

Amendments to General Code of Ordinances Marathon County
Chapter 17 Zoning Code
Metallic Mining Bulk Sampling (Permitted Use) Text Amendments
June 7, 2018

Section 17.204.543 METALLIC MINING BULK SAMPLING

A. Purpose and Intent.

This section is established for metallic mining bulk sampling in accordance with state law, including but not limited to, WI Stats. 293 and in accordance with the purpose and intent expressed in Section 17.204.545(A). All bulk sampling permitted pursuant to this section shall be located, constructed, operated and reclaimed to protect the public health, safety and general welfare.

B. Successor Statutes and Administrative Rules Incorporated.

This ordinance has been passed and published in response to 2017 WI ACT 134, which removed barriers to the initiation of nonferrous metallic mining in WI and authorized bulk sampling. The provisions of the act are effective July 1, 2018. At the time of the publication of this ordinance, the State has not published any administrative rules governing bulk sampling. The effect of Act 134 is to amend, repeal, and create certain sections of WI statutes. It is anticipated that related statutes and administrative rules and regulations, current at the time of publication of this ordinance, will also undergo substantial change in response to Act 134. All citations to state or federal statutes and/or regulations shall include any and all modifications, amendments, or revisions thereto after the effective date of this ordinance.

NOTE: Upon promulgation, by the State, of administrative rules governing bulk sampling, this code section shall be reviewed.

C. The requirements of this section apply to any and all operators of bulk sampling sites within towns that have adopted General Code of Ordinances for Marathon County Chapter 17 Zoning Code.

D. General Requirements.

1. Bulk sampling may be permitted in the General Agricultural (G-A) district.
2. The applicant for a bulk sampling permit shall demonstrate that they have applied for all necessary approvals, licenses and permits for the proposed bulk sampling from the WI DNR (including, but not limited to, those under WI Stats. 30, 31, 107, 280 to 299), from any other agency of the Wisconsin, and from any federal agency with jurisdiction.
3. The reclamation standards set forth in WI Stats. 293.13(2) shall apply to bulk sampling activities in Marathon County.
4. All applicants shall be required to provide for the proper closure and reclamation of the bulk sampling site to a permitted use under the general agricultural district.
5. All excavation shall be setback at least 100 feet from any existing occupied structure other than the owner's.
6. All operations shall be at least 10 feet from the any right-of-way and property boundaries. Unprocessed and processed materials stockpiles, equipment storage, fueling stations, other related accessory uses such as scales, are not allowed within the setback area.
7. Bulk sampling up to or into a right-of-way may be authorized in writing by the political subdivision having jurisdiction over the right-of-way.
8. Screening is required along any adjacent residential parcels. Screening may include but is not limited to vegetation, berms, natural landscape, temporary visual screening, fencing, and/or distance. Existing vegetation, topography, and/or landscape on proposed site and/or adjacent parcel may be taken into consideration.
9. Lighting shall be limited to that which is minimally necessary for safe operations for bulk sampling.
10. All petroleum products kept onsite and related to the operation shall be stored in state approved fuel storage tank systems and fueling areas.
11. Safety and Security. The applicant shall comply with the applicable and appropriate state and federal requirements.
12. The applicant shall utilize appropriate Best Management Practices as specified by Wisconsin Administrative Code NR 415.075 f [control of dust and mud] and NR 445 [control of hazardous pollutants].

13. The applicant/operator shall avoid or minimize adverse environmental impacts related to bulk sampling of nonferrous metallic minerals to the extent practicable, as set forth and consistent with Stats. 293, as determined by the DNR.
14. The applicant/operator shall not utilize any chemical extraction or processing methods on the site.
15. All equipment and temporary structures must be removed prior to the termination of the permit.
16. Before the bulk sampling permit is approved by the zoning administrator, the applicant shall provide documentation regarding an agreement with the political subdivision(s) with jurisdiction over the primary travel routes to transport material and/or equipment to and from the site. The agreement may address the prevention of potential road damage. The agreement shall address the repair of road damage that occurs due to bulk sampling. In the event the applicant demonstrates that no agreement addressing road damage under this paragraph can be reached, the zoning administrator may require a reasonable surety addressing the cost to repair road damage. NOTE: Stats. 349.16(1)(c) sets forth a process for addressing road damage retrospectively. Said process may be used but is not mandated by this ordinance.
17. Hours of operation for bulk sampling shall not exceed 7:00am to 7:00pm, Monday through Friday, excluding holidays. This shall include startup and shutdown of equipment.
18. Blasting hours shall not exceed 8:00 am to 6:00 pm. All blasting shall be done in compliance with State and Federal guidelines and requirements, including Stats. 307.41 Wisconsin Administrative Code. All blasting must be done by a state licensed and certified blaster who must have a certificate of liability or proof of liability insurance. Blasting logs shall be provided to the County within 5 working days, excluding weekends, of a written request from the County. Blasting logs shall include only the date, time and location of any blasting activities.
19. The applicant/operator shall post on site at the entry point from the public road(s), primary and secondary contacts to receive public comment and provide further information.

D. Application Requirements.

1. An application for a bulk sampling permit shall be filed with the Zoning Administrator contemporaneously with the filing of a WI DNR bulk sampling application, pursuant to Stats. 293.26.
2. The application submitted for a bulk sampling permit shall not be determined to be complete, unless the following is submitted:
 - a. Application fee, an electronic copy and two paper copies of the following original materials;
 - b. Complete WI DNR application for bulk sampling, including the bulk sampling plan, pursuant to Stats. 293.26.
 - c. All State and Federal documents with respect to the proposed bulk sampling and the following information and/or plans reasonably reflecting the best information available at the time of the application.
 - d. Aerial Photograph(s) and Map(s).
 - 1) The boundary of the affected parcel(s) and any adjacent parcel(s), pipelines, railroads, streams, utilities, and wetlands on the proposed extraction site and any adjacent parcel;
 - 2) The proposed boundary of the future mine site for which data is being collected through bulk sampling;
 - e. A map of all well locations on affected parcel(s) and adjacent parcel(s);
 - f. The proposed location, extent, and depth of the proposed bulk sampling, showing the setback distances;
 - g. The proposed location of areas to be used for material handling;
 - h. The proposed location of any ponds, sediment basins, stockpiles, and showing the setback distances;
 - i. The proposed location of any onsite fuel storage facilities and waste storage facilities;
 - j. The locations of proposed permanent and temporary structure showing setback distances;
 - k. The surface drainage and estimated depth to groundwater.
 - l. Descriptions of Bulk Sampling as follows:
 - 1) The estimated date that activities will commence and terminate;
 - 2) The proposed primary travel routes to transport material to and from the site, type of vehicle used in transport, average loaded weight of vehicle, and the common schedule of travel to be used for transporting;
 - 3) A description of measures to be taken to control noise and vibrations from the activities;
 - 4) A description of the proposed frequency and amount of blasting, if any, to be used;

- 5) A description of measures to be taken to control dust including excavation, grading, stockpiling, and hauling on internal and external roads;
 - 6) A description of the methods, machinery and equipment to be used for extraction and mechanical processing of extracted material;
 - 7) A description of the measures to be taken to stabilize excavated areas prior to reclamation.
 - 8) A description of measures to be taken to screen or buffer the operation from view with vegetative or other screening devices from adjacent residential properties;
 - 9) A description of proposed lighting to be used during the bulk sampling; including the type and style of lighting to be used and its power source(s);
 - 10) A description of security and safety measures including any proposed fencing, gating, or signing;
 - 11) Anticipated hours of operation including start-up and shutdown of all equipment;
 - 12) A schedule of calculations providing details of all materials excavated including overburden and any other materials removed from any portion of the excavation site.
 - 13) Financial Responsibility under Section 17.204.545(L) (1) General Liability insurance is hereby incorporated as if set forth in full.
- m. The primary and secondary contacts to receive public comment and provide further information relating to the application and operations.
- E. **Notification.** Upon receipt of an application, the zoning administrator shall notify the political subdivision(s) of jurisdiction, the Metallic Mining Committee Chair, the Environmental Resources Committee Chair, and the DNR.
- F. **Issuance.** There shall be no more than one Bulk Sampling Permit granted per potential mining site. A bulk sampling permit shall be issued only in conformity with the provisions of this Zoning Ordinance, unless the Zoning Administrator receives a written order from the Board of Adjustment (BOA) deciding an appeal or variance.
- G. **Inspections and Reports.** Section 17.204.545(M) is hereby incorporated as if set forth in full.
- I. **Emergencies.**
At the discretion of the zoning administrator, the conditions set forth herein may be modified temporarily to the extent necessary to mitigate an emergency.
- J. **Fees.**
1. The applicant shall submit a fee for the evaluation of the bulk sampling application in the amount of \$1,500.00 to cover the estimated cost of evaluating the operator's bulk sampling permit application.

Section 17.203.05 TABLE OF PERMITTED USES

1. Add Metallic Mining Bulk Sampling as Permitted Use in the General Agriculture District and add Section 17.204.543 to the Development Standards column in Table 3, Uses Permitted by District.

Section 17.902 GENERAL DEFINITIONS

Add the following:

Bulk sampling has the meaning given in §293.01 (2m)

Potential mining site means the surface area disturbed by an applicant pursuant to a prospecting and/or bulk sampling permit. The site includes the surface area from which the nonferrous metallic minerals or refuse or both have been removed, the surface area covered by refuse, all lands disturbed by the construction or improvement of haulage ways, and any surface areas in which structures, equipment, materials and any other items used in the potential mining operation are situated.