

Section 17.204.545 METALLIC MINING

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A. Purpose and Intent.
 The purpose of this section is to regulate, consistent with Marathon County's Comprehensive Plan, metallic mineral mining in Marathon County and to promote the public health, safety, and general welfare and accomplish the purposes under Stats. 59.69(1), including but not limited to the protection of water, groundwater, forest and other natural resources, and the protection of property values and the property tax base. In addition, it is the purpose of this section to coordinate the requirements of this section with other applicable state and federal requirements. It is not the intent of Marathon County to duplicate or supersede the regulatory authority of the Wisconsin Department of Natural Resources (WI DNR) or other state and federal government agencies. Furthermore, it is the intent of Marathon County to require applicants to provide copies of the information submitted by applicants to the WI DNR or other state and federal government agencies for the purposes of permitting. It is also the intent of Marathon County to require the applicant to pay all costs including but not limited to the review, permitting and monitoring of metallic mining.

Marathon County, geographically, is the largest county in the State of Wisconsin with an area of 1,584 square miles. Marathon County continues to attract people to the community with a population growing from 126,031 in 2000 to 134,063 in 2010. Marathon County provides opportunities that make the Marathon County area a preferred place to live, work, visit, and do business. It is valued for its scenic beauty and recreational resources. It also has known deposits of metallic minerals. If not properly regulated, metallic mineral mining could have an adverse impact on the environmental character and quality of the communities in Marathon County.

B. Authority. This Chapter is adopted under authority of the powers set forth in Stats. 59.01, 59.03, 59.04, 59.51, 59.54(6), 59.57, 59.69, 59.70, 92.07, and 293.

C. Interpretation/Severability. Where provisions of this section of the Marathon County Zoning Ordinance impose requirements or procedures that differ from other provisions in this ordinance, the provisions of this section shall govern. Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.

D. Marathon County Metallic Mining Local Impact Committee. See Chapter 2 for membership and duties and responsibilities of Marathon County Metallic Mining Local Impact Committee.

E. Successor Statutes and Administrative Rules Incorporated.
 1. 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 this act 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 2017 WI 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.

F. Conditional Use Permit Required.
 1. The requirements of this section apply to any and all operators of metallic mining sites within towns that have adopted Chapter 17 Marathon County General Code of Ordinances and commencing operation or expansion of an existing metallic mine effective upon passage and publication according to law.
 2. No person or business entity may commence construction of a metallic mine or conduct metallic mining in Marathon County unless in conformance with a valid metallic mining Conditional Use Permit issued by the County pursuant to this section.
 3. A Conditional Use Permit issued in accordance with this section may contain conditions, restrictions and limitations on mine construction, operation, and reclamation of mining activities as necessary to achieve the intent of this section.
 4. Conditions established by the Conditional Use Permit pursuant to this section must be met at all times or the applicant may be found in violation and be subject to forfeitures, penalties, permit suspension or revocation or other enforcement provided herein.

5. A Conditional Use Permit issued pursuant to this section shall become effective on the date the applicant is issued a WI metallic mining permit for the identical mining site.
 6. Any Conditional Use Permit issued pursuant to this section may be in addition to any local agreement entered into by the County and the applicant. Local agreements may address conditions set forth herein.
 7. Any Conditional Use Permit issued pursuant to this section may be in addition to any other state, federal or local permits, licenses or approvals necessary for any mine construction or any aspect of the mining operation.
- G. Timing Milestones & Triggering Events.** The following is a list of significant regulatory milestones and events prescribed by statute, rule or regulation:
1. Notice of Intent to file WI DNR Mining permit application
 2. Activation of Local Impact Committee (Marathon County Metallic Mining Committee)
 3. Filing of Conditional Use Permit Application is required prior to and as part of the WI DNR Mining Permit Application.
 4. Filing of WI DNR Mining permit application
 5. WI DNR Review of completeness of WI DNR Mining permit application.
 6. Environmental Impact Report (may not be required)
 7. Environmental Impact Statement
 8. Notice of WI DNR Public Hearing
 9. Determination of completeness of Conditional Use Permit Application
 10. Public Hearing regarding proposed Local Agreement(s)
 11. Approval of Local Agreement(s)
 12. Notice of Marathon County Board of Adjustment Public Hearing
 13. Marathon County Board of Adjustment Decision
 14. WI DNR Public Comment Period Regarding Permit Issuance
 15. WI DNR Decision Document
 16. Commencement of Operations
 17. Reclamation – Commencement and Completion
 18. Closure of Mine
 19. Long Term Monitoring
 20. WI DNR – Partial and/or Full Certificate of Completion
 21. Post Mining Land Use Established
 22. Marathon County - Certificate of Completion
 23. Continuance and phased release of Financial Assurance(s)
 24. Final Release of Financial Assurance(s)
- H. General Requirements.**
1. All mines permitted pursuant to this section shall be located, constructed, operated and reclaimed to protect the public health, safety and general welfare.
 2. Metallic mining 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. The powers of the BOA include, but are not limited to, establishing conditions which regulate the duration, transfer or renewal of the permit.
 3. The applicant shall comply with eligibility criteria set forth in section 17.803.02 of this code. The applicant for a mining permit shall demonstrate that they have applied for all necessary approvals, licenses and permits for the proposed project from the WI DNR (including, but not limited to, those under Stats. 30, 31, 107, 280 to 299), from any other agency of the Wisconsin, and from any federal agency with jurisdiction over the mining or mining operation.
 4. Mining activities are prohibited within any areas described in Administrative Code, NR 132.18, unless an exemption is granted by WI DNR under NR 132.19. The areas include both the above-ground portion and the underground portion extending vertically from the site boundaries within the specified setback areas as follows:
 - a. Any area designated as unsuitable as described in NR 132.03(25)(a)(b);
 - b. Within 1,000 feet any navigable lake, pond, or flowage;
 - c. Within 300 feet of any navigable river or stream;

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- d. Within a floodplain;
 - e. Within 1,000 feet of the nearest edge of the right-of-way of any of the following: any state trunk highway, interstate or federal primary highway; the boundary of a state public park; the boundary of a scenic easement purchased by the WI DNR or the Department of Transportation; the boundary of a designated scenic or wild river; a scenic overlook designated by the department by rule; or a bike or hiking trail designated by the United States Congress or the Wisconsin Legislature; unless, regardless of season, the site is visually inconspicuous due to screening or being visually absorbed due to natural objects, compatible natural plantings, earth berm or other appropriate means, or unless, regardless of season, the site is screened so as to be aesthetically pleasing and inconspicuous as is feasible;
 - f. Within wetlands, to the extent regulated under 293.13(2)(c)8 and 281.36.
5. Mining activities are prohibited within any of the following described areas unless it is determined by BOA that the activity will not have an adverse impact upon the described area. The areas include both the above-ground portion and the underground portion extending vertically from the mining site boundaries within the specified setback areas as follows:
- a. 800 feet of any Marathon County owned land, excluding road right of ways;
 - b. 800 feet of any land owned by a city, village, town or any other political subdivisions of the State of Wisconsin, excluding road right of ways;
 - c. 800 feet of any residential structure;
 - d. 650 feet of any non- residential structures;
 - e. 1200 feet of any water well used for potable water.
6. Buffer Zones.
- a. A 500 foot buffer zone shall be established and maintained from the boundaries of the mining site, except for identified haulageways. The buffer zone is an area to be left in its natural state except for the planting of native trees or shrubs to provide an aesthetic visual barrier to the active mine site. The buffer zone is to remain during active mining and for a period of 40 years following issuance of certificate of completion by WI DNR of mining unless an alternate use is approved by the county as part of the reclamation plan.
7. Environmental Impact Report & Statement.
- a. An environmental impact report and statement shall be completed pursuant to Stats. 1.11, 293 and NR 150.
8. Mine Reclamation Standards.
- a. The standards set forth in Wisconsin Administrative Code NR 132.07(4)(g) and NR 132.08 shall apply to metallic mineral mining activities in Marathon County.
9. Location and Operation.
- a. A metallic mineral mining project shall be located, designed, constructed and operated in such a manner so as to prevent any surface or subsurface discharge from the facility into navigable waters or groundwater that would cause a violation of any applicable water quality standard contained in or promulgated pursuant to Stats. 281 and 283, or constitute an unlawful discharge of any hazardous substance under Stats. 292, or under any other State, Federal or local law.
10. Financial Assurance.
- a. In addition to financial assurance provided to state and federal agencies, the applicant shall provide adequate financial assurance naming the County and other political subdivisions affected by the mining operation as beneficiaries or additional insureds, in kinds and amounts as set forth below in section 17.204.545(l). Assurance shall include:
 - 1) General Liability Insurance.
 - 2) Other Financial Assurance(s) Required by WI DNR
 - 3) Groundwater Trust Fund.
 - 4) Property Value Compensation Fund.
 - 5) Road Damage Compensation Trust Fund.
 - 6) Political Subdivisions Compensation Fund
11. Control of Environmental Pollution.

Title 2: Zoning Districts and Uses

- a. The Applicant shall comply with the standards of Stats. 160, 280, 281, 283, 285, 291, 292 and 293, and related Administrative Codes including but not limited to NR 102, 103, 105, 132, 135, 140, 142, 151, 182, 200 et seq., 300 et seq., 500 et seq., 660 and 700 et seq.
- 12. Groundwater Protection.
 - a. The Applicant shall comply with the standards of the Preventive Action Limits and Enforcement Standards set forth in NR140 and 820, Wisconsin Administrative Code, shall apply and be enforced, including but not limited to application of the provisions of NR 132 and 182, Wisconsin Administrative Code.
- 13. Surface Water Protection.
 - a. The Applicant shall comply with the requirements of:
 - 1) The Non-Agricultural Performance Standards set forth in NR 151, Wisconsin Administrative Code.
 - 2) The water quality standards set forth in NR 102, 103, 104 and 105, Wisconsin Administrative Code.
 - 3) The provisions of NR 132, 182, 207, 216, 269, and 270, Wisconsin Administrative Code.
 - 4) All stormwater including stormwater runoff, snow or ice melt runoff and surface runoff and drainage from the active mine site, shall at a minimum be managed and controlled in accordance with federal and/or state regulations, including but not limited to those under Stats. 30 and NR 151, 216 and 132, Wisconsin Administrative Code.
 - 5) All activities in or near navigable waters shall be in accordance with all applicable federal or state approvals, including but not limited to those under Stats. 30 and 31, 33 U.S.C. Section 1344 and all applicable shoreland, shoreland-wetland, and floodplain zoning ordinances.
- 14. Wastewater Discharges.
 - a. The Applicant shall comply with the standards of all wastewater discharges to surface or ground water in accordance with all applicable federal or state approvals; including but not limited to those under Stats. 281, 283, 292 and 293.
- 15. Water Supplies.
 - a. The Applicant shall comply with the standards of Stats. 160, 293.65, and 30, 31, 280, and 281, and related Administrative Code Standards and Federal laws.
- 16. Hydrologic Studies.
 - a. The results of any hydrologic studies conducted in furtherance of any Environmental Impact Report provided to the WI DNR shall be provided to Marathon County; applicant shall pay the cost of a licensed professional hired by the county to interpret the results.
- 17. Well Monitoring.
 - a. The Applicant shall, prior to commencement of construction of any mine, and during the period of operation of any mine, and for forty (40) years after completion of mine reclamation, pay the cost of well monitoring. Periodic well monitoring shall occur for all private and public wells, subject to, or potentially at risk of, depletion or contamination, identified by a hydrologic study. The wells shall be monitored, in order to provide baseline data concerning quantity and quality of water adequate for all purposes, including, but not limited to, determining the validity of any well damage claim. The well monitoring intervals and analytical parameters shall be established at the time of permit application and included in the permit as a condition of permit approval. The well monitoring required under this chapter shall be performed by an independent licensed professional hired by the County.
- 18. Air Quality Standards.
 - a. The Applicant shall comply with the standards of NR 400 et seq., Wisconsin Administrative Code.
- 19. Hazardous Waste Standards.
 - a. The Applicant shall comply with the standards of NR 662 et seq., Wisconsin Administrative Code.
- 20. Solid Waste Standards.
 - a. The Applicant shall comply with the standards of NR 182, 528, and 538, Wisconsin Administrative Code.
 - b. All solid and hazardous waste which is not subject to the mine permit issued by the WI DNR shall be disposed of at a solid waste or hazardous waste facility.
- 21. Traffic Safety, Road Maintenance and Infrastructure.
 - a. All studies, plans, reports and analyses regarding roads, traffic, traffic safety, drainage, utilities, and public utilities shall be in conformance with Wisconsin Department of Transportation standards.

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22. Mine Safety and Security.
 - a. The applicant shall comply with the requirements of NR 132.07(3)(i) and (j), NR 132.07(4)(m), and NR 132.17(2), Wisconsin Administrative Code.
 23. Prevention of Adverse Impacts.
 - a. The Applicant shall comply with the standards of NR 132.08(2)(c), Wisconsin Administrative Code.
 - b. The applicant shall not allow adverse impacts during mining operations, or 40 years following issuance by WI DNR of a certificate of completion of mining, including, but not limited to those situations set forth in NR 132.10(1)(j), Wisconsin Administrative Code as follows:
 - 1) Significant landslides or substantial deposition from the proposed operation in stream or lake beds;
 - 2) Significant surface subsidence which cannot be reclaimed; or
 - 3) Hazards resulting in irreparable damage to any of the following, which cannot be avoided by removal from the hazard area or mitigated by purchase or by obtaining the consent of the owner;
 - 4) Dwellings;
 - 5) Public buildings and land;
 - a) Schools;
 - b) Churches;
 - c) Cemeteries;
 - d) Commercial or institutional buildings;
 - e) Public roads, or
 - f) Habitat required for survival of vegetation or wildlife designated as an endangered species through prior inclusion in rules adopted by the WI DNR if such endangered species cannot be firmly re-established elsewhere.
 24. Limitations on Blasting.
 - a. The applicant shall comply with the requirements of NR 132.07(5) and SPS Chapter 307, Wisconsin Administrative Code.
 - b. Blasting hours may be regulated by the conditions placed on the Conditional Use Permit.
 - c. All blasting shall be done in compliance with State and Federal guidelines and requirements, including SPS 307, Wisconsin Administrative Code.
 - d. All blasting must be done by a state licensed and certified blaster, who shall have a certificate of liability or proof of liability insurance.
 - e. Blasting logs shall be provided to the County upon written request within 72 hours, excluding weekends, and legal holidays. Blasting logs shall include but not limited to, the date, time and location of any blasting activities.
 25. Public Lands.
 - a. Notice and Consultation. The County shall provide notice of any application for mining permit on lands owned, in whole or part, by the state or federal governments, the County, towns or any other political subdivisions of either the state or federal governments, to the governmental body or administrator responsible for each such parcel or tract of land, and such governmental body or administration shall be consulted by the BOA before action is taken on the conditional use permit and/or exemption.
 - b. Consistency with Public Purpose. Before a mining permit is issued it shall be determined by the BOA, that such use of the land is not in violation of any laws or regulation governing the public use of said land and that such use of the land in question shall not unduly interfere with or violate the purpose or purposes for which such land is owned and maintained by the governmental body in question.
 26. Local Agreement.
 - a. A local agreement, pursuant to Stats. 293.41, between Marathon County and the applicant shall be in place prior to the issuance of a conditional use permit.
- I. Processing.
1. In this subsection, "processing" shall mean milling, concentrating, refining, or chemically treating ore mined at the site.
 2. The results of any studies conducted and information gathered in furtherance of any Environmental Impact Report and mining plan, pursuant NR 132.07, Wisconsin Administrative Code, regarding processing of the ore extracted that is provided to the WI DNR shall also be provided to Marathon County prior to the issuance of any Conditional Use Permit or upon request of the County; applicant shall pay the cost of a licensed professional hired by the county to interpret the reports.

J. Local Agreements.

1. Negotiating Process.
 - a. All conditions established pursuant to this ordinance may be subject to local agreement pursuant to Stats. 293.41.
 - b. The County Board shall abide by the requirements of the Wisconsin Open Meetings Law, Stats. 19.81 et seq.
2. Approval Process.
 - a. Governing Body. The governing body for the purposes of approving a local agreement under Stats. 293.41 is the County Board.
3. Timing.
 - a. No local agreement shall be approved for public hearing under Stats. 293.41 until the applicant has filed all applications for all necessary approvals, Conditional Use Permits and permits from the WI DNR and any other state or federal agency with jurisdiction over the prospecting or mining site or operation, and those permit applications have been deemed complete by the agency to whom they have been submitted and the applicant has filed the Environmental Impact report under Stats. 23.11 relating to any state permit applications.
 Note (1): There is no triggering event or decision rendered by the WI DNR which certifies that an application for a mining permit is "deemed complete." The application is deemed complete at the time that the comment period has expired and further information has not been requested by the WI DNR.
 Note (2): It is the intent of the County to commence communication and negotiation of local agreements with the applicant any time after the filing of the Notice of Intent to Apply for a permit with the WI DNR. It is the intent of the County to approve said agreements after the applicant has submitted all information required by the WI DNR and/or the County.
 - b. A local agreement, pursuant to Stats. 293.41, between Marathon County and the applicant shall be in place prior to the issuance of a conditional use permit.
4. Non-Applicability Provisions.
 - a. The local agreement may not declare any portions of this ordinance non-applicable to a metallic mining operation or include variances from this ordinance except upon an affirmative vote of a majority of the Marathon County Land, Conservation, and Zoning Committee, an affirmative vote of a majority of the members of the County Board, and upon the affirmative vote of the Town Board of each Town in which the proposed mining site is located. Any exceptions, variances, or rezoning must comply with federal and state law.
 - b. A local agreement may include the right to reopen and modify the local agreement after it has been approved under conditions specified in the local agreement. In such a case, the agreement shall be modified in accordance with the approval process set forth above except that any vote to reopen and modify must be made by a three-fourths vote of the County Board.

K. Application Requirements.

1. An application for a Conditional Use Permit shall be filed with the Zoning Administrator contemporaneously with the filing of a WI DNR Mining Permit application.
2. The application submitted for a Conditional Use Permit for a metallic mining permit shall not be determined to be complete, unless the following is submitted:
 - a. Application fee, an electronic copy and one paper copy of the following original materials;
 - b. Copies of all deeds, leases and landowner agreements for proposed mine site;
 - c. Complete application for mining pursuant to Stats. 293.37 and NR 132.06;
 - d. All State and Federal documents with respect to the proposed mining permit and the following information:
 - 1) Environmental Impact Report prepared under Stats. 23.11.
 - 2) Environmental Impact Statement pursuant to Stats. 293.39.
 - 3) Mining Operational Plan pursuant to NR 132.07.
 - 4) Reclamation Plan pursuant to NR 132.
 - 5) Hydrologic study which identifies and characterizes groundwater resources that potentially could be impacted by the mining activity, including all accessible public and private wells subject to depletion or contamination.
 - 6) A map and aerial photo identifying the proposed locations of existing and proposed permanent and temporary structures showing setback distances to property boundaries, right of ways, potable wells and private onsite wastewater treatment systems.

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- 7) A description of 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 anticipated schedule of travel to be used for transporting. The description shall identify the following information:
 - a) The anticipated need for road modifications resulting from the likely mine-related traffic impacts, including both primary and secondary impacts and shall fully describe the existing reasonably foreseeable mine-related changes to traffic patterns, traffic volume, the class of roads associated with those patterns, and any load-related needs and restrictions.
 - b) All reasonably foreseeable road construction and maintenance needs arising in Marathon County and affected towns from operation of the proposed mine and reasonably foreseeable secondary impacts of the mining operation which may result in the demand for additional road improvements, including, but not limited to, transport of materials and equipment to and from the mining site.
- 8) A description of the proposed frequency and amount of blasting, if any, to be used in the operation.
- 9) A description of measures to be taken to control dust including during mining, stockpiling, and on haul roads (internal and external).
- 10) A description of measures to be taken to screen or buffer the operation from view with vegetative or other screening devices from adjacent properties.
- 11) A description of proposed lighting to be use during the mining operation; including location, type, style and intensity of lighting to be used and its power source(s).
- 12) A description of security and safety measures including any proposed fencing, gating, or signing.
- 13) A description of the anticipated hours of operation including startup, shutdown, and maintenance of all equipment.
- 14) A description of how ore extracted is processed.
- 15) If for any reason a mining permit is not required by the WI DNR or if the application requirements for a State of Wisconsin mining permit change substantially from those in effect on the effective date of this chapter, the applicant shall provide the county with all of the information, materials and application content that would be required to be provided to the WI DNR under the mine permit application process.

L. **Financial Responsibility.** The period of the financial assurance is dictated by the period of time required to reach milestones as set forth below. The financial assurances set forth below shall survive any transfer of ownership and/or the Conditional Use Permit, until specifically released by the County.

1. **General Liability Insurance.**

Applications for a mining permit shall be accompanied by a copy of a certificate of insurance, as required by the WI DNR, certifying that the applicant has in force general liability insurance policy issued by an insurance company authorized to do business in Wisconsin or evidence that the operator has satisfied state or federal self-insurance requirements. Insurance shall cover all mining activities of the applicant and afford personal injury and property damage protection. Marathon County and any other political subdivisions affected shall be named as beneficiaries and/or additional insureds. Insurance provisions shall provide coverage of operations in the United States and shall be consistent with current Marathon County insurance minimum coverages. In addition, applicant shall demonstrate pollution impairment liability coverage of not less \$1,000,000 per claim.

Note: Marathon County Minimum Coverages, as of April 2018, are:

- Wisconsin Statutory Workers Compensation Coverage Minimums.
- General Liability \$1,000,000 per occurrence and \$2,000,000 in aggregate for bodily injury and Property Damage.
- Professional Liability Coverage, \$1,000,000 per occurrence and \$2,000,000 in aggregate.
- Automobile Liability \$1,000,000 per occurrence and in aggregate for bodily injury and property damage.
- Excess Liability Coverage, \$1,000,000 over the General Liability and Automobile Liability Coverage.

Title 2: Zoning Districts and Uses

- If aircraft are used in conjunction with this project, \$2,000,000 per occurrence and in aggregate for bodily injury and property damage.
2. Applications for a mining permit shall be accompanied by a copy of all other proof of financial assurance, as required by the WI DNR, pursuant to Stats. 293.51.
 3. Groundwater Trust Fund.
 - a. The applicant shall make a deposit into an interest-bearing trust account for each well potentially impacted, as identified by the hydrologic study, in the amount of \$15,000.00. The original deposit, any additional deposits, as requested by the County Administrator, pursuant to par. e, below, and other accumulated interest shall remain in the trust account for a period of 100 years after certificate of completion, issued by the WI DNR. If no outstanding claims are pending at the end of the 100 year period, any remaining balance shall be returned to the operator. The applicant agrees to establish the trust account at a bank or financial organization identified by Marathon County.
 - b. The applicant shall pay the cost for the County to monitor all potentially impacted private or public wells as identified by the hydrologic study. The applicant shall also pay the cost of any licensed professional hired by the county to collect and interpret the results.
 - c. The groundwater trust fund shall be used to pay for replacing any contaminated, damaged or depleted wells and/or for providing potable water to any well owner/claimant whose well has been contaminated, damaged or depleted. The mine operator may object to payment of these claims only if it can establish that the contamination, damage or depletion is not due in whole or in any part to the mining operation.
 - d. Any person whose well is contaminated, damaged or depleted beyond the identified hydrologic study area may apply for funds for a replacement well or alternate water supply if that person can demonstrate, by the preponderance of the evidence, that the contamination, damage or depletion was due in whole or in any part to the mining operation.
 - e. The Marathon County Administrator or their designee is designated to supervise and administer the Groundwater Trust Fund. It shall approve of the distribution of monies from said fund to claimants under this subsection. The County Administrator, shall be empowered to hold meetings and hire licensed professionals to assist him or her in the proceeds of ascertaining the entitlement of the claimant to compensation, to ascertain the amount of such damages and to authorize disbursements to the claimant or to purchase and provide water to the claimant. The Groundwater Trust Fund shall also be monitored to determine if there are adequate funds to cover actual and/or pending claims. The County Administrator shall request the operator to provide additional funding within 30 days if funding is deemed inadequate.
 4. Property Value Compensation Fund.
 - a. The applicant may enter into a property value compensation agreement with any political subdivision where property values are, or are likely to be, impacted by the mining operation.
 - b. Marathon County, at the cost of the applicant, may hire a licensed independent agent to create a distribution plan for a compensation fund which identifies property whose values have suffered or may suffer a substantial economic impact as a result of mining operations. Criteria to be used for the determination of impact shall come from the Environmental Impact Report and Statement, and other criteria as determined by the licensed independent agent. Prior to the commencement of any mining, the operator shall compensate those property owners identified in the distribution plan.
 5. Road Damage Compensation Trust Fund.
 - a. The applicant may enter into a roadway maintenance agreement with any political subdivision whose roads are, or are likely to be, affected by the mining operation.
 - b. The applicant shall fund an irrevocable road damage compensation trust. The applicant shall initially deposit funds in an amount determined by the BOA to be the reasonably anticipated cost to construct, maintain, repair and reconstruct all affected public roadways to meet the traffic demands to be caused by the mining operation. The cost projection shall be based on a roadway improvement and maintenance engineering study required by the BOA, at the applicant's expense.

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- c. The Marathon County Administrator or their designee shall supervise and administer the fund. The County Administrator shall approve the distribution of monies from said fund to claimants under this subsection. The County Administrator shall be empowered to hold meetings and hire licensed professionals to assist him or her in the process of ascertaining the entitlement of the claimant to compensation, the amount of damages, and authorizing disbursements to the claimant. The County Administrator may seek the cooperation and assistance of the County Infrastructure Committee and County Highway Commissioner, if any, in planning and undertaking all road studies, planning, construction, maintenance and repair pursuant to the road damage compensation trust. The trust fund shall also be monitored to determine if there are adequate funds to cover actual and/or pending claims. The County Administrator shall request the operator to provide additional funding within 30 days if funding is deemed inadequate.
6. Political Subdivisions Compensation Fund.
- a. The applicant may enter into a local impact agreement with any political subdivision which is, or is likely to be, impacted by the mining operation.
 - b. Marathon County, at the cost of the applicant, may hire a licensed independent agent to create a distribution plan for compensation to political subdivisions that have suffered or may suffer a substantial economic impact as the result of mining operations. Criteria to be used for the determination of impact shall come from the Environmental Impact Report and Statement, and other criteria as determined by the licensed independent agent. Prior to the commencement of any mining, the operator shall compensate those political subdivisions identified in the distribution plan.
7. Application Fee.
- a. The application fee for a metallic mining Conditional Use Permit shall be in the amount of \$50,000. This fee will be used as an advance deposit to cover actual costs, described below. The balance of the fee, or any additional costs incurred that have been billed by the County, shall be held by the County in a segregated fund until the final billing for actual costs has been paid and then refunded to the applicant.
8. Actual Costs.
- a. The applicant for a proposed mining project shall be responsible for all costs reasonably incurred by the County as necessary to evaluate the operator's application for a Conditional Use Permit and for any permits required from the State of Wisconsin and the Federal Government, and to participate in any administrative or legislative meetings, public hearings and adjudicatory or contested hearings related to such mining project, including the hearings required under this section.
 - b. The applicant shall also be responsible for those costs incurred before or after the application for the Conditional Use Permit is filed with the County and for monitoring any such mining project which becomes operational, continuing for the life of the operation and during the 40 years following closure.
 - c. Costs under this subsection shall include staff time, equipment and material costs, licensed professionals and legal counsel. Such costs shall not exceed those which are reasonably charged for the same or similar services by licensed professionals of the type retained. The County shall also avoid duplication of services where reasonably possible, taking into consideration the normal duties and responsibilities of the staff.
 - d. Prior to processing an application for a permit under this section, if the department determines that the cost involved in permit review and approval will exceed \$50,000, the department shall supply an estimate of the cost involved in the permit review and approval process.
 - e. Costs under this section may be billed to the applicant for reimbursement to the County on a quarterly basis and shall be paid within 30 days of such billing. Should the applicant fail or refuse to pay costs within thirty (30) days upon request or demand from the County, the County may stop the processing of the permit application.
 - f. If an applicant withdraws its application at any time after its submittal, all fees and charges assessed for work to that point in time by the County shall be paid by the applicant. Any balance would be refunded to applicant.

M. Inspections and Reports.

1. Inspections.
 - a. Upon application for a Conditional Use Permit, the applicant and property owner are deemed as a condition of application to have consented to allow inspections of the mining site and all mining operations by the county for the purpose of determining compliance with the provisions of this section and the terms conditions of the Conditional Use Permit. Inspections may occur pursuant to this section upon showing of proper identification, with or without advance notice to the applicant and/or property owner.
2. Reports.
 - a. Operator to shall supply copies of all mine operation reports provided to the WI DNR until such time that a certificate of completion is issued.

N. Commencement of Mining Operations.

1. The granting of a Conditional Use Permit shall not be deemed effective until the operator has procured all necessary permits from the state and federal agencies to construct, operate, close, reclaim, and monitor the mining operation and provided all financial assurances required by those permits. Construction must be commenced within two (2) years of the effective date of the last state and federal permit issued or the Conditional Use Permit shall be null and void.

O. Permit Modification.

1. The County reserves the right to reopen and modify a Conditional Use Permit after it has been granted if it is determined, upon the basis of substantial evidence, including evidence presented at state or federal hearings, that mining activity pursuant to the permit would endanger the public health, welfare or safety.
2. In order to reopen a permit, the County or the Conditional Use Permit permittee shall identify the specific terms of the permit subject to reopening and file an application for a public hearing with BOA. The BOA shall hold a public hearing in accordance with the procedures in Section 17.804.04. No modifications to an existing permit shall be made unless supported by the substantial evidence and approved by the BOA.
3. Successors in Interest. In the event one operator succeeds to the interest of another by sale, assignment, lease, or otherwise, the operator holding the Conditional Use Permit shall notify the Zoning Administrator. Such transfer of ownership shall constitute grounds for the BOA to re-open and/or modify the Conditional Use Permit to protect the public health, welfare or safety. Any successor acquiring rights of ownership, possession or operation of the permitted mine shall be subject to all existing conditions of the Conditional Use Permit and any conditions established as a result of BOA action.
 - a. No transfer of the Conditional Use Permit may occur until the successor has satisfied all financial assurance requirements under this code.
 - b. All forms of financial assurance must name the County as the beneficiary.
 - c. The successor shall also provide proof that it has satisfied all financial assurances required by the WI DNR.
 - d. The operator holding the permit shall maintain proof of financial assurance until the successor acquiring ownership, possession or operation of the mine obtains BOA approval.
4. In the event the state/federal laws and/or regulations are amended to the extent that the terms and conditions of the Conditional Use Permit are affected, the applicant shall apply for a modification to the permit within 6 months of the effective date of such amendments.

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P. Violation/Enforcement.

1. Conducting Metallic Mining Operations without a Conditional Use Permit are subject to the following:
 - a. After the fact permit application fees; and
 - b. Penalties under 17.204.545(N)
2. Such other and further relief, including but not limited to, equitable relief granted by a court of competent jurisdiction.
3. Permit Revocation or Suspension. The Zoning Administrator may revoke or suspend a mining permit issued under this section if it is determined that there is substantial evidence that any of the following has occurred:
 - a. Statutes, ordinances, or permit requirements have been violated;
 - b. Financial Assurance has not been provided as required or has lapsed;
 - c. Insurance coverage has lapsed or fallen below required levels;
 - d. Actual costs have not been paid for permit processing, monitoring or review;
 - e. Applicant has failed to comply with County, State and Federal Regulations;
 - f. Failure to strictly comply with County, State and Federal laws, regulations or permits;
 - g. The mine is idle for 2 consecutive years.

Q. Penalties.

1. Any operator violating this section shall, upon conviction, pay a forfeiture of not less than \$250 nor more than \$10,000, plus costs per day for each day a violation continues. Forfeitures for second or subsequent offenses shall be not less than \$500 nor more than \$20,000 plus costs per day for each day a violation continues.