. The Operator shall provide a buffer area from the boundaries of the Mining Site, to protect bordering properties from noise, dust, lighting, odors, blasting, and other adverse impacts of the operation, along bordering property lines and public roadways.
1. The buffer area shall provide a setback of ¼ mile from the mining site to the property line of an adjacent property owner unless the landowner consents to a lesser distance, but not less than 50 feet. If consent is provided for a lesser distance, a copy of such consent agreement shall be recorded against the property at the register of deeds office for the county in which the land is located and a copy of the agreement shall be provided to the Town Clerk.
 2. The buffer area shall provide a setback of ½ mile from the Mining Site to any school, medical facility, nursing home, or community based residential facility.
 3. The Operator shall screen the mining operations from public view to the maximum extent practicable. Screening may be achieved through the use of berms, additional setbacks or other measures deemed adequate by the Town Board. Screening activities, such as construction of a vegetated berm or installation of a fence, may occur in the buffer area.
- (c) Hours of Operation. The Operator shall limit normal hours of operations at the Mining Site to 10 hours a day Monday through Friday not earlier than 6:00 a.m. and not later than 6:00 p.m. and on Saturday not earlier than 7:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and town residents. Operations on-site shall not occur on Sundays or legal holidays.

- 3260 (d) Control of Light. The Operator shall limit night lighting on the Mining Site,
3261 to that which is minimally necessary for security and worker safety. Every
3262 effort consistent with the legal requirements for safety shall be made to
3263 minimize illumination of the night sky and neighboring properties. At a
3264 minimum, such measures shall include the following:
3265
- 3266 1. The use of full cutoff shrouds on all lights.
3267
 - 3268 2. Portable lighting shall be used only as necessary to illuminate temporary
3269 work areas.
3270
 - 3271 3. The use of berms of sufficient height coupled with other methods of visual
3272 screening to block light from the Mining Site to neighboring properties.
3273
 - 3274 4. The design and location of access roads, driveways and other access points
3275 to the Mining Site to minimize lights from traffic and operations to
3276 neighboring properties.
3277
- 3278 (e) Control of Noise.
3279
- 3280 1. The Operator shall control off-site noise levels to the maximum extent
3281 practicable to avoid adverse impacts to neighboring landowners. The
3282 noise levels at the boundaries of the mining or processing site shall not
3283 exceed 65 dB. The noise levels at the boundaries of any school, medical
3284 facility, nursing home, or community based residential facility shall not
3285 exceed 60 dB. Decibels shall be based on dbA, which is the unit of sound
3286 level expressed in decibels (db) and A- weighted as described in ANSI
3287 §1.4 1983 and shall be measured in accordance with accepted protocols.
3288
 - 3289 2. Noise levels shall be monitored at the Mining Site's property boundary by
3290 an independent testing company. The tests shall occur for a 10-day period
3291 at least once per quarter. The results shall be reported to the Town within
3292 30 days of the last test result.
3293
 - 3294 3. All blasting must adhere to state blasting standards as outlined under
3295 Wisconsin Administrative Code Chapter SPS 307.
3296
- 3297 (f) Well Monitoring and Impact on Groundwater Quality. For a period of one
3298 year prior to commencement of construction of any portion of the Mining Site
3299 or commencement of any Mining Operation, and during the period of the
3300 Mining Operation, and continuing for no less than three years after the
3301 completion of the Mine reclamation, the Operator shall monitor all private and
3302 public wells (to the extent access can be secured), at the Operator's sole cost
3303 and expense, located within two miles of the perimeter of the Mining Site in
3304 order to provide baseline data concerning quantity and quality of water. The
3305 wells shall be monitored quarterly for lead, arsenic, turbidity, total dissolved

3306 solids, chlorides, nitrates, specific conductivity and any toxic substance that
3307 may reasonably be believed to be present in the ore deposit proposed to be
3308 mined. Well monitoring required under this Section shall be performed by an
3309 independent consultant agreeable to both the Town and the Operator. All test
3310 and monitoring results shall be reported to the Town within 30 days of
3311 completion. Mining Operations shall not cause an exceedance of groundwater
3312 quality standards in Wis. Admin. Code Ch. NR 140 or as otherwise may be set
3313 forth in applicable law.

3314

3315 (g) Fugitive Dust Control.

3316

3317 1. In addition to any ambient air monitoring required by the Wisconsin
3318 Department of Natural Resources, the Operator shall be required to
3319 comply with best management practices for control of off-site fugitive
3320 dust, including, but not limited to, use of truck covers, watering roads and
3321 equipment, and stabilizing stock piles.

3322

3323 (8) REPORTING

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3325 (a) Ongoing Reporting Requirements.

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3327 1. The Operator shall provide notice to the Town of any notices of violations,
3328 citations, or other enforcement actions taken by any other governmental or
3329 regulatory authority against the mining operation. The Operator shall
3330 provide notice to the Town of such actions within 15 days after receiving
3331 such notice from the governmental or regulatory authority.

3332

3333 2. All monitoring data, sampling results and any other test results required by
3334 this Section shall be undertaken at the Operator's expense and provided to
3335 the Town Clerk. Unless otherwise specified in this Section, all monitoring
3336 data, sampling results and any other test results shall be provided to the
3337 Town Clerk within 30 days of receipt of the results by the Operator.

3338

3339 (b) Annual Report.

3340

3341 1. No later than October 1 of each calendar year, the Operator shall submit
3342 an annual report to the Town Board for all active and intermittent Mining
3343 Sites and Mining Operations for which the Operator has a Mining License
3344 in the Town of River Falls. At its own discretion, the Town Board may
3345 also require that the Operator appear at a Town Board meeting to present
3346 the annual report and answer questions from the Town Board. The
3347 reporting period shall be from the date of the issuance of the first
3348 Operator's Mining License to August 31, and thereafter from September 1
3349 to August 31.

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3351 2. The annual report shall include the following information:

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- a. An identification of the Operator and location of the Mining Site.
 - b. A map or drawing accurately showing the area of excavation, the unclaimed area and the reclaimed area, including a calculation of the number of acres for each type.
 - c. A description of activities, including ore extraction and waste material production and operations on the Mining Site for the previous calendar year, including the cubic yards each of material extracted, processed, and waste material produced.
 - d. A description of activities and operations on the Mining Site, including ore extraction and waste material production or processing anticipated for the following calendar year.
 - e. A written report demonstrating how the Operator has been in compliance with all terms and conditions of its Mining License and this Section. The report shall include all groundwater, surface water and other monitoring results, as well as a copy of all annual reports submitted to all other governmental or other regulatory authorities.
 - f. A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.
 - g. A signed certification by the Operator to the effect that: “I certify that this information is true and accurate, and except as expressly set forth herein the metallic mineral mining site and operations described herein and for which the town issued the mining license dated _____ (date to be inserted when a license is issued) complies with all conditions of the applicable Town license, the Section, all other Town ordinances and codes, and all other governmental or other regulatory authority requirements, laws, regulations, and requirements and is in compliance with any applicable permits, licenses and approvals required for operation of the metallic mineral mining site and operations described herein and for which the town issued the mining license dated _____” (date to be inserted when a license is issued).
3. Quarterly Inspection Summary. The Operator shall submit to the Town Clerk, within 30 days following the close of each calendar quarter, a report summarizing the results of the following inspections.
- a. Daily Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons on a daily basis for evidence and indications of any phenomenon, activity or process which might affect the integrity of any tailings pond or dike.

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- b. Monthly Inspections. The Operator shall designate one or more qualified senior personnel to inspect any tailings ponds and any other waste lagoons on a monthly basis and prepare, sign and date a report. If the person or persons making the monthly inspections is not a Wisconsin registered professional engineer, then the Operator shall also provide for quarterly inspections as required herein by a registered professional engineer.
 - c. Natural Event Inspections. The Operator shall inspect any tailings ponds and any other waste lagoons after any unusual natural occurrence, including, but not limited to, the following: earthquake, tornado, flood, storm event exceeding the 100-year storm threshold or any other natural event which the Operator should reasonably expect could affect the integrity of the tailings pond, dike, or other areas of the Mining Site.
4. Inspection Logs. All daily, monthly and quarterly inspection observations shall be recorded in a log and maintained on the premises of the Mining Site and be made available for inspection by Town officials during regular business hours. The Operator shall submit copies of inspection logs to the Town upon request.

(9) CHANGES IN OPERATION

- (a) Expansion. Expansion of the Mining Site or any Mining Operation that is not specifically allowed by or is inconsistent with any limitation or parameters of the Mining License is prohibited and is a violation of this Section. Performance of activities not described in, or activities not expressly allowed by, the Mining License application or the Mining License shall be considered an unlawful expansion and a violation of this Section. The movement of any waste, ore or concentrate to a Mining Site from a location outside the boundary of that Mining Site shall be deemed an unlawful expansion of Mining Operation unless such movement is specifically and expressly authorized in a Mining License issued pursuant to this Section.
- (b) Suspension or Termination of Mining.
 - 1. An Operator must provide notice to the Town as soon as possible of any temporary halt of mining operations lasting more than 180 days, including, but not limited to, a statement showing projected loss of employment. Notice shall include the reason for the temporary suspension as well as plans to ensure continued compliance of all applicable laws and regulations throughout the suspension period.

- 3443 2. The Operator must provide notice of its intent to permanently terminate
3444 any or all activity at the Mining Site no later than one year before the
3445 proposed Mining Operation, or any portion of the Mining Operation, is
3446 terminated. The Operator must provide notice by the end of each calendar
3447 year of any significant change in the anticipated timing of each major
3448 phase of the Mining Operation as originally detailed in the plan of
3449 operation submitted as part of the Mining License application pursuant to
3450 this Section, and explain any reasonably foreseeable changes to the overall
3451 Mining Operation lifetime based on such changes.
3452
- 3453 3. Upon receipt of a notice of temporary halt in mining or upon a cessation
3454 lasting more than 180 days, whichever is sooner, the Town Board may
3455 require that the Operator take additional measures to ensure that public
3456 health, safety and welfare are protected during the temporary cessation of
3457 mining operations, including, but not limited to, a temporary cap on tailing
3458 facilities, additional security measures, additional erosion control
3459 measures, and other site stabilization measures.
3460
- 3461 4. A suspension longer than two years shall be considered a permanent
3462 abandonment and require the Operator to commence closure and
3463 reclamation. The Operator may request the Town Board re-evaluate this
3464 requirement based on exceptional circumstances. The Town Board shall
3465 not be obligated to grant the request for re-evaluation. The Town Board's
3466 determination of the Operator's request for re-evaluation is not subject to
3467 appeal or other additional review.
3468
- 3469 5. Any action ordered by the Town Board pursuant to Section 12.11(9)(b)
3470 shall not be deemed a Mining License Modification pursuant to Section
3471 12.11(4)(e).
3472
- 3473 (c) Commencement of Reclamation. Reclamation of any mine shall begin within
3474 one year after cessation of mining activities, whether temporary or permanent,
3475 in accordance with the Reclamation Plan as set forth in Wis. Stat. Chapter
3476 293.
3477

3478 (10) INSPECTION, ENFORCEMENT, AND PENALTIES
3479

3480 (a) Inspection.
3481

- 3482 1. Compliance Inspections. Upon issuance of a Mining License, the
3483 Operator is deemed as a condition of licensure to have consented to allow
3484 inspections of the mining site and all mining operations by the Town
3485 Board or its designee(s) for the purpose of determining compliance with
3486 the provisions of this Section and the terms and conditions of the Mining
3487 License. Inspections may occur pursuant to this section upon showing of
3488 proper identification, with or without advance notice to the Operator.

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2. Records Review. All required records to demonstrate lawful operation of the Mining Operation shall be maintained by the Operator at the Mining Site and made available within a reasonable time to the Town Board or its designee(s) to assist the Town Board to determine compliance with the provisions of this Section.
 3. Investigation of Complaints. The Operator shall provide access to the Mining Site to allow the Town Board or its designee(s) to inspect for the purpose of investigating any complaint against the Operator alleging a condition that negatively impacts the public health, safety or welfare.
 4. Retained Experts. If, as a result of any inspections or investigations, the Town Board determines that a Retained Expert should undertake any further inspections or investigations, the Town may hire a Retained Expert, the expense of which shall be paid by the Operator. If the Operator fails to provide access for the inspections or investigations, or provide payment of the Town's expenses, the Town may take enforcement action under Section 12.11(10).
- (b) Violations. In addition to failure to comply with any provision of this Section, the following are specific violations under this Section:
1. Engaging in any metallic mining or any activities associated with metallic mining, without a Mining License granted by the Town Board pursuant to this Section.
 2. Failure to comply with the applicable minimum standards and other terms of this Section, all other Town ordinances and codes, and all other governmental or other regulatory authority requirements, laws, regulations, and requirements, or failure to comply with any applicable permits, licenses and approvals required for Mining Operation.
 3. Making an incorrect or false statement in the information and documentation submitted during the Mining License application process or during inspection of the Mining Operation by the Town or its designees or other duly appointed representative.
 4. Failure to timely file the annual operational report under Section 12.11(8).
 5. Failure to comply with any conditions of approving the Mining License application, or any agreements entered into as a condition of approving the Mining License application.
 6. Failure to provide or maintain any financial assurance required as a condition of approving the Mining License application.

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7. Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance or other order issued by the Town.
- (c) Remedies. The Town Board may take any appropriate action or proceeding against any person in violation of this Section or in violation of the terms of the Mining License, including, but not limited to, the following:
1. Issue a stop work order for all Mining Operations. Any Operator issued a stop work order shall be provided with a notice of violation under Section 12.11(10)(d) by the Town Clerk within 10 days.
 2. Issue a notice of violation and order that specifies the action to be taken to remedy a violation under Section 12.11(10)(d).
 3. Issue a citation in accordance with the Town’s citation section or pursuant to other Town authority.
 4. Refer the matter to legal counsel for consideration and commencement of legal action, including, but not limited to, the assessment of forfeitures under Section 12.11(10)(f) and injunctive relief.
 5. Suspend or terminate the Mining License under Section 12.11(10)(e).
- (d) Notice of Violation. The Town Board or its designee may issue a notice of violation and order for curing the violation upon a violation of any term of this Section or upon a violation of any agreement entered into between the Town and the Operator for the Mining Operations pursuant to the following provisions.
1. The Town shall serve a notice of violation upon the Operator within thirty days of the Town’s obtaining knowledge of the violation. The notice of violation may include a proposed work plan or other remediating steps to cure the violation.
 2. The Operator shall have thirty days from the Operator’s receipt of the notice of violation and order to complete all necessary work to cure the violations to the Town’s satisfaction.
 3. Any person affected by a notice and order issued in connection with the enforcement under Section 12.11(10) may request and shall be granted a hearing on the notice of violation and order before the Town Board, provided such person shall file with the Town Clerk a written petition requesting the hearing and setting forth the person’s name, address, telephone number and a brief statement of the grounds for the hearing, the

3581 requested relief, or for the mitigation of the order. Such petition shall be
3582 filed within thirty days of the date the notice and order are served upon the
3583 Operator. Upon receipt of the petition for hearing, the Town Clerk shall
3584 set a time and place for a hearing before the Town Board and shall give
3585 the petitioner written notice thereof. In the event the petitioner is not the
3586 Operator, the Town shall provide notice of the hearing to the Operator.

3587
3588 4. After the hearing, the Town Board by a majority vote, shall sustain,
3589 modify or withdraw the notice, or modify the order, depending on the
3590 Town Board's findings, as to whether the provisions of this Section have
3591 been complied with. The petitioner shall be notified within ten days of the
3592 Town Board's issuance of its findings and any modification of the order.
3593 In the event the petitioner is not the Operator, the Town shall provide a
3594 copy of the Town Board's findings of fact and any modification of the
3595 Town's order to the Operator.

3596
3597 5. The proceedings of the hearing, including the findings and decision of the
3598 Town Board and the reasons therefore, shall be summarized in writing and
3599 entered as a matter of public record in the office of the Town Clerk. Such
3600 record shall also include a copy of every notice and order issued in
3601 connection with the case.

3602
3603 (e) Mining License Suspension or Revocation.

3604
3605 1. After service of any notice of violation on an Operator and after any
3606 requested hearing has been held on such notice pursuant to Section
3607 12.11(10)(d), the Town Board may consider suspension or revocation of a
3608 Mining License for any violation of this Section or the terms of the
3609 Mining License. A Mining License may also be revoked if it is
3610 determined that there has been an abandonment of mining as defined
3611 under Wis. Stat. §293.61.

3612
3613 2. The Town Board shall provide the Operator with a hearing on any
3614 proposed Mining License suspension or revocation. The Town Clerk shall
3615 provide the Operator with notice of the hearing at least 15 days in
3616 advance. Following the hearing, if the Town Board determines there is
3617 reasonable cause to conclude that the Operator has failed to correct or cure
3618 a violation it may suspend or revoke the license.

3619
3620 3. Revocation of any Mining License awarded pursuant to this Section shall
3621 terminate the Operator's right and authority to continue Mining
3622 Operations pursuant to this Section, but shall not affect the Operator's
3623 obligation to comply with any continuing obligations of the Operator
3624 under the terms of the Mining License or any agreement to which the
3625 Town is a party.

3626

3627 4. In the event of any violation that is not corrected pursuant to any
3628 conditions of correction established by the Town Board and to the
3629 satisfaction of the Town Board the Town Board shall, at one or more open
3630 meetings, establish and levy an appropriate forfeiture and order an
3631 appropriate compliance schedule consistent with the intent of this Section,
3632 the violation of which shall constitute a separate violation of this Section.
3633

3634 (f) Penalties. In addition to the penalties provided in Section 25.04, the following
3635 penalty provisions shall apply to this section:
3636

3637 1. The Town shall notify the Operator in writing of such violation and
3638 require the Operator to submit a written report to the Town Clerk within
3639 seven days setting forth each and every action taken to correct the
3640 violation.
3641

3642 2. The Town shall be entitled to recover from the violator the reasonable and
3643 necessary expenses associated with prosecution of the violation. In
3644 addition to the forfeiture and any statutory court costs, the violator shall be
3645 charged and assessed all reasonable and necessary expenses associated
3646 with investigation and deliberation by the Town Board and its designees,
3647 and prosecution of the violation, including any expenses associate with
3648 expert witnesses employed to advise the Town.
3649

3650 3. The Town may suspend, rescind, cancel or determine not to issue or
3651 reissue a license based upon a violation of any of the provisions of this
3652 Section 12.11 and may seek and obtain injunctive relief to prevent a
3653 continuing violation.
3654

3655 (g) Non-Waiver. A failure by the Town to take action on any past violation(s)
3656 shall not constitute a waiver of the Town's right to take action on any present
3657 or future violation(s).
3658

3659 **12.12 PENALTY.** In addition to the revocation, suspension or nonrenewal of any
3660 license issued under this chapter and unless otherwise specified in this chapter, any
3661 person found to be in violation of any provision of this chapter shall be subject to a
3662 penalty as provided in Section 25.04.