

Amendments to General Code of Ordinances Marathon County  
Chapter 17 Zoning Code  
Metallic Mining Prospecting (Conditional Use Permit) Text Amendments  
June 7, 2018

**Section 17.204.544 METALLIC MINING PROSPECTING**

- A. This section is established for metallic mining prospecting in accordance with state law, including but not limited to, WI Stats. 293 and Wisconsin Administrative Code NR 131 and in accordance with the purpose and intent expressed in Section 17.204.545(A).
- 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. The provisions of the act are effective July 1, 2018. 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, may undergo changes 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.
- C. The requirements of this section apply to any and all operators of prospecting sites within towns that have adopted General Code of Ordinances for Marathon County Chapter 17 Zoning Code.
- D. **General Requirements.**
1. All prospecting permitted pursuant to this section shall be located, constructed, operated and reclaimed to protect the public health, safety and general welfare.
  2. Prospecting may be permitted by the Marathon County Board of Adjustment (BOA) in accordance with Section 17.803 of this code as a conditional use in the General Agricultural (G-A) district.
  3. The applicant for a prospecting Conditional Use Permit shall comply with eligibility criteria set forth in Section 17.803.02 of this code and shall demonstrate that they have applied for all necessary approvals, licenses and permits for the proposed prospecting 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.
  4. The reclamation standards set forth in Wisconsin Administrative Code NR 131.08 and WI Stats. 293.13(2) shall apply to prospecting activities in Marathon County.
  5. All prospecting shall be required to provide for the proper closure and reclamation of the extraction site to a permitted use under the general agricultural district.
  6. All excavation shall be setback at least 100 feet from any existing occupied structure other than the owner's.
  7. All operations shall be at least 10 feet from the 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.
  8. Prospecting up to or into a right-of-way may be authorized in writing by the political subdivision having jurisdiction over the right-of-way.
  9. Screening may be required along any adjacent residential parcel. Screening may include but is not limited to vegetation, berms, natural landscape, and/or distance. Existing vegetation, topography, and/or landscape on proposed site and/or adjacent parcel may be taken into consideration.
  10. Lighting shall be limited to that which is minimally necessary for safe operations for prospecting.
  11. All petroleum products kept onsite and related to the operation shall be stored in state approved fuel storage tank systems and fueling areas.
  12. Safety and Security. The applicant shall comply with the applicable and appropriate state and federal requirements.
  13. The applicant shall utilize appropriate Best Management Practices as specified by Wisconsin Administrative Code NR 415.075 [control of dust and mud] and NR 445 [control of hazardous pollutants].
  14. The applicant/operator shall avoid or minimize adverse environmental impacts related to prospecting of nonferrous metallic minerals to the extent practicable.
  15. The applicant/operator shall not utilize any chemical extraction or processing methods on the site.
  16. All equipment and temporary structures must be removed prior to the termination of the Conditional Use Permit as determined by the BOA.

17. Before the conditional use permit is approved by the BOA, the applicant shall provide financial assurance to the political subdivision(s) with jurisdiction ensuring that the primary travel routes to transport material and/or equipment to and from the site will be constructed, maintained, repaired and reconstructed, as determined by the political subdivision(s). not to exceed the costs of complete reconstruction. The amount of the financial assurance shall be determined by the political subdivision(s) with jurisdiction. A copy of the financial assurance and a letter from the political subdivision(s) with jurisdiction stating the financial assurance has been properly filed and meets their requirements shall be submitted to the zoning administrator. In the event the applicant demonstrates that no agreement regarding financial assurance under this paragraph can be reached, the zoning administrator may require a reasonable surety related to the cost to construct, maintain, repair and reconstruct all affected public roadways. Prior to release of the financial assurance, all improvements shall be inspected by the political subdivision(s) with jurisdiction and found to have been completed according to specifications.
18. Blasting hours may be regulated by the conditions placed on the Conditional Use Permit. 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 of a written request from the County. Blasting logs shall include only the date, time and location of any blasting activities.
19. It is the intention of the County to foster communication between applicants and other local units of government for the purposes of reaching agreement relative to impacts to general public health, safety, and welfare.

**E. Application Requirements.**

1. An application for a prospecting conditional use permit shall be filed with the Zoning Administrator contemporaneously with the filing of a WI DNR prospecting permit application.
2. The application submitted for a prospecting Conditional Use 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 prospecting pursuant to Stats. 293.35 and NR 131.06, 131.07, and 131.08.
  - c. All State and Federal documents with respect to the proposed prospecting 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 prospecting;
  - e. A map of all well locations on affected parcel(s) and adjacent parcel(s);
  - f. The name of the owner of each affected and adjacent parcel(s) and the location of all structures within 300 feet of the proposed prospecting site;
  - g. The proposed location, extent, and depth of the proposed prospecting, showing the setback distances;
  - h. The proposed location of areas to be used for material handling;
  - i. The proposed location of any ponds, sediment basins, stockpiles, and showing the setback distances;
  - j. The proposed location of any onsite fuel storage facilities and waste storage facilities;
  - k. The locations of proposed permanent and temporary structure showing setback distances;
  - l. The surface drainage and estimated depth to groundwater.
  - m. Descriptions of prospecting 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 measures to be taken to screen or buffer the operation from view with vegetative or other screening devices from adjacent residential properties;
- 8) A description of proposed lighting to be used during the prospecting; including the type and style of lighting to be used and its power source(s);
- 9) A description of security and safety measures including any proposed fencing, gating, or signing;
- 10) Anticipated hours of operation including start-up and shutdown of all equipment;
- 11) A description of measures to be taken to avoid or minimize adverse environmental impacts related to prospecting of a sulfur bearing ore;
- 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.

**F. Inspections and Reports.**

Section 17.204.545(M) is hereby incorporated as if set forth in full.

**G. 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.

**H. Fees.**

1. The applicant shall submit a fee for a Conditional Use Permit as specified in Section 17.801.06, Schedule of Fees.
2. The applicant shall submit a fee for the evaluation of the prospecting application in the amount of \$1,500.00 to cover the estimated cost of evaluating the operators prospecting permit application. Upon completion of its evaluation, the County shall adjust the fee to reflect the actual cost of evaluation less any fees paid for the same services to satisfy other requirements. Evaluation of a prospecting permit application shall be complete upon the grant or denial of a prospecting permit. Costs under this subsection shall include staff time, equipment and material costs, licensed professionals and legal counsel.

**Section 17.203.05 TABLE OF PERMITTED USES**

1. Add Metallic Mining Prospecting as Conditional Use in the General Agriculture District and add Section 17.204.544 to the Development Standards column in Table 3, Uses Permitted by District.

**Section 17.902 GENERAL DEFINITIONS**

Add the following:

**Prospecting** has the meaning given in §293.01 (18) & NR 131.03 (15)

**Prospecting data** has the meaning given in NR 131.03 (16)

**Prospecting permit** has the meaning given in §293.01 (19) & NR 131.03 (17)

**Prospecting plan** has the meaning given in §293.01 (20) & NR 131.03 (18)

**Prospecting site** has the meaning given in §293.01 (21) & NR 131.03 (19)

**Prospector** has the meaning given in §293.01 (22)