

PROCEEDINGS OF THE BROWN COUNTY BOARD OF SUPERVISORS
JULY 18, 2001

Pursuant to Section 19.84 and 59.14, Wis. Stats., notice is hereby given to the public that the REGULAR meeting of the **BROWN COUNTY BOARD OF SUPERVISORS** was held on **Wednesday, July 18, 2001, at 7:00 p.m.**, in the Legislative Room, 100 North Jefferson Street, Green Bay, Wisconsin.

The following matters will be considered:

Call to order.

Invocation.

Pledge of Allegiance to the Flag.

Opening Roll Call:

Present: Antonneau, Bunker, Krueger, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Present: 20 Total Excused: 1

Supervisor Haefs arrived at 7:06 p.m.; Supervisor Hansen arrived at 7:09 p.m.; and Supervisor Zima arrived at 7:11 p.m.

Total Supervisors Present: 23

Chair Watermolen announced a Public Hearing concerning "Non-Metallic Mining". No one spoke at the hearing. A motion was made by Supervisor Krueger and seconded by Supervisor Kaye to close the public hearing and return to the regular order of business. Vote taken. Motion carried unanimously with no abstentions.

No. 1 -- Adoption of Agenda.

A motion was made by Supervisor Krueger and seconded by Supervisor Queoff to adopt the agenda as modified. Vote taken. Motion carried unanimously with no abstentions.

No. 2 -- Approval of minutes of County Board Meeting of June 20, 2001.

A motion was made by Supervisor Krueger and seconded by Supervisor Antonneau to adopt the minutes. Vote taken. Motion carried unanimously with no abstentions.

No. 3 -- Announcements of Supervisors.

Supervisor Vanden Plas invited all supervisors to tour "Calf Sources" in Morrison on Wednesday, July 25, at 5:15 – 6:00 p.m. They will leave from the Extension office and return to the Extension office. Dinner will follow. Make reservations with the Extension office.

No. 4 -- Communications. None.

No. 5 -- Late Communications.

No. 5a -- RESOLUTION #10(E) – OPPOSITION TO THE FUNDING OF EXPENSES FOR THE WISCONSIN VETERANS MUSEUM AND VETERANS EDUCATION CENTER FROM THE VETERANS TRUST FUND

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Veterans Trust Fund was established to provide benefits for veterans and their dependents; and

WHEREAS, when Wisconsin veterans agreed to the Veterans Museum being moved from the State Capital Building it was agreed that all rent and utilities would be paid with General Purpose Revenue; and

WHEREAS, the proposed Wisconsin Department of Veterans Affairs (WDVA) 2001-2003 biennial budget recommends \$1,025,100 in funding from the Veterans Trust Fund for museum rent, utilities and various initiatives including a Veteran Education Center; and

WHEREAS, it is unreasonable to expect veterans, through the Veterans Trust Fund to pay for a museum to honor their service and sacrifices; and

WHEREAS, the Veterans Museum and various initiatives including the Veterans Education Center are appropriate.

NOW, THEREFORE, BE IT RESOLVED that the Brown County Board of Supervisors is in opposition to the funding of the museum related costs from the Veterans Trust Fund; and

BE IT FURTHER RESOLVED that the Brown County Board of Supervisors is in favor of funding these expenses from General Purpose Revenue; and

BE IT FURTHER RESOLVED by the Brown County Board of Supervisors that the Brown County Clerk is hereby directed to send a copy of this resolution to all Wisconsin

counties, Governor Scott McCallum, the Secretary of the WDVA and all Legislators representing Brown County.

Respectfully submitted,
HUMAN SERVICES COMMITTEE

A motion was made by Supervisor Kuehn and seconded by Supervisor Johnson to adopt. Vote taken. Roll Call #10e(1):

Ayes: Antonneau, Bunker, Krueger, Hansen, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Ayes: 21 Excused: 1

Supervisor Zima had not arrived at the time of the vote on this resolution. Supervisor Johnson was having a problem with her roll call button and wishes to be recorded as voting aye.

Total Ayes: 22 Excused: 1

Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Nancy J. Nusbaum, County Executive _____ Date: 7/31/2001

No. 5b -- RESOLUTION #10(F) - OPPOSITION TO ELIMINATING THE EMERGENCY HEALTH CARE PAYMENT BENEFIT FROM THE WISCONSIN DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE AND GRANT PROGRAM

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Wisconsin Department of Veterans Affairs (WDVA) current Health Care Aid Grant program provides veterans and their widows with a last resort source of funding for emergency medical bills; and

WHEREAS, the proposed program as outlined in the current WDVA 2001-2003 biennial budget recommends eliminating payments for emergency medical bills; and

WHEREAS, medical treatment facilities routinely accept payments from the current Health Care Aid Grant program that are a small percentage of the actual bill as payment in full; and

WHEREAS, the elimination of coverage for emergency medical treatment could cause some veterans or their widows to become homeless or file for bankruptcy.

NOW, THEREFORE, BE IT RESOLVED, that the Brown County Board of Supervisors is in opposition to eliminating coverage for emergency medical treatment from the new Health Care Grant program; and

BE IT FURTHER RESOLVED by the Brown County Board of Supervisors that the Brown County Clerk is hereby directed to send a copy of this resolution to all Wisconsin counties, Governor Scott McCallum, the Secretary of the WDVA and all legislators representing Brown County.

Respectfully submitted,
HUMAN SERVICES COMMITTEE

A motion was made by Supervisor Schillinger and seconded by Supervisor Queoff to adopt. Vote taken. Roll Call #10f(1):

Ayes: Antonneau, Bunker, Krueger, Hansen, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Ayes: 22 Excused: 1

Supervisor Zima had not arrived at the time of the vote on this resolution.

Motion carried unanimously with no abstentions.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 6 -- Appointments by County Executive.

No. 6a -- Appointment of Carol Gilsdorf to Community Options Planning Committee.

No. 6b -- Appointment of Seonaid Ritz and Chris Sorrells, MD, Physician, to EMS Council.

A motion was made by Supervisor Krueger and seconded by Supervisor (not audible on tape) to suspend the rules to approve items no. 6a and 6b with one vote. Vote taken. Motion carried unanimously with no abstentions.

No. 7a -- Report by County Executive. None.

No. 7b -- Report by Board Chairman.

Chairman Watermolen addressed his appointment of Supervisors to a work group concerning requests for proposals regarding the building of a new Mental Health Center. He invited Supervisor Kaye to report on the status of the responses to the RFP from vendors.

Supervisor Kaye reported that 11 vendors were sent RFPs; however, only 1 vendor replied, Architects 2000, at a cost of \$6,000 per week for 2-6 weeks work. He stated that this company works primarily with nursing homes.

So, Mr. Keckeisen brought forth to the work group, Valued Engineering as another alternative (A group of contractors that reviews the proposal and cuts it down, resulting in savings).

Mr. Schillinger stated that the work group spent 60 days reviewing the RFP and believes it meets the needs. However, the County's experience with Value Engineering during construction of the new jail was positive and wondered if this might be a better approach to building the new Mental Health Center because it addresses the buildings design and structure to realize cost savings. He stated that using Value Engineering would satisfy the intent of the resolution and the Human Services Committee favored this approach. The work group agreed to go with Valued

Engineering rather than the RFP and a motion was made to go to Human Services Committee for approval. In conclusion, Supervisor Kaye stated that the group thought this was the best way to go and if the Board doesn't want this they should send it back to Committee.

Supervisor Zima asked Chairman Watermolen how the board will proceed and the future status of the work group.

Chairman Watermolen stated that this is not on today's agenda. The full board should be given the opportunity to review the RFP, have it go to committee for further discussion, and then bring it back to the Board.

Chairman Watermolen reminded Supervisors about the upcoming Wisconsin Counties Association Convention in Winnebago County, September 9-12, 2001 and said, if they are planning to attend, registration forms need to be back to Nancy Anderson by July 29, 2001.

Chairman Watermolen asked Don Hoeft, Airport Director, to come forward. He read and presented Mr. Hoeft with a resolution commending his years of service as Airport Director. Following, Mr. Hoeft expressed his appreciation and thanked the Board for supporting and advancing the facility. He encouraged them to continue their support, as it helps to attract businesses and tourists to our area.

No. 8 -- Treasurer's Reports.

No. 8a(i) -- Treasurer's Financial Report for the Month of March 2001.
BROWN COUNTY TREASURER'S FINANCIAL REPORT
FOR THE MONTH OF MARCH

Following is a statement of the County Treasurer of the Cash on Hand and in the General Account of the Brown County Treasurer as of MARCH 31, 2001:

Associated Bank	\$	1,063,256.18
Wisconsin Development Fund		(2,023.24)
Sweep Account (Repurchase Agreements)		2,264,713.91
Deposits in Transit		559,000.31
Emergency Fund		(9,822.95)
Non-sufficient Fund Checks Redeposited		89.68
PBA Sweep Account		(251,712.05)
Deposit Adjustment		00.00
Bank Error(s)		00.00
Total		<u>3,623,501.84</u>
Less Outstanding Checks		(1,741,461.61)
Other Reconcilable Items		00.00
Balance Per Cash Book	\$	<u>1,882,040.23</u>

Following is a statement of the County Treasurer of the Working Capital reserves placed in time deposits in the designated public depositories within Brown County for the purpose of investments as of March 31, 2001:

Year-to-Date Interest Received – Prior Month	\$	1,050,289.10
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Interest Received – Current Month		<u>629,501.47</u>
Year-to-Date Interest Received on unrestricted funds	\$	1,679,790.57

Working Capital Reserves Invested		104,334,086.26
Restricted Investments		<u>15,381,773.16</u>
Total funds invested	\$	119,715,859.42

I, Kerry M. Blaney, Brown County Treasurer, do hereby certify that the above statement of Cash on Hand and in the General Account as of March 31, 2001, and the statement of Investments for the month of March have been compared and examined, and found to be correct.

 \s\ Kerry M. Blaney
County Treasurer

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 8a(ii) -- Treasurer’s Financial Report for the Month of April 2001.

BROWN COUNTY TREASURER’S FINANCIAL REPORT
FOR THE MONTH OF APRIL

Following is a statement of the County Treasurer of the Cash on Hand and in the General Account of the Brown County Treasurer as of APRIL 30, 2001:

Associated Bank	\$	945,052.36
Wisconsin Development Fund		00.00
Sweep Account (Repurchase Agreements)		2,909,986.54
Deposits in Transit		589,592.88
Emergency Fund		(3,864.82)
Non-sufficient Fund Checks Redeposited		881.85
PBA Sweep Account		(363,837.22)
Deposit Adjustment		00.00
Bank Error(s)		00.00
Total		<u>4,077,811.59</u>
Less Outstanding Checks		(1,794,393.54)
Other Reconcilable Items		<u>00.00</u>
Balance Per Cash Book	\$	<u>2,283,418.05</u>

Following is a statement of the County Treasurer of the Working Capital reserves placed in time deposits in the designated public depositories within Brown County for the purpose of investments as of April 30, 2001:

Year-to-Date Interest Received – Prior Month	\$	1,679,790.57
Interest Received – Current Month		<u>605,252.47</u>
Year-to-Date Interest Received on unrestricted funds	\$	2,285,043.04

Working Capital Reserves Invested	100,480,751.70
Restricted Investments	<u>15,860,362.74</u>
Total funds invested	\$ 116,341,114.44

I, Kerry M. Blaney, Brown County Treasurer, do hereby certify that the above statement of Cash on Hand and in the General Account as of April 30, 2001 and the statement of Investments for the month of April have been compared and examined, and found to be correct.

 /s\ Kerry M. Blaney
County Treasurer

Approved by: /s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 8a(iii) -- Treasurer's Financial Report for the Month of May 2001.

**BROWN COUNTY TREASURER'S FINANCIAL REPORT
FOR THE MONTH OF MAY**

Following is a statement of the County Treasurer of the Cash on Hand and in the General Account of the Brown County Treasurer as of MAY 31, 2001:

Associated Bank	\$	965,647.19
Wisconsin Development Fund		(4,598.89)
Sweep Account (Repurchase Agreements)		1,344,137.45
Deposits in Transit		582,234.71
Emergency Fund		(32,420.37)
Non-sufficient Fund Checks Redeposited		00.00
PBA Sweep Account		(307,841.95)
Deposit Adjustment		00.00
Bank Error(s)		00.00
Total		<u>2,547,158.14</u>
Less Outstanding Checks		(682,905.30)
Other Reconcilable Items		<u>00.00</u>
Balance Per Cash Book	\$	<u>1,864,252.84</u>

Following is a statement of the County Treasurer of the Working Capital reserves placed in time deposits in the designated public depositories within Brown County for the purpose of investments as of May 31, 2001:

Year-to-Date Interest Received – Prior Month		2,285,043.04
Interest Received – Current Month		<u>572,825.94</u>
Year-to-Date Interest Received on unrestricted funds	\$	<u>2,857,868.98</u>
Working Capital Reserves Invested		111,433,749.67
Restricted Investments		<u>3,911,556.67</u>

Total funds invested

\$ 115,345,306.34

I, Kerry M. Blaney, Brown County Treasurer, do hereby certify that the above statement of Cash on Hand and in the General Account as of May 31, 2001, and the statement of Investments for the month of May have been compared and examined, and found to be correct.

 \s\ Kerry M. Blaney
County Treasurer

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

A motion was made by Supervisor Collins and seconded by Supervisor Schillinger to suspend the rules to allow the approval of items No. 8a(i) thru No. 8a(iii) with one vote. Vote taken. Motion carried unanimously with no abstentions.

No. 9 -- Standing Committee Reports.

No. 9a -- REPORT OF ADMINISTRATION COMMITTEE OF JULY 9, 2001

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The ADMINISTRATION COMMITTEE met in regular session on July 9, 2001, and recommends the following motions:

1. Review minutes of:
 - a. Housing Authority (June 18, 2001).
Approve.
2. Human Resources – Review of Salary Range for Positions:
 - a. Resolution regarding: Request Increase Salary Range for the Position of Facility Manager. (Referred to Executive Committee.)
(Chair held agenda item for next month’s meeting.)
 - b. Resolution regarding: Safety Coordinator. (Referred to Executive Committee.)
(Deleted from agenda.)
 - c. Resolution regarding: Request for Two Additional Facility Maintenance Mechanics for the Jail (Referred to Executive Committee.) Committee approved.
See Resolutions, Ordinances July County Board.
3. Human Resources – Committee Report – June 2001. (No report.)
4. Treasurer – Treasurer’s Financial Report for the months of:
 - a. March 2001.
 - b. April 2001.
 - c. May 2001.Receive items a-c.

5. Treasurer – Communication from City of Green Bay, Planning Commission, Cheryl Renier-Wigg (Neighborhood Development Coordinator) regarding: Donation of three parcels of land to City of Green Bay currently owned by Brown County due to non-payment of taxes. (real Estate Tax Statements attached.) Hold for 30 days.
6. Corporation Counsel – Resolution regarding: Disallowance of Claim (Susan A. Danen). Committee approved. See Resolutions, Ordinances July County Board.
7. Corporation Counsel – Request for easement from Ameritech in the vicinity of Ag and Extension Center on Bellevue Street. Approved.
8. Facility Management – Director’s report. No action.
9. Department of Administration – 2001 Hiring Freeze Impact Report. Receive.
10. Department of Administration – 2000 Year End Summary – General Fund Comparative Balance Sheet. (Year-End Financials and Preliminary Projections for 2002 Budget.) Receive.
11. Department of Administration – 2001 Budget Transfer Log. Receive and place on file.
12. Department of Administration – Monthly Activities Report (May 26 through June 29, 2001.) Receive.
13. Audit of Bills. Pay the bills.

A motion was made by Supervisor Clancy and seconded by Supervisor Fleck to adopt. Vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Nancy J. Nusbaum, County Executive _____ Date: 7/31/2001

No. 9b -- REPORT OF EDUCATION AND RECREATION COMMITTEE OF JUNE 21, 2001

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EDUCATION AND RECREATION COMMITTEE met in regular session on June 21, 2001, and recommends the following motions:

1. Review minutes of:
 - a) Zoo Advisory Committee (5/22/01).
 - b) Library Board (5/18/01).
Receive and place on file.
2. Arena/Expo Centre – Attendance Report (May 2001). Receive and place on file.
3. Museum – Visitor Count (May 2001). Receive and place on file.
4. Museum – Director’s Report. Accept.
5. Library – Request for Budget Transfer (#01-39): Increase in Expenditures with Offsetting Increase in Revenue: Request to add \$30,683.39 for books, periodicals, and subscriptions with offsetting revenues. This addition is for \$30,683.39 of Federal E-Rate funds received March 2001. Approve.
6. Library – Director’s report. Accept.

7. Golf Course – Golf Report ending June 4, 2001. Receive and place on file.
8. Golf Course – Daily Financial and Attendance Report (5/13/01). Receive and place on file.
9. Golf Course – Request from Mike Wood, President, Brown County Men’s Club, to donate a seating bench in memory of James Britelli on Hole #15. Approve.
10. Golf Course – Thank You Note from Louise Britelli for Jim Britelli’s golf permit fee refund. Receive and place on file.
11. Golf Course – Superintendent’s Report. No action.
12. Parks – Request by Jon Kille to hold a band concert at Pamperin Park and the Reforestation Camp. Approve.
13. Parks – Review and approve Zoo Master Plan. (Held from previous meeting.) Approve the concept of Zoo Master Plan.
14. Parks – Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Donation from Michael Mellen for Educational Graphic “African Cichlids” (\$1,000). Approve.
15. Parks – Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Increase expenditures by \$15,000 with offsetting revenues for purchase and construction of an open shelter at St. Francis Park. Funding being coordinated by Wisconsin Department of Natural Resources as a memorial to an employee. Approve.
16. Parks – Communication regarding: The Impact of Parks on Property Values. Receive and place on file.
17. Initial Resolutions regarding: Authorizing the Issuance of not to Exceed \$3,325,000 General Obligation County Bonds, Series 2001, of Brown County, Wisconsin. Committee approved. See Resolutions, Ordinances July County Board.
18. Parks – Director’s Report. Accept.
19. Audit of bills. Pay the bills.

A motion was made by Supervisor Hansen and seconded by Supervisor Simons to adopt. Vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 9c -- REPORT OF EXECUTIVE COMMITTEE OF JULY 9, 2001

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EXECUTIVE COMMITTEE met in regular session on July 9, 2001, and recommends the following motions:

1. Review minutes of:
 - a) Legislative Subcommittee (No minutes available. Next meeting, July 23, 2001.)
No action.
2. Legislative Subcommittee report. No action.

3. Initial Resolutions regarding: Authorizing the issuance of Not to Exceed \$3,325,000 General Obligation County Bonds, Series 2001, of Brown County, Wisconsin. (Please bring 2001 Executive Bonding Proposal and Capital Projects Outlook book distributed at June County Board meeting.) Referred from Education and Recreation Committee and Planning, Development and Transportation Committee.
 - a) Committee approved Highway portion of Resolution (unanimous).
 - b) Approve Library portion of Resolution. Ayes: 4(Schillinger, Schadewald, Hansen, Bunker); Nays: 1(Kaye); Excused: 2(Watermolen, Williquette). Motion Carried. See Resolutions, Ordinances July County Board.
4. Resolution regarding: Requesting New Clerical Support Position in Risk Management Division of Human Resources. Committee approved. See Resolutions, Ordinances July County Board.
5. Review of Salary Range for Positions:
 - a) Resolution regarding: Request Increase Salary Range for the Position of Facility Manager. Hold for one month.
 - b) Resolution regarding: Safety Coordinator. No action. (Position not yet prepared.)
 - c) Resolution regarding: Request for Two Additional Facility Maintenance Mechanics for the Jail. (Referred from Administration Committee.) Committee approved. See Resolutions, Ordinances July County Board.
 - d) Resolution regarding: Upgrading the Salary Range for the Position of Library Maintenance Supervisor. Hold until it goes through the Education and Recreation Committee.
 - e) Resolution regarding: Upgrading the Salary Range for the Position of Airport Director. Hold until it goes through the Planning, Development and Transportation Committee.
6. County Executive Report. No action.
7. Review of department budgets:
 - a) Education and Recreation Committee (Supervisor Dave Hansen, Chair, Education and Recreation Committee). No action.
 - b) Planning, Development & Transportation Committee (Supervisor Kathy Williquette, Chair). Recommendation to hold.
8. Update of Oneida Tribe of Indians negotiations for shared services. No action.
9. **Closed Session:** For the purpose of deliberating whenever competitive or bargaining reasons require a closed session pursuant to Wisconsin State Statute 19.85(1)(e). In the alternative, the Executive Committee is meeting for the purpose of collective bargaining and is not subject to the Wisconsin open meetings law pursuant to 19.82(1) of the Wisconsin State Statutes. (No Closed Session Held.)

A motion was made by Supervisor Bunker and seconded by Supervisor Johnson to adopt. Vote taken. Motion carried. Supervisor Bicoy abstained from voting on Item #3b – Approval of Library portion of the bond Resolution.

Approved by: \ s \ Nancy J. Nusbaum, County Executive

Date: 7/31/2001

No. 9d -- REPORT OF HUMAN SERVICES COMMITTEE OF JUNE 20, 2001

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The HUMAN SERVICES COMMITTEE met in regular session on June 20, 2001, and recommends the following motions:

1. Review minutes of:
 - a) Aging Resource Center of Brown County (5/25/01).
 - b) Aging Resource Center – Finance Committee (5/25/01).
 - c) Human Services Board (5/3/01).
 - d) Homeless Issues and Affordable Housing Subcommittee (5/29/01).

Approve items a-d.
2. Appointment of Carol Gilsdorf to Community Options Planning Committee. Committee approved. See Appointments July County Board.
3. Veteran’s Department – Discussion of Sauk County Resolution #26-01 regarding: Opposition to Eliminating the Emergency Health Care Payment Benefit from the Wisconsin Department of Veterans Affairs Health Care Aid Grant Program. (Referred from Legislative Subcommittee.) Pass on Resolution #26-01 in Brown County’s name to the State. See Resolutions, Ordinances July County Board.
4. Veteran’s Department – Discussion of Sauk County Resolution #27-01 regarding: Opposition to the funding of Expenses for the Wisconsin Veterans Museum and Veterans Education Center from the Veteran’s Trust Fund. Pass on Resolution #27-01 in Brown County’s name to the State. See Resolutions, Ordinances July County Board.
5. Veteran’s Department – Director’s report. No action.
6. Human Services Department – Financial Report using April (Unaudited) projected 2001 year end. Accept.
7. Human Services Department – Director’s report. No action.
8. Audit of bills. Pay the bills.

A motion was made by Supervisor Marquardt and seconded by Supervisor Fleck to adopt. Vote taken. Motion carried unanimously with no abstentions.

Approved by: \ s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 9e -- REPORT OF PLANNING, DEVELOPMENT AND TRANSPORTATION COMMITTEE AND LAND CONSERVATION SUBCOMMITTEE OF JUNE 27, 2001

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PLANNING, DEVELOPMENT AND TRANSPORTATION COMMITTEE AND LAND CONSERVATION SUBCOMMITTEE met in regular session on June 27, 2001, and recommend the following motions:

Land Conservation Subcommittee

1. Discussion of County Board tour of Calf Source in Town of Morrison at next Land Conservation Subcommittee meeting, July 25, 2001. No action.
2. Thursday's Note, May 31, 2001. Receive and place on file.
3. Communication from Marvin Fox, WLWCA President, regarding: DATCP Technical Advisory Committee. Receive and place on file.
4. Communication from Glacierland RC&D regarding: Committee Meeting; and Glacierland RC&D minutes of three committees (Natural Resources, Youth, Education, Land Use and Economic Development Teleconference June 5,6,7, 2001). Receive and place on file.
5. Environmental Assessment – 2002 Budget. (To be distributed at meeting.) Receive and place on file.
6. Director's report. No action.

Planning, Development and Transportation

1. Review minutes of:
 - a) Land Information Committee (5/23/01).
 - b) Harbor Commission (2/5/01 & 5/14/01).
 - c) Solid Waste Board Financial Review Subcommittee (5/15/01).
 - d) Solid Waste Board (4/23/01 & 5/21/01).Receive and place on file items a-d.
2. Initial Resolutions regarding: Authorizing the Issuance of not to Exceed \$3,325,000 General Obligation County Bonds, Series 2001, of Brown County, Wisconsin. Committee approved the portion of the Resolution that applies to Table A (see Table A attached to Resolution). See Resolutions, Ordinances July County Board.
3. Register of Deeds – Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Transfer \$10,000 from revenues to overtime earnings. Approve.
4. Register of Deeds to “opt out” of Uniform Commercial Code Program due to passage of Revised Article 9 6/12/01. Receive and place on file.
5. Airport – Resolution regarding: Authorizing the Collection of Passenger Facility Charges at Austin Straubel International Airport. Committee approved. See Resolutions, Ordinances July County Board.
6. Airport – Director's report. No action.
7. Highway – Brown County Highway Six-Year Highway Improvement Plan, 2002-2007. Receive and place on file.
8. Highway – Commissioner's report. (No report.)
9. Highway – Communication from Supervisor Antonneau for discussion of following two items:
 - a) Discussion and action for closing Oneida Street for all Green Bay Packers games.

- b) Discussion and action on lane closures of Oneida Street during Green Bay Packers training camp.

No action taken on items a-b.

- 10 Zoning – Ordinance regarding: To Create Chapter 14 of the Brown County Code Entitled “Non-Metallic Mining Reclamation Ordinance.” Committee approved. See Resolutions, Ordinances July County Board agenda.
- 11. Port and Solid Waste – Tri-County Recycling Proposal Expenses. Receive and place on file.
- 12. Port and Solid Waste – South Landfill Siting Costs. Receive and place on file.
- 13. Port and Solid Waste – Director’s report. Receive and place on file.
- 14. Audit of bills. Pay the bills.
- 15. Such other matters as authorized by law.
 - a) Discussion of starting time for Planning, Development and Transportation Committee (suggest start at 6:30 p.m. instead of 6:15 p.m.). No action taken.

A motion was made by Supervisor Antonneau and seconded by Supervisor Vanden Plas to adopt. Supervisor Simons requested to vote on item 10 separately. (Refer to #10h for comments and an explanation of the ordinance by Bill Bosiacki, Zoning Director and Ken Bukowski, Corporation Counsel.) Remainder of report adopted unanimously with no abstentions.

Approved by: _____ \s\ Nancy J. Nusbaum, County Executive _____ Date: 7/31/2001

No. 9f -- REPORT OF PUBLIC SAFETY COMMITTEE OF JULY 2, 2001

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PUBLIC SAFETY COMMITTEE met in regular session on July 2, 2001, and recommends the following motions:

- 1. Review minutes of:
 - a) VIP Advisory Board Meeting (6/12/01).
 - b) Arson Task Force Board of Directors (5/10/01).
 - c) EMS Council (5/23/01).Approve a-c.
- 2. Appointment of Seonaid Ritz and Chris Sorrells, M.D., physicians, to EMS Council. Committee approved. See Appointments July County Board.
- 3. VIP – Monthly Statistics ending May 31, 2001. Receive and place on file.
- 4. Emergency Management – Update and status of Brown County sirens. No action.
- 5. Sheriff – Communication from State of Wisconsin, Department of Corrections, Marty Ordians, Director, regarding: Inspection of the new Brown County Adult Detention Facility. Receive and place on file.
- 6. Sheriff – Resolution regarding: Authorizing Rental of Brown County Jail Space to the State of Wisconsin Department of Corrections. (Referred back to Public Safety from

Facilities Master Plan Committee with report that *State of Wisconsin withdrew request.*)
No action.

7. Sheriff – Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Teen Court Program for 2001 (Professional Services: \$72,239; State Grants \$65,015; Transfer In \$7,224). Approve.
8. Sheriff – Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Participate in the Wisconsin DOT “Think First” and Mobile Basics of Bicycling (BOB) program (Equipment \$9,500; State Grants \$9,500). Approve.
9. Sheriff – Request for Budget Transfer: Change in any item with Outlay account which requires the transfer of funds from any other major budget category or the transfer of Outlay funds to another major budget category: Polygraph machine (Budget \$4,092; actual cost \$4,850 – reallocate budget dollars from special investigations to make up differences (\$758). Approve.
10. Sheriff – Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: Outlay \$36,167; Increase: State Grants (JAIBG) \$15,500; Fed Grant-DTF \$15,500; State Grant DTF \$3,100; Juv. Detention Rev. \$2,067). Approve.
11. Sheriff – Jail Population and Overtime Report. Receive and place on file.
12. Sheriff’s report. Receive and place on file.
13. **Closed Session:** Pursuant to Sec. 19.85(1)(c) considering employment, promotion, compensation, or performance evaluation date of a public employee over which the Committee has jurisdiction or exercises responsibility.
(No Closed Session.)
14. Audit of bills. Pay the bills.

A motion was made by Supervisor Moynihan and seconded by Supervisor Collins to adopt except for item number 12 – Sheriff’s report. Vote taken. Motion carried unanimously with no abstentions.

Item #12 – Sheriff’s Report – Supervisor Collins was concerned about the sprinkler system and wants to know the facts. Sheriff Hinz addressed the Board stating that overall “things are going okay” at the new jail. He said the first few days at the new facility had a few minor inconveniences. For example, some inmates didn’t receive mail due to routing problems; some issues surfaced regarding canteen setup; and some minor problems occurred with Ameritech phone lines. Sheriff Hinz felt these were minor issues and that they have been rectified. Likewise, staff have become familiar with the physical plant, food service employees are working well with MHC staff, and staff are dealing with new forms and procedures satisfactorily. He noted, all problems aren’t resolved but they’re working on them.

Nevertheless, Sheriff Hinz stated he is very pleased with the new facility and its amenities. He said the building design is one of its best aspects. He noted that the pods, sally port/booking area, video conferencing, and medical/nursing are all functioning with efficiency.

Supervisor Schadewald asked if we still have inmates at other facilities. Sheriff Hinz stated all inmate are housed here but prisoner transport occurs daily. The first transport is to the Courts, followed by statewide transport to pick up prisoners apprehended on writs and warrants. Juvenile and miscellaneous transports are generally last.

Sheriff Hinz stated they didn’t have sprinkler head problems at the old jail because it was not up to code by not having a sprinkler system in the cells. He stated there were various types of

sprinkler heads available on the market but felt that inmates breaking them was a temporary situation, whereas, inmates were “testing things out”. He said the building’s design allowed for quick shut off of the water valves which minimized damages.

Supervisor Simons asked if the inmates are charged for the damages? Sheriff Hinz stated that inmates causing damages are identified, an incident report is submitted to Facilities Management for cost estimates and this is forwarded to the District Attorney who then prosecutes the inmate for damages.

Supervisor Simons asked what the rate of reimbursement was for past inmate damages as some don’t have jobs or funds. Sheriff Hinz was not sure of the reimbursement rate. Supervisor Simons requested that data be collected on inmate damages/reimbursements for further reporting. A motion was made by Supervisor Schillinger and seconded by Supervisor Kuehn to approve item #12. Vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Nancy J. Nusbaum, County Executive _____ Date: 7/31/2001

No. 10 -- Resolutions, Ordinances.

No. 10a -- RESOLUTION REGARDING: DISALLOWANCE OF CLAIM (SUSAN A. DANEN)

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, a Notice of Claim was filed on June 15, 2001 in the Brown County Clerk’s office; and

WHEREAS, said Notice of Claim alleges that Susan A. Danen sustained damages, and alleges that said damages were caused by Brown County and employees of Brown County; and

WHEREAS, after a review of this matter by the Corporation Counsel’s office, said office recommends that the claim be denied.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that the claim submitted by Susan A. Danen be and the same is hereby denied, and no action on this claim may be brought against Brown County or any of its officers, officials, agents or employees after six months from the date of service of this notice.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the claimant, Susan A. Danen, as a notice of disallowance.

Respectfully submitted,
ADMINISTRATION COMMITTEE

A motion was made by Supervisor Clancy and seconded by Supervisor Bunker to adopt. Vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Nancy J. Nusbaum, County Executive _____ Date: 7/31/2001

No. 10b -- RESOLUTION REGARDING: REQUEST FOR TWO ADDITIONAL FACILITY MANAGEMENT MECHANICS FOR THE JAIL

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Facility Department had previously stated that it did not believe that the initial staff would be adequate to maintain the new jail facility, and

WHEREAS, the current jail staffing results in 2.8 staff per 100,000 square feet which is far below the benchmark average of 9.8 full time equivalent employees for 100,000 square feet, and

WHEREAS, the current Facility Technician and Mechanic have worked over 75 hours of overtime in the last two weeks, and

WHEREAS, the overtime hours currently being worked occur mainly on weekends and evenings when mechanical staff is not currently scheduled, and

WHEREAS, even after hiring two additional mechanics we would still be well below the benchmarks for maintenance of this type of establishment.

THEREFORE, BE IT RESOLVED, by the Brown County Board of Supervisors that two new Facility Maintenance Mechanics will be added to the current staffing at a cost of \$37,176.53 for the remainder of the year 2001.

Respectfully submitted,
ADMINISTRATION COMMITTEE
EXECUTIVE COMMITTEE

A motion was made by Supervisor Krueger and seconded by Supervisor Fleck to adopt. Vote taken. Roll Call #10b(1):

Ayes: Antonneau, Bunker, Krueger, Hansen, Zima, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Ayes: 23 Total Excused: 1

Motion carried unanimously with no abstentions.

A motion was made by Supervisor Collins and seconded by Supervisor Marquardt to reconsider resolution #10b. Vote taken. Ayes: 20; Nays: 3 (Krueger, Kuehn, Kaye); Excused: 1. Motion carried.

Supervisor Collins asked why we are approving two additional facility maintenance mechanics for corrective maintenance when Sheriff Hinz stated that things are going well and the current problems are anticipated to be temporary?

Mark Keckeisen, Facilities Director, spoke on the issue that going into the new jail, staffing was budgeted at 2.8 staff per 100,000 square feet, which is below the recommended level of regional average at 9.8 staff per 100,000 square feet. Mr. Keckeisen stated that jails require a higher level of maintenance than other County facilities which average around 5.6 staff per 100,000 square feet.

A motion was made by Supervisor Schadewald and seconded by Supervisor Johnson to adopt. Vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 10c -- INITIAL RESOLUTIONS: AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$3,325,000 GENERAL OBLIGATION COUNTY BONDS, SERIES 2001, OF BROWN COUNTY, WISCONSIN

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

Initial Resolution Authorizing General Obligation Bonds
In An Amount Not to Exceed \$500,000

BE IT RESOLVED by the County Board of Supervisors of Brown County, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, General Obligation Bonds in the amount not to exceed \$500,000 for the purpose of paying the cost of constructing and equipping the De Pere/Allouez Library.

BE IT FURTHER RESOLVED, by the Board of Supervisors of Brown County, Wisconsin, that change orders in excess of \$10,000 or 25% of the contract price, whichever is less, for such construction shall be submitted to the appropriate oversight committee of the Board of Supervisors of Brown County for prior approval.

Initial Resolution Authorizing General Obligation Bonds
In An Amount Not to Exceed \$2,825,000

BE IT RESOLVED by the County Board of Supervisors of Brown County, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, General Obligation Bonds in an amount not to exceed \$2,825,000 for the purpose of paying the cost of highway improvements including reconstruction, bridge replacements and box culvert extensions involving the CTH "O" (Allouez Avenue), CTH "B" (Crest Drive), CTH "U", CTH "HH" (Hansen Road), CTH "EA" (Eastern Arterial), CTH "HHH" (Lombardi Avenue), CTH "EB" (Woodale Avenue) and CTH "SB" (South Bridge Arterial) projects.

BE IT FURTHER RESOLVED, by the Board of Supervisors of Brown County, Wisconsin, that change orders in excess of \$10,000 or 25% of the contract price, whichever is

less, for such improvements shall be submitted to the appropriate oversight committee of the Board of Supervisors of Brown County for prior approval.

Respectfully submitted,
BROWN COUNTY BOARD OF SUPERVISORS
EXECUTIVE COMMITTEE
EDUCATION AND RECREATION COMMITTEE
PLANNING, DEVELOPMENT AND
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Kuehn and seconded by Supervisor Hansen to adopt.
Discussion followed.

Supervisor Zima asked "Does this resolution mean that we have enough money in the budget and that we won't be closing any branch libraries? He didn't want to make capital commitments to new library branches and then have the Board pull (close) branches somewhere down the line." Chairman Watermolen confirmed that this will not happen.

Vote taken. Roll Call #10c(1):

Ayes: Antonneau, Bunker, Krueger, Hansen, Zima, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Abstain: Bicoy

Excused: Schmitt

Total Ayes: 22 Abstained: 1 Excused: 1

Motion carried.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 10d -- RESOLUTION REQUESTING NEW CLERICAL SUPPORT POSITION IN RISK MANAGEMENT DIVISION OF HUMAN RESOURCES

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the legal requirements in regard to risk management are continually increasing, and

WHEREAS, there is a great need for responsiveness from the Risk Management Division, and

WHEREAS, there is a need for, and time consumed by, effective dissemination of information and education on insurance issues, and

WHEREAS, the approval and consequent filling of this position will free up the Risk Manager and other staff aggressively consider and plan for cost efficient risk strategies, and

WHEREAS, considerable clerical support is required to perform many if not all of the day to day risk management functions, and

WHEREAS, our attempt to use temporary employees to assist in the coordination of some of the activities required of the Risk Management Department have been ineffective, and

WHEREAS, all of the clerical duties are currently performed by professionals that would better serve the County by performing more impactful Risk Management Duties, and

WHEREAS, Risk Management would propose to pay for this clerical position by applying \$20,000.00 from the short term disability professional services account and \$20,000 from the casualty professional services account or such other monies as would be necessary until this position could be included in the budget. Accordingly there would be no budget impact this year in excess of funds already allocated.

THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors, that the Risk Management Department Table of Organization be changed to add 1 FTE for the position of Secretary.

Respectfully Submitted,
EXECUTIVE COMMITTEE

A motion was made by Supervisor Schillinger and seconded by Supervisor Johnson to adopt. Vote taken. Roll Call #10d(1):

Ayes: Antonneau, Bunker, Krueger, Hansen, Zima, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Ayes: 23 Total Excused: 1

Motion carried unanimously with no abstentions.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 10e -- **RESOLUTION REGARDING: OPPOSITION TO THE FUNDING OF EXPENSES FOR THE WISCONSIN VETERANS MUSEUM AND VETERANS EDUCATION CENTER FROM THE VETERANS TRUST FUND**

See Item #5a.

No. 10f -- **RESOLUTION REGARDING: OPPOSITION TO ELIMINATING THE EMERGENCY HEALTH CARE PAYMENT BENEFIT FROM THE WISCONSIN DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE AID GRANT PROGRAM**

See Item #5b.

No. 10g -- **RESOLUTION REGARDING: AUTHORIZING THE COLLECTION OF PASSENGER FACILITY CHARGE AT AUSTIN STRAUBEL INTERNATIONAL AIRPORT**

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

A resolution to increase the funding available to Brown County for capital projects at Austin Straubel International Airport (the "Airport") by authorizing the filing of an application to the Federal Aviation Administration (the "FAA") for authority to collect a Passenger Facility Charge ("PFC") from revenue passengers enplaned at the Airport and to use the proceeds of that charge for eligible costs of specified capital projects at the Airport.

WHEREAS, the Congress of the United States, through the enactment of the Aviation Safety and Capacity Expansion Act of 1990, (the "ACT") and the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR 21") empowered the Federal Aviation Administration of the U.S. Department of Transportation to authorize operators of commercial service airports to impose a Passenger Facility Charge on certain enplaned passengers at those airports, and to use the revenues collected for capital projects that would promote safety, security, capacity and noise mitigation goals of those airport operators; and

WHEREAS, the Federal Aviation Administration requires that the County adopt a resolution authorizing an application for Passenger Facility Charges to be submitted to the Federal Aviation Administration and an agreement to comply with the requirements of that regulation;

NOW, THEREFORE, the Board of Supervisors of Brown County does resolve as follows:

SECTION ONE
PASSENGER FACILITY CHARGE

- 1.1 Authorization to apply: specification of approved projects: The Board hereby authorizes the Airport Director to submit to the FAA an application for authority to impose a Passenger Facility Charge (PFC) at Austin Straubel International Airport and to expend PFC revenues on a "pay-as-you-go" basis for eligible costs of projects identified in the Airport's Capital Improvement Program.
- 1.2 Authorization to give assurances: The Board hereby authorizes the Airport Director to include in the application all understandings and assurances required by the FAA.
- 1.3 Amount of Charge: Once the application has been approved by the FAA, the PFC shall be imposed at the level authorized in the record of decision on all revenue enplaned

passengers at the Airport, except for those whom the Board receives authority to exclude from such collection.

- 1.4 Date of imposition and expiration: The Board hereby authorizes the collection of the Passenger Facility Charge beginning on the first day of the second month after approval by the FAA of the application for authority to impose a PFC at the Airport, or as soon thereafter as the PFC can be collected as determined by the Airport Director. The PFC authorized by this Resolution shall expire when sufficient revenues have been collected to equal the eligible costs of the projects approved in the application and any approved amendments to the application.

SECTION TWO
DESIGNATION OF OFFICIAL REPRESENTATIVE

The Airport Director of Austin Straubel International Airport is designated as the Official Representative of the Board of Supervisors to act in connection with the application and is authorized to implement the necessary procedures required under 14 CFR Part 158 to secure authorization to impose a PFC and spend PFC revenues, including but not limited to the authority to sign all necessary documents, to enter into all necessary certifications and to give all required assurances toward that end.

SECTION THREE
COMPLIANCE WITH FEDERAL REQUIREMENTS

- 3.1 The revenues collected pursuant to FAA approval of the Board's application shall be expended for projects determined by the FAA to be eligible under the ACT and 14 CFR Part 158.
- 3.2 The Passenger Facility Charge to be imposed under this resolution shall be collected and disbursed in compliance with the ACT and 14 CFR Part 158.

Respectfully submitted,
PLANNING, DEVELOPMENT AND
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Antonneau and seconded by Supervisor Vanden Plas to adopt. Discussion followed. Fee is currently \$3.00 per ticket and will increase to \$4.50 per ticket.

Vote taken. Roll Call #10g(1):

Ayes: Antonneau, Bunker, Krueger, Hansen, Zima, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Ayes: 23 Total Excused: 1

Motion carried unanimously with no abstentions.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

No. 10h -- **ORDINANCE REGARDING: TO CREATE CHAPTER 14 OF THE BROWN COUNTY CODE ENTITLED “NON-METALLIC MINING RECLAMATION ORDINANCE”**

NON-METALLIC MINING RECLAMATION ORDINANCE

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NON-METALLIC MINING RECLAMATION ORDINANCE

CHAPTER 14

PART I - GENERAL

- SECTION 1 **1.00 Title.** Nonmetallic mining reclamation ordinance for Brown County. All statutory references are to the 1999-2000 published statutes.
- SECTION 2 **2.00 Purpose.** The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Brown County after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative

Code and Subchapter I of Chapter 295, Wisconsin Statutes, as amended from time to time.

SECTION 3 **3.00 Statutory Authority.** This chapter is adopted under authority of **Section 295.13(1), Wisconsin Statutes**, Section NR 135.32, Wisconsin Administrative Code, and **Section 59.51, Wisconsin Statutes**.

SECTION 4 **4.00 Restrictions Adopted Under Other Authority.** The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

SECTION 5 **5.00 Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

SECTION 6 **6.00 Severability.** Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

SECTION 7 **7.00 Applicability.**

7.10 Overall Applicability. The requirements of this chapter apply to all operators of nonmetallic mining sites within Brown County operating on or commencing to operate after August 1st, 2001 except as exempted in **sub. 7.20** and for nonmetallic mining sites located in a city, village or town within Brown County that has adopted an ordinance pursuant to Section 295.14,

Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code. This chapter does not apply to nonmetallic mining sites where nonmetallic mining permanently ceases before August 1, 2001. This chapter applies to nonmetallic mining conducted by or on behalf of the State of Wisconsin, by or on behalf of a municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in **sub. 14.40**.

7.20 Exemptions. This chapter does not apply to the following activities:

- (1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under secs. 30.19, 30.195 or 30.20, Stats., and complies with Chapter NR 340, Wisconsin Administrative Code.
- (2) Excavations subject to the permit and reclamation requirements of secs. 30.30 or 30.31, Stats.
- (3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
- (5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- (6) Excavations for building construction purposes conducted on the building site.
- (7) Nonmetallic mining at nonmetallic mining sites that affect less than one acre of total area over the life of the mine.
- (8) Any mining operation, the reclamation of which is required in a permit obtained under ch. 293, Stats.
- (9) Any activities required to prepare, operate or close a solid waste disposal facility under ch. 289, Stats., or a hazardous waste disposal facility under ch. 291, Stats., that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this chapter apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal

facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(10) (a). Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.

(b) This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

(c) If a nonmetallic mining site covered under **pars. (a) and (b)** is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

(11) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

(12) Removal of material from the bed of Lake Michigan or Lake Superior by a public utility pursuant to a permit under s. 30.21, Stats.

SECTION 8 **8.00 Administration.** The provisions of this chapter shall be administered by the Brown County Zoning Office.

SECTION 9 **9.00 Effective Date.** The provisions of this chapter shall take effect on June 1, 2001.

SECTION 10 **10.00 Definitions.** In this chapter:

(1) "Alternative requirement" means an alternative to the reclamation standards of this chapter provided through a written authorization granted by Brown County pursuant to **s. 18**.

(2) "Applicable reclamation ordinance" means a nonmetallic mining reclamation ordinance, including this chapter, that applies to a particular nonmetallic mining site and complies with the requirements of Chapter NR 135, Wisconsin Administrative Code and subchapter I of ch. 295, Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in **sub. (20) (b) 3**. If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR 135, Wisconsin Administrative Code.

(2m) "Borrow site" means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.

(3) "Contemporaneous reclamation" means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

(4) "Department" means the Wisconsin Department of Natural Resources.

(6) "Environmental pollution" has the meaning in s. 295.11(2), Stats.

(7) "Existing mine" means a nonmetallic mine where nonmetallic mining takes place before August 1, 2001.

(8) "Financial assurance" means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in **s. 14** and is sufficient to pay for reclamation activities required by this chapter.

(9) "Landowner" means the person who has title to land in fee simple or who holds a land contract, i.e., seller for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.

(10) "Municipality" means any city, town or village.

(11) "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(13) "Nonmetallic mining" or "mining" means all of following:

(a) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

(b) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to, stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

(14) "Nonmetallic mining reclamation" or "reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this chapter, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(15) "Nonmetallic mining refuse" means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(16) "Nonmetallic mining site" or "site" means all contiguous areas of present or proposed mining described in **par. (a)**, subject to the qualifications in **par. (b)**.

(a) Nonmetallic mining site means the following:

1. The location where nonmetallic mining is proposed or conducted.
2. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.

3. Areas where nonmetallic mining refuse is deposited.
4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
5. Areas where grading or regrading is necessary.
6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

(b) "Nonmetallic mine site" does not include any of the following areas:

1. Those portions of sites listed in **par. (a)** not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.
2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.
3. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

(17) "Operator" means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(18) "Registered geologist" means a person who is registered as a professional geologist pursuant to ss. 443.037 and 443.09, Stats.

(19) "Registered professional engineer" means a person who is registered as a professional engineer pursuant to ss. 443.04 and 443.09, Stats.

(20) "Regulatory authority" means the following:

(a) Brown County for nonmetallic mine sites located within its jurisdiction, or

(b) 1. A municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance,

2. The county in which the nonmetallic mining site is located, if no reclamation municipal ordinance exists pursuant to **subd. 1.**, provided the county has an applicable reclamation ordinance, or

3. The Wisconsin Department of Natural Resources, but only if there is no applicable reclamation ordinance enacted by the municipality or the county in which the nonmetallic mining site is located.

(21) "Replacement of topsoil" means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this chapter.

(22) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, Stats., or source material, special nuclear material or by-product material, as defined in s. 254.31 (1), Stats.

(23) "Topsoil" means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(24) "Topsoil substitute material" means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(25) (a) "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under **sub. 29.30**. However the term does not include any areas described in **par. (b)**.

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under **sub. 29.30**.

2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. For purposes of fees under **s. 27**, those areas within a nonmetallic mining site which Brown County has determined to have been successfully reclaimed on an interim basis in accordance with **sub. 28.30**.

PART II – STANDARDS

SECTION 11 **11.00 Standards.** All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below.

(1) GENERAL STANDARDS. (a) REFUSE AND OTHER SOLID WASTES. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Stats.

(b) AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(c) PUBLIC HEALTH, SAFETY AND WELFARE. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(d) HABITAT RESTORATION. When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(e) COMPLIANCE WITH ENVIRONMENTAL REGULATIONS. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

Note: Other applicable environmental, zoning or land use regulations may include Chapters NR 103, 115, 116, 117, 205, 216, 269, 105, 106, 140, 150, 340, 500-590, and 812, Wisconsin Administrative Code, chs. 30 and 91, Stats., and Section 404 of the Clean Water Act (33 USC s. 1344), which may be applicable to all or part of either an existing or proposed nonmetallic mining project, so long as they do not require or directly regulate the reclamation of nonmetallic mining sites as addressed under Subchapter I of Chapter 295, Stats .

(2) SURFACE WATER AND WETLANDS PROTECTION. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(3) GROUNDWATER PROTECTION. (a) GROUNDWATER QUANTITY. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) GROUNDWATER QUALITY. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code, to be exceeded at a point of standards application defined in that chapter.

(4) TOPSOIL MANAGEMENT. (a) REMOVAL. Topsoil and topsoil substitute material shall be removed, protected and redistributed to support reclamation and site stabilization. Topsoil shall be managed as specified in the reclamation plan approved pursuant to this chapter in order to achieve reclamation to the approved post-mining land use. Topsoil and topsoil substitute material removal shall be performed, as required by the reclamation plan, prior to any mining activity associated with any specific phase of the mining operation.

(b) VOLUME. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

Note: Existing resources that may be used to identify the soil present on a site include the County Soil Surveys and information obtained from a soil scientist or the County Extension Agent or other available resources. Topsoil or topsoil substitute material shall be removed from areas to be affected by mining operations to the depth indicated in the reclamation plan or as determined in the field by a soil scientist, project engineer or other qualified professional.

(c) STORAGE. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(5) FINAL GRADING AND SLOPES. (a) All areas affected by mining shall be graded in accordance with the reclamation plan approved pursuant to this chapter to achieve a stable and safe condition consistent with the post mining land use. The reclamation plan may designate areas such as stable slopes and rock faces which do not require final grading.

(b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless alternative requirements are approved under s. 18, and stable slopes can be demonstrated based on site-specific engineering analysis. The engineering analysis shall show that a minimum acceptable slope stability factor is attainable at a steeper slope and that the post-mining land use specified in the reclamation plan is not adversely affected. When the slope occurs at the edge of a body of water, this approved slope shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(c) All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(6) **TOPSOIL REDISTRIBUTION FOR RECLAMATION.** Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(7) **REVEGETATION AND SITE STABILIZATION.** Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(8) **ASSESSING COMPLETION OF SUCCESSFUL RECLAMATION.** (a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

(b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

1. On-site inspections by Brown County or its agent;
2. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
3. A combination of inspections and reports.

(c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(d) Revegetation success may be determined by:

1. Comparison to an appropriate reference area;

2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

3. Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

(9) INTERMITTENT MINING. Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to **s. 14** is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(10) MAINTENANCE. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

PART III - PERMITTING

SECTION 12 **12.00 Nonmetallic Mining Reclamation Permit Application.**

12.10 Required Submittal. All operators of nonmetallic mining sites that operate on or after August 1, 2001 shall apply for a reclamation permit from Brown County. All applications for reclamation permits under this section shall be accompanied by the following information:

- (1) A brief description of the general location and nature of the nonmetallic mine.
- (2) A legal description and map of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
- (3) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
- (4) The name, address and telephone number of the person or organization who is the operator.
- (5) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by **Part II**.

12.20 Existing Mines. The operator of any existing nonmetallic mining site in operation on August 1, 2001 may apply for an automatic reclamation permit from Brown County by providing the information set forth below no later than on August 1, 2001 to the Brown County Zoning Office.

- (1) The information required by **sub. 12.10**.
- (2) The first year's annual fee, as required by **s. 27**.
- (3) A certification signed by the operator that he or she will provide Brown County with a complete reclamation plan required by **s. 13** and financial assurance required by **s. 14** no later than the times established pursuant to this chapter.

12.30 New Mines. The operator of any nonmetallic mine site that engages in or plans to engage in nonmetallic mining that will begin operations after August 1st, 2001 or which has not applied for an automatic reclamation permit pursuant to **sub. 12.20** shall submit an application that meets the requirements specified below to the Brown County Zoning Office, prior to beginning

operations. This application shall be accompanied by a plan review fee as specified in **s. 26**.

- (1) The information required by **sub. 12.10**.
- (2) The plan review and annual fees required by **secs. 26** and **27** .
- (3) A reclamation plan conforming to **s. 13**.
- (4) A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by **s. 14** upon granting of the reclamation permit and before mining begins.
- (5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

SECTION 13 **13.00 Reclamation Plan.**

13.10 Reclamation Plan Requirements. All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the following requirements.

- (1) **PLAN REQUIRED.** An operator who conducts or plans to conduct nonmetallic mining on or after August 1, 2001 shall submit to Brown County a reclamation plan that meets the requirements of this section and complies with the standards of **Part II**. To avoid duplication, the reclamation plan may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.
- (2) **SITE INFORMATION.** The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:
 - (a) Maps of the nonmetallic mining site including the general location, property boundaries, the areal extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the approximate elevation of ground water, the location of surface waters and the existing drainage patterns.

Note: Topsoil or topsoil substitute material required to support revegetation needed for reclaiming the site to approved post-mining land use can be identified using soil surveys or other available information.

(b) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine site.

(c) Existing topography as shown on contour maps of the site at two foot contour intervals

(d) Location of manmade features on or near the site.

(e) For existing mines, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

Note: Some of or all of the information required above may be shown on the same submittal, i.e. the site map required by par. (a) may also show topography required by par. (c).

(3) POST-MINING LAND USE. (a) The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

Note: A proposed post-mining land use is necessary to determine the type and degree of reclamation needed to correspond with that land use. The post mining land use will be key in determining the reclamation plan. Final slopes, drainage patterns, site hydrology, seed mixes and the degree of removal of mining-related structures, drainage structures, and sediment control structures will be dictated by the approved post-mining land use.

(b) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to s. 91.75, Stats., shall be restored to agricultural use.

Note: Section 91.75(9), Stats., contains this requirement. Section 91.01(1), Stats., defines the term "agricultural use".

(4) RECLAMATION MEASURES. The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

- (a) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures.
- (b) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.
- (c) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.
- (d) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
- (e) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
- (f) A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
- (g) Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.
- (h) A plan and, if necessary as determined by the County Zoning Administrator or designee, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface and groundwater.
- (i) A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to **subs. 29.20 and 29.40**, Wisconsin Administrative Code and release of financial assurance pursuant to **sub. 29.30(3)**, and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in **Part II** and timing of interim and final reclamation.

Note: Some of the information required by this subsection may be combined to avoid duplication, e.g. a single map may show anticipated post-

mining topography required by par. (c) as well as structures and roads as required by par. (d).

(5) The reclamation plan shall contain criteria for assuring successful reclamation in accordance **s. 11 (8)**.

(6) **CERTIFICATION OF RECLAMATION PLAN.** (a) The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. The landowner and lessee, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation, except as provided in **par. (b)**.

(b) For the following situations, the landowner and lessee, if different from the mine operator, are not required to submit a written certification in accordance with **par. (a)**. The operator shall provide written evidence that the landowner and lessee, if different from the operator, have been provided with a written copy of the reclamation plan, and that:

1. The mine operator has submitted a reclamation plan for an existing mine in accordance with **sub. 12.20**, or
2. The operator has submitted a reclamation plan for a new or reopened mine in accordance **sub. 12.30** which is located on land for which a lease agreement or memorandum of lease between the landowner and applicant was recorded prior August 1, 2001.

(7) **APPROVAL.** The operator shall keep a copy of the reclamation plan required by this section, once approved by Brown County under this chapter, at the mine site or, if not practicable, at the operator's nearest office or place of business.

13.20 Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with **sub. 12.20** shall submit the reclamation plan required per **16.20**.

13.30 New Mines. The operator of any nonmetallic mining site not in operation that applies for a permit in conformance with **sub. 12.30** shall submit the reclamation plan required by **sub. 13.10** with its application for a reclamation permit.

13.40 Existing Plans and Approvals. To avoid duplication of effort, the reclamation plan required by **sub. 13.10** may, by reference, incorporate existing plans or materials that meet the requirements of this chapter. Previous approvals for nonmetallic mining sites in operation on August 1st,

2001 shall satisfy the requirements of **sub. 13.10** if they meet the following requirements:

- (1) The document has been approved by a county or municipality; and
- (2) Brown County finds that the document designates a post-mining land use and describes reclamation measures that meet the reclamation standards of this chapter.

13.50 Approval of Reclamation Plan. Brown County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with **sub. 16.30(3)** for existing mines and **sub. 16.40** for mines that apply for a reclamation permit in conformance with **sub. 12.30**. Conditional approvals of reclamation plans shall be made according to **sub. 16.70** and denials of reclamation plans shall be made pursuant to **s. 17**. The operator shall keep a copy of the reclamation plan approved under this subsection at the mine site or, if not practicable, at the operator's nearest place of business.

SECTION 14 **14.00 Financial Assurance.**

14.10 Financial Assurance Requirements. All operators of nonmetallic mining sites in Brown County shall prepare and submit a proof of financial assurance that meets the following requirements:

(1) **NOTIFICATION.** The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under **sub. (3)**.

(2) **FILING.** Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with Brown County. The financial assurance shall provide that the operator shall faithfully perform all requirements in this chapter, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to Brown County. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to Brown County only if it currently has primary regulatory responsibility.

(3) **AMOUNT AND DURATION OF FINANCIAL ASSURANCE.** The amount of financial assurance shall equal as closely as possible the cost to Brown County of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by Brown

County to assure it equals outstanding reclamation costs. Any financial assurance filed with Brown County shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Brown County may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to effect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

(4) FORM AND MANAGEMENT. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to Brown County and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of Brown County, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

(5) MULTIPLE PROJECTS. Any operator who obtains a permit from Brown County for 2 or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by Brown County.

(6) MULTIPLE JURISDICTIONS. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is

required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(7) CERTIFICATION OF COMPLETION AND RELEASE. (a) The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. Brown County shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. Brown County may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete, Brown County shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.

(b) Brown County shall make a determination of whether or not the certification in par. (a) can be made within 60 days that the request is received.

(c) Brown County may make a determination under this subsection that:

1. Reclamation is not yet complete;
2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
3. Reclamation is complete in a part of the mine; or
4. Reclamation is fully complete.

(8) FORFEITURE. Financial assurance shall be forfeited if any of the following occur:

(a) A permit is revoked under s. 24 and the appeals process has been completed.

(b) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(9) CANCELLATION. Financial assurance shall provide that it may not be cancelled by the surety or other holder or issuer except after not less than a 90 day notice to Brown County in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to Brown County a replacement proof of financial

assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(10) **CHANGING METHODS OF FINANCIAL ASSURANCE.** The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to **sub. (12)**. The operator shall give Brown County at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of Brown County.

(11) **BANKRUPTCY NOTIFICATION.** The operator of a nonmetallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.

(12) **ADJUSTMENT OF FINANCIAL ASSURANCE.** Financial assurance may be adjusted when required by Brown County. Brown County may notify the operator in writing that adjustment is necessary and the reasons for it. Brown County may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(13) **NET WORTH TEST.** (a) Only an operator that meets the definition of “company” in s. 289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.

(b) The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of s. 289.41 (4), Stats. The criteria in secs. 289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Stats., shall apply.

(c) An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with s. 289.41 (6), Stats.

(d) Determinations under the net worth test shall be done in accordance with s. 289.41 (5), Stats.

(e) In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.

14.20 Existing Mines. The operator of any nonmetallic mining site that submits an automatic permit application in conformance with **sub. 12.20** shall

submit the financial assurance required by **sub. 14.10** after Brown County reviews the reclamation plan as submitted by the applicant.

14.30 New Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with **s. 12.30** shall submit the proof of financial assurance required by **sub. 14.10** as specified in the reclamation permit issued to it under this chapter.

14.40 Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a state agency, board, commission or department, or a municipality.

SECTION 15

15.00 Public Notice and Right of Hearing.

15.10 New Mines. Brown County shall, except as provided in **sub 15.20**, provide public notice and the opportunity for a public informational hearing as set forth below:

(1) PUBLIC NOTICE. (a) Except as provided in **sub. (3)** for existing mines, when Brown County receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies **sub. 12.30**.

(b) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a Class 1 notice pursuant to s. 985.07(2), Stats., in the newspaper chosen by Brown County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.

(c) Copies of the notice shall be forwarded by Brown County to the applicable local zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) HEARING. Except as provided in **sub. (3)** for existing mines, Brown County shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows.

(a) If it conducts a zoning-related hearing on the nonmetallic mine site, Brown County shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this

section. Brown County shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this chapter.

(b) 1. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in **par. (a)**, opportunity for public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. Brown County shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under **sub. (1)**. This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. Brown County shall give a Class I public hearing notice of the hearing.

2. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

15.20 Existing Mines (1) No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued pursuant to **sub. 16.20** for an existing mine, except as provided in **sub. (3)**.

(2) If the regulatory authority accepts a previously approved reclamation plan for that mine as provided in **sub. 16.30(2)(a)**, no further public notice or informational hearing is required.

(3) If Brown County requires the submittal of a new reclamation plan, public notice and the opportunity for public informational hearing shall be provided following the receipt of the reclamation plan in accordance with **sub. 15.10**. In this case, the subject matter and testimony at that hearing, if held, shall be limited to the new reclamation plan.

15.30 Local Transportation-Related Mines. No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to **sub. 16.50**.

SECTION 16

16.00 Issuance of a Nonmetallic Mining Reclamation Permit.

16.10 Permit Required. Every operator of a nonmetallic mining site in Brown County who engages in or plans to engage in nonmetallic mining after September 1st, 2001 shall obtain a reclamation permit issued under this

section, except for nonmetallic mining sites that are exempt from this chapter under **sub. 7.20**. No person may engage in nonmetallic mining or nonmetallic mining reclamation after September 1st, 2001 without a reclamation permit issued pursuant to this chapter.

16.20 Automatic Permit for Existing Mines. Brown County shall issue an automatic reclamation permit to the operator of a nonmetallic mining site that submits an application meeting the requirements of **sub. 12.20**, according to the following provisions:

- (1) The permit shall be issued within 30 days of such application..
- (2) After the permitting date for receiving automatic permits has passed, Brown County shall determine an order for reclamation plan submittal. The County shall then notify the existing mines and inform them of the timeframe for reclamation plan submittal. Based on the timeframe established by Brown County, the existing mines will need to submit to Brown County the following:
 - (a) A reclamation plan that meets the requirements of **s. 13**; and
 - (b) Financial assurance required pursuant to **s. 14**.
- (3) Brown County may grant a reasonable extension to the deadline in **sub. (2)** when it finds extenuating circumstances exist.

16.30 Evaluation of Follow-Up Submittals for Existing Mines. Mines covered by automatic permits issued under **sub. 16.20** shall submit a reclamation plan in accordance with **sub. 13.20** and proof of financial assurance in accordance with **sub. 14.20 [repeat deadlines for these submittals]**. Reasonable extensions to these deadlines may be granted in writing by Brown County where extenuating circumstances exist. These follow-up submittals shall be evaluated as set forth below:

- (1) The reclamation plan and financial assurance shall meet the requirements of **sub. 16.20(2)**.
- (2) (a) Brown County shall accept, as satisfaction of the requirement for submittal of a reclamation plan pursuant to **sub. 16.20(2)(a)**., submittal of a previously-completed document that includes plans for reclamation so long as:
 1. The document has been approved by a county or municipality; and

2. Brown County finds that the document designates a post-mining land use and describes reclamation measures that meet the reclamation standards of this chapter.

(b) If Brown County determines that a document with reclamation plans previously approved meets some, but not all of, the requirements of this chapter, it shall request the supplemental information needed to satisfy the reclamation plan requirements of this section. In that case, Brown County shall determine whether or not to provide public notice and opportunity for public hearing pursuant to **sub. 15.20(3)**, depending on the nature and extent of the supplemental information.

(3) Within 30 days of receipt of the reclamation plan and evidence of financial assurance as required under **sub. 16.20(2)**, Brown County shall affirm in writing its decision whether to approve these submittals and continue the nonmetallic mining reclamation permit issued pursuant to **sub. 16.20**. A reclamation permit with this written affirmation shall satisfy the requirements of this chapter without further action, submittal or approval.

16.40 Permit Issuance for New Mines. Applications for reclamation permits for nonmetallic mining sites not in operation on August 1st, 2001 that satisfy **s. 12.30** shall be issued a reclamation permit or otherwise acted on as provided below.

(1) Unless denied pursuant to **s. 17**, Brown County shall approve in writing a request that satisfies the requirements of **sub. 12.30** to issue a nonmetallic mining reclamation permit for a nonmetallic mine where mining has not yet taken place on or after August 1st, 2001 or an existing nonmetallic mine where mining is not taking place on or after August 1, 2001.

(2) Brown County may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of **s. 13**. The regulatory authority may issue a reclamation permit subject to conditions in **sub. 16.70** if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application and reclamation plan pursuant to this subchapter, unless a public hearing is held pursuant to **s. 15**. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to **sub. 16.70** if appropriate, or shall deny the permit as provided in **s. 17**, no later than 60 days after completing the public hearing.

(3) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of **s. 13** and provision by the applicant of financial assurance required under **s. 14** and payable to Brown County prior to beginning mining.

16.50 Automatic Permit for Local Transportation-Related Mines

(1) Brown County shall automatically issue an expedited permit under this subsection to any borrow site that:

(a) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;

(b) Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;

(c) Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites;

(d) Is not a commercial source;

(e) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any and;

(f) Is not otherwise exempt from the requirements of this chapter under **sub. 7.20(10)**.

(2) In this subsection, “municipality” has the meaning defined in s. 299.01(8), Stats.

(3) Automatic permits shall be issued under this subsection in accordance with the following provisions:

(a) The applicant shall notify Brown County of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.

(b) The applicant shall provide evidence to Brown County to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.

(c) Brown County shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under **s. 13**.

(d) Brown County shall accept the contractual provisions in lieu of the financial assurance requirements in **s. 14**.

(e) The public notice and hearing provisions of **s. 15** do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.

(f) Mines permitted under this subsection shall pay an annual fee to Brown County as provided in **s. 27**, but shall not be subject to the plan review fee provided in **s. 26**.

Note: Fees may not be assessed for local transportation-related mines permitted under this subsection under s. 27 that is greater than allowed by s. NR 135.23(1)(f), Wis. Adm. Code. See the note following sub. 27.30 for details of this fee limitation.

(g) Brown County shall issue the automatic permit within 7 workdays of the receipt of a complete application.

(h) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.

(i). Notwithstanding **s. 25** , the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

Note: A reclamation permit is not required under this chapter for nonmetallic mining sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning restoration of the nonmetallic mining site, as provided by s. 295.16(1)(c), Stats.

16.60 Expedited Review. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under **sub. (1)** or **sub. (2)** as follows:

(1) The operator may submit a request for expedited permit review with payment of the expedited review fee specified in **s. 26.20**. This request shall state the need for such expedited review and the date by which such expedited review is requested.

(2) The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services

under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.

(3) Following receipt of a request under this subsection, Brown County shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under **sub. (1)** shall be returned.

(4) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to **s. 15**. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

16.70 Permit Conditions. Any decision under this section may include conditions as provided below:

(1) Brown County may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this chapter.

(2) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to **s. 14** prior to beginning mining.

SECTION 17

17.00 Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

(1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in **s. 16**, if Brown County finds any of the following:

(a) The applicant has, after being given an opportunity to make corrections, failed to provide to Brown County an adequate permit application, reclamation plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this chapter.

(b) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained this chapter, Chapter NR 135, Wisconsin Administrative Code or subch. I. of ch. 295, Stats.

(c) 1. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered shown a pattern of

serious violations of this chapter or of federal, state or local environmental laws related to nonmetallic mining reclamation.

2. The following may be considered in making this determination of a pattern of serious violations:

a. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

b. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this chapter, other reclamation ordinances or Chapter NR 135, Wisconsin Administrative Code.

c. Forfeitures of financial assurance.

(d) A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(2) A decision to deny an application to issue a reclamation permit may be reviewed under s. 22.

SECTION 18 **18.00 Alternative Requirements.**

18.10 Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in s. 11.00. Brown County may approve an alternative requirement to the reclamation standards established in this chapter if the operator demonstrates and Brown County finds that all of the following criteria are met:

(1) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.

(2) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.

(3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

18.20 Procedures. (1) The operator of a nonmetallic mining site requesting an alternate requirement in **sub. 18.10** shall demonstrate all the criteria in **sub.**

18.10. This shall be submitted in writing to Brown County Zoning Office, 305 East Walnut Street, Green Bay, WI 54305.

(2) The applicant proposing to receive an alternative requirement to the standards identified in S. 11.00 shall file an application with the Brown County Zoning Office. A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit. The applicant shall identify the alternative requirement(s) requested. The applicant shall state how the alternative requirements meets the criteria listed in S 18.10. The Board of Adjustment shall require that the applicant submit a plan or document prepared and certified by a registered professional engineer that states that the proposed alternative requirements adequately address the standards identified in S. 11.00.

(3) Before deciding upon an application, the Board of Adjustment shall hold a public hearing. Notice of such public hearing specifying the time, place and matters to be decided by the Board shall be identified in the public hearing notice. The Board shall provide a Class I public hearing notice.

(4) The Board shall act on an application within 60 days from receiving the application-except that where additional information is required by the Board, the Board shall render a written decision within 60 days from the receipt of such information. The Board may attach conditions that it deems necessary to meet the purpose of this ordinance in approving the alternative requirements. Approval of an application shall require a majority vote of the Board of Adjustment membership.

18.30 Transmittal of Decision on Request for Alternative Requirement. The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

18.40 Notice to Wisconsin Department of Natural Resources. Brown County shall provide notice to the Wisconsin Department of Natural Resources as set forth in this subsection. Written notice shall be given to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing held under **sub. 18.20** on a request for an alternate requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

SECTION 19

19.00 Permit Duration. (1) A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to **sub. 31.20**.

(2) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to **s. 20**.

SECTION 20 **20.00 Permit Transfer.** A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the following conditions:

(1) A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to Brown County of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.

(2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by Brown County and Brown County makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

SECTION 21 **21.00 Previously Permitted Sites.** For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code, that becomes subject to reclamation permitting authority of Brown County, the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Brown County pursuant to **sub. 23.10**.

SECTION 22 **22.00 Review.** Any permitting decision or action taken by Brown County under this chapter may be reviewed as set forth in this section. Notwithstanding ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of s. 227.42 (1), Stats., may obtain a contested case hearing under s. 68.11, Stats., on Brown County 's decision to issue, deny or modify a nonmetallic mining reclamation permit.

PART IV - ADMINISTRATION

SECTION 23 **23.00 Permit Modification.**

23.10 By Brown County. A nonmetallic mining reclamation permit issued under this chapter may be modified by Brown County if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter. Such modification shall be by an order modifying the permit in accordance with **s. 32**. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or

other information needed to ensure compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter.

23.20 At the Operator's Option. If the 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 Brown County Zoning office. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

23.30 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 if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

Note: Modification of the permit must be requested by the operator in such circumstances under s. NR 135.27, Wis. Adm. Code.

23.40 Review. All actions by Brown County on permit modifications requested or initiated under this section are subject to review under s. 22.

SECTION 24

24.00 Permit Suspension and Revocation

24.10 Grounds. Brown County may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds the operator has done any of the following:

- (1) Failed to submit a satisfactory reclamation plan within the time frames specified in this chapter.
- (2) Failed to submit or maintain financial assurance as required by this chapter.
- (c) Failed on a repetitive and significant basis to follow the approved reclamation plan.

24.20 Procedures. If Brown County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in **sub. 24.10**, it may issue a special order suspending or revoking such permit as set forth in **sub. 32.20**.

24.30 Consequences. (1) If Brown County makes any of the findings in **sub. 24.10**, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to **s. 32**.

(2) If Brown County makes any of the findings in **sub. 24.10**, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this chapter to Brown County. Brown County may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

SECTION 25

25.00 Annual Operator Reporting.

25.10 Contents and Deadline. Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

(1) **CONTENTS.** The annual report required by this section shall include all of the following:

(a) The name and mailing address of the operator.

(b) The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.

(c) The identification number of the applicable nonmetallic mining permit, if assigned by Brown County.

(d) The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.

(e) The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.

(f) A plan, map or diagram accurately showing the acreage described in pars. (e) and (f).

(g) The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Chapter NR 135, Wisconsin Administrative Code."

(2) **DEADLINE.** The annual report shall cover activities for a calendar year and be submitted within 60 days following the end of the year.

(3) **WHEN REPORTING MAY END.** Annual reports shall be submitted by an operator for all active and intermittent mining sites to Brown County for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to **sub. 29.30** or at the time of release of financial assurance pursuant to **sub. 14.10(7)**.

25.20 Inspection in Lieu of Report. Brown County may, at its discretion, obtain the information required in **sub. 25.10** for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If Brown County obtains and documents the required information, the annual report need not be submitted by the operator. If Brown County determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, Brown County shall require the operator to submit the certification required in **sub. 25.10(1)(g)**.

25.30 Retention of Annual Reports. Annual reports submitted under **sub. 25.10** or inspection records that replace them under **sub. 25.20** shall be retained by Brown County at the Brown County Zoning office for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

SECTION 26

26.00 Plan Review Fees.

26.10 Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under **sub. 12.30** shall submit a non-refundable plan review fee per Table 1.

**TABLE 1: Plan Review Fee for Reclamation Plans Submitted
On or After January 1, 2004,
Where Brown County is the Regulatory Authority**

Proposed Mine Site Size Rounded to the Nearest Whole Acre	One-Time Plan Review Fee
1 to 25 acres	\$900
26 to 50 acres	\$1,200
51 or more acres	\$1,500

No plan review fee may be assessed under this section for any existing nonmetallic mine site for which an application for an automatic reclamation permit is submitted that meets the requirements of **sub. 12.20** or for any local transportation-related mining receiving an automatic permit under **sub. 16.50**. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to **s. 23**.

Note: The prohibition on plan review fees for existing and local transportation-related mines is required under ss. NR 135.23(1)(g) and NR 135.39(5)(a), Wis. Adm. Code.

26.30 Relation to Annual Fee. Any reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under **s. 27**.

Note: Plan review fees collected under this section are required under s. 295.12(3)(e)1.a., Stats., to equal as closely as possible the cost of examination and approval of such plans. Section 295.15, Stats. requires the regulatory authority to use its fees only for the administration of its reclamation ordinance.

SECTION 27 27.00 Annual Fees.

27.10 Areas Subject to Fees, Procedures and Deadline. (1) Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to Brown County. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under **sub. 27.20** and a share for Brown County under **sub. 27.30** that equals as closely as possible the costs of examination and approval of nonmetallic mining reclamation plans and the inspection of nonmetallic mining sites.

(2) Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mining site, as defined below:

(a) "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1st, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under **sub. 14.10(7)**. However the term does not include any areas described in par. (b).

Note: the following definition is the same as that for "unreclaimed area" set forth in s. 10(25) of this model ordinance. It has been repeated to provide clarification but is not legally necessary.

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under **sub. 14.10(7)**.

2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1st, 2001.

3. Those portions of nonmetallic mining sites which are included in an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.

4. Areas previously mined but used after August 1st, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

5. Those areas within a nonmetallic mining site which the regulatory authority has determined to have been successfully reclaimed on an interim basis in accordance with **subs. 29.20** and **29.30**.

6. Those areas defined as not included in a nonmetallic mining site under **sub. 10(16)(b)**.

(3) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under **s. 29**. Fees shall be paid no later than December 31 for the subsequent year.

(4) For new or reopened mines that submit a reclamation permit application under **sub. 12.30**, the first year's annual fee shall be based upon the unreclaimed acres which are anticipated at the end of that calendar year.

(5) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by Brown County pending certification of completed reclamation pursuant to **sub. 14.10(7)**. Upon such certification Brown County shall refund that portion of the annual fee that applies to the reclaimed areas. If Brown County fails to make a determination under **sub. 14.10(7)** within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

27.20 Wisconsin Department of Natural Resources Share of Fee. (1) Fees paid under this section shall, except where provided in **sub. (2)**, include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Table 2. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be **\$15.00**.

TABLE 2: Wisconsin Department of Natural Resources' Share of Annual Fees Collected by Brown County

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines < 1 acre]	\$ 30
6 to 10 acres	\$ 60
11 to 15 acres	\$ 90
16 to 25 acres	\$120
26 to 50 acres	\$140
51 acres or larger	\$150

(2) For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.

(3) Brown County shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st of the year for which they were collected.

27.30 Brown County's Share of Fee. Fees paid under this section shall also include an annual fee due to Brown County, per Table 3.

**TABLE 3: Annual Fees on or Before December 31, 2003,
Where Brown County is the Regulatory Authority**

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines < 1 acre]	\$ 450
6 to 10 acres	\$ 600
11 to 15 acres	\$ 750
16 to 25 acres	\$1,000
26 to 50 acres	\$1,100
51 acres or larger	\$1,250

Annual fees for local transportation-related mines issued permits under **sub. 16.56** may not exceed the amounts set forth in Table 4 below.

**TABLE 4: Limit on Total Annual Fees For
Automatically-Permitted Local Transportation Project-Related Mines**

Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines < 1 acre]	\$ 150
6 to 10 acres	\$ 300
11 to 15 acres	\$ 450
16 to 25 acres	\$ 600
26 to 50 acres	\$ 700
51 acres or larger	\$ 750

27.50 Needed if the regulatory authority's annual fee is greater than WDNR's fee where it is the regulatory authority by default, as set out in s. NR 135.39(4)(c), Wis. Adm. Code. **Documentation of Brown County's Share of Fee.** Brown County shall document in writing its estimated program costs and the need for fee established in **sub. 27.30** on or before June 1st, 2001. This documentation shall be available for public inspection at [list location].

Note: The Department of Natural Resources' annual fees where it regulates nonmetallic mining sites set pursuant to s. NR 135.39(4)(c), Wis. Adm. Code, are set forth in Tables 3 and 4 below. The documentation in this subsection is needed only if a regulatory authority's fees exceed those

listed below. In any event, s. 295.15, Stats., prohibits a regulatory authority from using its fees for purposes other than the administration of its nonmetallic mining reclamation ordinance.

SECTION 28 **28.00 Regulatory Reporting and Documentation.**

28.10 Reporting. Brown County shall send an annual report to the Wisconsin Department of Natural Resources by March 31st of each calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:

- (1) The total number of nonmetallic mining reclamation permits in effect.
- (2) The number of new permits issued within the jurisdiction of Brown County.
- (3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
- (4) The number of acres being mined.
- (5) The number of acres that have been reclaimed and have had financial assurance released pursuant to **sub. 14.10(7)**.
- (6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to **subs. 29.10 and 29.20**.
- (7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

28.20 Documentation. Brown County shall, to the best of its ability, maintain the information set forth below, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Brown County's reclamation program pursuant to Chapter NR 135, Wisconsin Administrative Code:

- (1) Documentation of compliance with Chapter NR 135, Wisconsin Administrative Code and this chapter.
- (2) The procedures employed by Brown County regarding reclamation plan review, and the issuance and modification of permits.
- (3) The methods for review of annual reports received from operators.

- (4) The method and effectiveness of fee collection.
- (5) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.
- (6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
- (7) Responses to citizen complaints.
- (8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
- (9) The maintenance and availability of records.
- (10) The number and type of approvals for alternative requirements issued pursuant to **s. 18**.
- (11) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to **sub. 14.10(7)**.
- (12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Brown County to implement its nonmetallic mining reclamation program under this chapter.
- (13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
- (14) Any other performance criterion necessary to ascertain compliance with Chapter NR 135, Wisconsin Administrative Code.

SECTION 29 29.00 Completed Reclamation - Reporting, Certification and Effect

29.10 Reporting. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code.

29.20 Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this chapter

and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in **sub. 29.10**.

29.30 Certification of Completed Reclamation. Brown County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with **sub. 14.10(7)(c)**. If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with **s. 13**, Brown County shall issue the mine operator a written certificate of completion.

29.40 Effect of Completed Reclamation. If reclamation is certified by Brown County as complete under **sub. 29.30** for part or all of a nonmetallic mining site, then:

(1) No fee shall be assessed under **s. 27** for the area so certified.

(2) The financial assurance required by **s. 14** shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

29.50 Effect of Inaction Following Report of Completed Reclamation. If no written response as required by **sub. 29.30** for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to Brown County for it under **s. 27** shall be refunded.

SECTION 30

30.00 Permit Termination. When all final reclamation required by a reclamation plan conforming to **s. 13** and required by this chapter is certified as complete pursuant to **subs. 14.10(7) and 29.30**, Brown County shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

PART V - ENFORCEMENT

SECTION 31

31.00 Right of Entry and Inspection. For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of Brown County may inspect any nonmetallic mining site subject to this chapter as provided below:

(1) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of Brown County or the Wisconsin

Department of Natural Resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, this chapter, Chapter NR 135, Wisconsin Administrative Code or subchapter I of ch. 295, Stats.

(2) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

SECTION 32 **32.00 Orders and Citations.**

32.10 Enforcement Orders. Brown County may issue orders as set forth in Section 295.19(1)(a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

32.20 Special Orders. The Brown County Zoning Administrator, or designee, may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to s. 24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

32.30 Review of Orders. A person holding a reclamation permit who is subject to an order pursuant to this section shall have the right to review the order in a contested case hearing under s. 68.11, Stats., notwithstanding the provisions of ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats.

32.40 Citations. Brown County may issue a citation under s. 66.119, Stats. and Chapter 30 of the Brown County Code of Ordinances to collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 13 and a permit issued under this chapter. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

32.50 Enforcement. Brown County may submit any order issued under **s. 32** to abate violations of this chapter to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

SECTION 33 **33.00 Penalties.** Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **s. 13** and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

(1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under **s. 32** may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under **s. 32** is suspended, stayed or enjoined, this penalty does not accrue.

(2) Except for the violations referred to in **sub. (1)**, , any person who violates subchapter I of ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to **s. 32** shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under **s. 32** is suspended, stayed or enjoined, this penalty does not accrue.

A motion was made by Supervisor Simons and seconded by Supervisor Williquette to adopt. Discussion followed.

Item #10h – Ordinance creating Chapter 14 of the Brown County Code entitled “Non-Metallic Mining Reclamation Ordinance.” Supervisor Simons was concerned whether area businesses were satisfied with the fee structure, ordinance language, etc. Mr. Bosiacki, Zoning Director, stated that he believes they are, since he hasn’t received contrary feedback on it: “They weren’t thrilled with it, but they could live with it.” Following, Bosiacki gave a general overview of the intent of this ordinance establishing Chapter 14.

Mr. Bukowski, Corporation Counsel, stated Chapter NR135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes, requires local programs for reclamation of nonmetallic mining sites. Accordingly, towns could operate it. Currently, the town of Hobart is the only town to have an ordinance in place. Therefore, by Brown County adopting this ordinance, it would bring Brown County into compliance with laws. If the county didn’t do this, the state DNR would.

Supervisor Vanden Plas said the Committee’s decision was to let the County handle this rather than the DNR.

Vote taken. Roll Call #10h:

Ayes: Antonneau, Bunker, Krueger, Hansen, Zima, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Ayes: 23 Total Excused: 1

Motion carried unanimously with no abstentions.

Approved by: \s\ Nancy J. Nusbaum, County Executive Date: 7/31/2001

Approved by: \s\ Darlene K. Marcelle, County Clerk Date: 8/6/2001

Approved by: \s\ Keith Watermolen, Board Chairman Date: 7/18/2001

No. 11 -- Such other matters as authorized by law. None.

No. 12 -- Bills over \$10,000 for periods ending July 2, 2001.

A motion was made by Supervisor Collins and seconded by Supervisor Fleck to approve payment of the bills over \$10,000. Vote taken. Motion carried unanimously with no abstentions.

No. 13 -- Closing Roll Call.

Present: Antonneau, Bunker, Krueger, Hansen, Zima, Queoff, Vanden Plas, Collins, Clancy, Fleck, Watermolen, Schadewald, Schmitz, Haefs, Kaye, Bicoy, Johnson, Kuehn, Marquardt, Schillinger, Moynihan, Simons, Williquette

Excused: Schmitt

Total Present: 23 Total Excused: 1

No. 14 -- ADJOURNMENT TO WEDNESDAY, AUGUST 15, 2001, AT 7:00 P.M., LEGISLATIVE ROOM, 100 N. JEFFERSON STREET, GREEN BAY, WISCONSIN.

A motion was made by Supervisor Moynihan and seconded by Supervisor Johnson to adjourn to the above date and time.

By: Sandra Van Straten-Juno
For: Darlene K. Marcelle
Brown County Clerk