

Chapter 61 – Zoning Administration

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1.0 Intent and Findings

A. It is the intent of this chapter to ensure that any and all projects that are subject to Marquette County Planning and Zoning Department ordinances are executed in accordance with all applicable administrative rules, codes, and ordinances. Additionally, the intent of this chapter is to set forth the administration processes and requirements for various ordinances enforced by the Marquette County Planning and Zoning Department.

B. The Marquette County Planning and Zoning Department issues permits under the building and mechanical code, comprehensive zoning, floodplain zoning, shoreland zoning, mobile services facility and support structures, and sanitary ordinances. Contractors who do work within Marquette County should be familiar with the permit and inspection requirements of the ordinances; however, many property

owners report being misinformed about permit and inspection requirements by contractors. This leads to property owners being subjected to orders for correction, double fees, and citations when they reasonably relied on a professional in the field who should be knowledgeable about such requirements. This chapter addresses this concern by placing responsibility on contractors in addition to property owners.

2.0 Applicability

A. This chapter is to accompany and apply to all ordinances administered by the Marquette County Planning and Zoning Department, whether or not a permit is required, and to provide additional regulations and requirements for permit issuance, compliance, and violation correction.

B. Wherever, in the course of administration and enforcement of this chapter or any chapter it applies to, it is necessary or desirable to make any administrative decision, then, unless other standards are in the respective chapter, the decision shall be made so that the result will not be contrary to the spirit and purpose of this chapter or injurious to the surrounding neighborhood.

3.0 Severability

A. This chapter and the various parts, sections, subsections, and clauses are declared to be severable. If any part, section, subsection, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

B. If any application of this chapter to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in the judgment.

4.0 Abrogation and Greater Restrictions.

A. It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law.

However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

5.0 Interpretation.

A. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be construed as a limitation or repeal of any other power granted by the Wisconsin Statutes.

6.0 Zoning Administrator

A. There is hereby created the office of Zoning Administrator. The Zoning Administrator shall be hired by the County Administrator, hold office at their pleasure and is under their direct supervision and control. The County Board shall fix the Zoning Administrator's salary. The Zoning Administrator may exercise the following duties and powers:

B. Advise applicants, and direct staff to advise applicants, as to the provisions of the following ordinances chapters, and assist them in preparing permit applications:

1. 61 - Zoning Administration,
2. 62 - Comprehensive Zoning,
3. 63 - Shoreland Zoning,
4. 64 - Floodplain Zoning,
5. 65 - Mobile Service Support Structures and Wireless

Communication Facilities,

6. 68 - Comprehensive Planning,
7. 69 - Subdivision,
8. 71- Building and Mechanical Code,
9. 74 - Private On-site Wastewater Treatment System (POWTS), and
10. 35 - Tourist Rooming House

C. Issue permits and inspect properties for compliance under the ordinances referenced in 61.0(B)(1-10).

D. Administer the County Building and Mechanical Code in any municipality that chooses to delegate enforcement authority to the County.

E. Keep records of all permits issued, inspections made, work approved, and other official actions.

F. Have access to any structure or premises between 8:00 a.m. and 6:00 p.m. for the purpose of performing duties. Application for and issuance of a zoning or building permit shall constitute permission by the owner for said access.

G. Investigate violations of ordinance chapters as referenced in 61.0(B)(1-10). Violations shall be reported to the Planning & Zoning Committee.

H. Issue written orders for correction of ordinance violations.

I. Issue citations for non-compliance and/or refer violations to Corporation Counsel for prosecution.

J. Oversee Zoning Office and staff.

K. Per Section 91.48(2), Wis. Stats., by March 1 of each year, provide to the Department of Agriculture, Trade and Consumer Protection a report of the number of acres that the County has rezoned out of the AG-1 district the previous year and a map that clearly shows the location of those areas.

7.0 Zoning and Conditional Use Permits.

A. In order to assure compliance with County Zoning Chapters, a zoning permit is generally required for permitted uses, and a conditional use permit is required before a conditional use may occur.

8.0 Zoning Permits.

A. An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the County Zoning Department and shall include the following information:

1. Name and address of the applicant and property owner.
2. Legal description and address of property.
3. A sketch showing the dimensions of the lot and the location of existing structures and proposed construction. The dimensions shall provide the following information:
 - a. Distances from lot lines.
 - b. Distances from the centerline of abutting town, county, and/or state roads.
 - c. Distances from the ordinary high-water mark/wetland boundary of abutting waterways, lakes, and/or wetlands.
4. Distances from private sewage systems.

B. Any other information that may be requested to determine if the proposed project complies with the Chapter.

C. The Zoning Administrator shall issue a card certifying that a permit has been issued. The card shall identify the owner, property, and construction or use that is covered under the permit. The card shall be posted in a conspicuous place on the premises during construction.

D. Zoning permits shall be granted or denied in writing by the Zoning Administrator or his/her designee within thirty (30) days from the date the application is received by the Zoning Office.

E. A zoning permit shall be valid for two (2) years from the date it is issued. A new application accompanied by the proper fee shall be required if a permit expires.

F. No zoning permit shall be issued, where required, until a sanitary permit is issued, as required, under Wisconsin Administrative Code SPS 383 and Chapter 145, Wis. Stats.

G. No zoning permit shall be issued where required, if a violation of any County Zoning Chapter exists on the property, unless the zoning permit being requested is necessary to correct the violation.

H. A zoning permit shall be required for the following:

1. Before any building, unit, or other structure is erected, moved, or structurally altered so as to change the use or increase the area.
2. Before any land use is substantially changed or altered.
3. Where otherwise required by a specific provision of any County Zoning Chapter.

I. A zoning permit shall not be required for the following cases, but the construction or use shall otherwise be required to comply with any County Zoning Chapter:

1. Construction, alterations, or improvements to a structure that occupy a footprint of less than one hundred (100) sq. ft. and have a cost of not more than one thousand dollars (\$1,000.00). Current The current market labor rate shall be used for individuals providing their own labor. The burden of proof falls on the property owner to demonstrate the cost of a project.
2. Replacement of windows, installation of siding, and roofing.
3. Maintenance repairs that do not expand or alter a structure.

9.0 Conditional Use Permits.

A. Before a conditional use may occur, a conditional use permit must be obtained from the Zoning Administrator. The permit may contain conditions and/or restrictions, as the Zoning Administrator deems necessary. The purpose of requiring administrative review of such uses is to provide for appropriate review while at the same time allowing for expedited action on proposed uses that may otherwise be designated Special Exceptions and require a hearing before the Board of Adjustment.

B. Procedure for Conditional Use Permits.

1. A conditional use permit shall be required for all conditional uses.
2. A conditional use permit application shall be filed, along with the fee, with the Zoning Administrator.

3. The Zoning Administrator may, after initial review, determine that the proposed use fits more closely to a Special Exception use and refer it to the Board of Adjustment. In such cases, the applicant must complete a Special Exception application and submit any difference in fees.

4. After a conditional use application is determined to be complete, completed by the Zoning Administrator, a conditional use permit shall be approved or denied within thirty (30) days. If denied, the applicant must be informed in writing and informed of their right to appeal the Zoning Administrator's decision to the Board of Adjustment.

5. The Zoning Administrator may attach special restrictions or conditions to a conditional use permit as deemed necessary to fulfill the requirements of the Zoning Chapter. Any violations of restrictions or conditions will be considered a violation of this ordinance.

6. A conditional use permit shall be reviewed under the criteria for a Special Exception under Section 12.070.07(B).

7. As an alternative to the conditional use permit procedures, an applicant may choose to have their request reviewed by the Board of Adjustment as a Special Exception. If the applicant chooses to proceed as a Special Exception, all appropriate fees must be submitted along with a complete Special Exception application.

10.0 Board of Adjustment.

A. Statutory Authorization. Pursuant to the authorization contained in § 59.694, Wis. Stats., there is hereby adopted a Board of Adjustment for the County.

B. Statement of Purpose. The Board shall hear appeals to the Code. The appeal may be in the form of a request for a variance, a special exception, or an appeal of a decision by the Zoning Administrator.

C. Membership and Organization.

1. The Board of Adjustment shall consist of three (3) members appointed by the Chairperson of the County Board and approved by the County Board of Supervisors. Terms shall be staggered three (3) year periods. Eligibility of members of the Marquette Board shall be that they shall reside within the County and outside the limits of incorporated areas, providing however, that no two (2) members shall reside in the same Township. The Board shall choose its own Chairperson. Vacancies shall be filled for unexpired terms in the same manner as appointments for full terms.

2. The Board of Adjustment shall have two (2) alternate members appointed by the Chairperson of the County Board and approved by the County Board of Supervisors. The alternate members shall be appointed for three (3) year staggered terms and be annually designated, by the Chairperson of the County Board, as first alternate and second alternate. The first alternate shall act, with full power, only when a member of the Board of Adjustment refuses to vote because of a conflict of interest or when a member is absent. The second alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one (1) member of the Board of Adjustment refuses to vote because of a conflict of interest or is absent. Eligibility of alternate members of the Board shall be the same as for regular members. Vacancies shall be filled for unexpired terms in the same manner as appointments for full terms.

D. Notice and Public Hearings. Before passing on an application for a variance, special exception permit, or appeal, the Board of Adjustment shall hold a public hearing. Publication in the newspaper, as required by § 19.84, Wis. Stats., and as set forth in this Chapter, and shall give notice of an application and public hearing.

E. The Board of Adjustment shall hear applications and conduct public hearings as outlined in the Board's Rules and By-Laws, which are on file in the County Clerk's office.

11.0 Variances.

A. The Board of Adjustment has the power to grant variances to the terms of a Zoning Chapter. When special conditions unique to a property will not allow a property owner to meet the dimensional standards of the Chapter, an owner may request a variance. The owner must show unnecessary hardship caused by the Chapter, to be granted a variance. Variances shall uphold the spirit and purpose of the Chapter and preserve public health, safety, and general welfare. In addition, the Board shall provide substantial justice in reaching a decision. The following principles shall guide the Board in considering applications:

1. The burden is upon the applicant to prove the need for a variance.
2. Pecuniary hardship, loss of profit, and self-imposed hardships are not reasons for granting a variance.
3. The Board is bound to accept the Zoning Chapter and map as correct.
4. The hardship must apply to the applicant's parcel or structure and be unique as compared to other properties in the same district.
5. The variance must not be detrimental to adjacent properties.
6. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may affect flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
7. The Board, in fulfilling its duties, may modify, alter, or change any application.

12.0 Special Exceptions

A. The Board of Adjustment shall review each Special Exception permit application for compliance with all requirements applicable to that specific use and to all other relevant provisions of the Chapter. In approving Special Exceptions, the Board of Adjustment also shall determine that the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to the public health, safety, or general welfare of the residents of surrounding lands.

B. Evaluation Criteria. Upon consideration of a Special Exception permit, and in determining whether the proposed use is substantially similar to the enumerated special exception uses in a District, the Board shall evaluate the effect of the proposed use under the following criteria:

1. The establishment, maintenance or operation of the proposed use will not be detrimental to public health or safety or be harmful to the general welfare of occupants on adjacent properties.
2. The prevention and control of water pollution, including sedimentation and the potential impacts on floodplain floodplains and wetlands.
3. The erosion potential of the site based on topography, drainage, slope, soil type, and vegetative cover.
4. The location of the site with respect to access to streets and highways, and that ingress and egress areas designed to minimize traffic congestion or potential traffic hazards.
5. The compatibility of the proposed use with uses on adjacent properties.
6. Conformance of the use with the standards of the zoning district.
7. Compliance of proposed use with the goals of the Marquette County Comprehensive Plan.
8. Whether the proposed project will adversely affect property in the area, in that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area.
9. Valuation factors.
10. Appraised value or estimated cost of construction.
 - a. In the case of a single -wide manufactured home, the appraised value will only be required for structures older than four (4) years. In addition, for those single- wide manufactured homes older than four (4) years, the owner shall provide the Board with photographs.
11. If within the AG-1 district:
 - a. The use and its location in the district are consistent with the purpose of the district.
 - b. The use and its location in the district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

- e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

C. Conditions.

1. Upon consideration of an application for a Special Exception, the Board may attach such conditions that it deems necessary in furthering the purposes of the affected Chapter. Violation of any of these conditions shall be a violation of the affected Chapter. Conditions may include, but are not limited to the following:

- a. Restoration of shoreland vegetation.
- b. Erosion control and/or stormwater management plans for the project site.
- c. Sewage and water supply facilities.
- d. Increased setbacks to further the purpose and intent of the affected Chapter.
- e. Public road access location.
- f. Road impact on repair/replacement conditions.
- g. Travel routes to reduce negative impacts to on local road systems.
- h. Depending on the anticipated impact of the proposed use, the Board may require a development agreement between the applicant and Marquette County.
- i. Landscaping and planting screens.
- j. Noise level limits.
- k. Limits on outside storage of equipment or other materials associated with the proposed use.
- l. Hours of operation for the proposed use.
- m. Location and amount of parking area to service the proposed use.
- n. Number, type, location, and dimension of signs.
- o. Requirements or limits for yard and area lighting of the proposed site.
- p. Type of construction.
- q. Other requirements necessary to fulfill the purpose and intent of a Zoning Chapter, and if within the AG-1 district, Chapter 91, Wis. Stats.
- r. Permit duration, transfer, or renewal.
- s. Other requirements necessary to further, and avoid conflict with, the County's comprehensive plan.

t. The applicant's ability to present substantial evidence that the application and all requirements and conditions established by the County relating to the Special Exception are, or shall be, satisfied.

D. Application Information.

1. In order to secure information upon which to base a determination, the Board may require the applicant to furnish, in addition to a completed application form and the information required for a zoning permit, the following information:

a. A plan of the area showing contours, soil types, high water mark, groundwater conditions, bedrock, slope, and vegetative cover.

b. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces, and landscaping.

c. Plans of buildings, sewage disposal systems, water supply systems, and arrangements for operation.

d. Specifications for areas of proposed filling, grading, lagooning, or dredging.

e. Other pertinent information deemed necessary to determine if the proposed use meets the requirements of this Chapter, and if within the AG-1 district, Chapter 91, Wis. Stats.

E. Evaluation Assistance.

1. The Board, in evaluating each application, may request the expert assistance of private entities, county, state, or federal agencies that are qualified or available to provide such assistance. Applicants shall agree to pay reasonable expenses related to retaining such expert assistance. Such payment shall be paid in advance and held in escrow until charges are incurred, and any unused amounts shall be returned to the applicant.

F. The Board shall hold a public hearing on a permit application following publication of a Class 2 Notice.

G. Conditions Imposed.

1. The Board's conditions will be based on substantial evidence, be reasonable, and, to the extent practicable, measurable.

H. Board's Decision.

1. The Board's decision to approve or deny the application will be supported by substantial evidence and shall be issued in writing.

I. Expiration.

1. A Special Exception permit shall expire after two (2) years if the use approved under the permit has not commenced. The Zoning Administrator has

the discretion may to grant an extension of up to one (1) year if unique extenuating circumstances apply, and the extension will not harm the public interest apply.

J. An applicant may appeal a decision by the Board to the Circuit Court within thirty (30) days of the issuance of the decision.

K. The County may revoke the special exception permit if the applicant does not institute or follow the conditions imposed in the permit.

13.0 Appeals

A. Appeals.

1. Appeals to the Board of Adjustment, as authorized by § 59.694 (4), Wis. Stats., may be taken by a person aggrieved by an officer, department, board, or bureau of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the ground thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. Hearing Appeals.

1. As authorized under § 59.694 (6), Wis. Stats., the Board shall fix a reasonable time for hearing of the appeal and publish a class 2 notice thereof under Chapter 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. A party may appear in person or by an agent or attorney.

C. The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the Chairman and Secretary of the Board. Such a resolution shall state the specific facts, which are the basis for the Board's determination and shall either affirm, reverse, vary or modify the order, requirements, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

14.0 Fees.

A. The County Board of Supervisors shall establish the fees for permits and applications governed by the Code of the County.

B. The Zoning Administrator shall charge a double fee for work starting before a zoning permit is applied for and issued. A double fee shall not release the

applicant from full compliance with this Chapter nor except exempt the applicant from prosecution or other penalties that are permitted under Chapter 100.

15.0 Violations, Penalties, Remedial Action, Enforcement.

A. Any building or structure hereinafter erected, moved or any use hereinafter established in violation of the provisions of a Zoning Chapter by any person, firm, association, corporation (including building contractors or their agent), shall be deemed an unlawful structure or use.

B. It shall be the duty of the Zoning Administrator, acting under the supervision of the Planning and Zoning Committee, to enforce the provisions of a Zoning Chapter. The Zoning Administrator is hereby delegated the authority to enforce the provisions of a Zoning Chapter, including the power to delegate these duties to subordinates, inspect private premises, issue orders for abatement, and take action to abate violations of any Zoning Chapter.

C. Whenever in the judgment of the Zoning Administrator it is determined that a violation of the provisions of a Zoning Chapter is being committed, exists, or is being maintained in the County, the Zoning Administrator may issue a written order of abatement ordering the person committing or maintaining said violation to cease and desist, remove the conditions, or remedy the defects creating the violation. The order for abatement shall include the following information:

1. The name and address of the owner, operator and or occupant and description of the real estate involved.
2. The nature of the violation and the steps necessary to abate or correct it.
3. The time period in which the violation must be corrected and or abated will be no less than five (5) days and not more than thirty (30) days, depending on the nature of the violation. Allowance for a limited extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Zoning Administrator.
4. The order of abatement may be served upon the person committing or maintaining the Zoning violation by either certified mail, registered mail, or regular mail, or in the manner set forth for service of a summons in Chapter 801, Wis. Stats. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service to the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of

such premises, or both, to take reasonable steps within a reasonable period of time to abate and remove the Zoning violation. Whenever an investigation hereunder involves a search of private premises and the owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that Officer shall apply to the Circuit Court of the County for a special inspection warrant pursuant to § 66.0119, Wis. Stats.

D. Exceptions to the Written Orders.

1. In cases where a violation poses an immediate risk of public health or safety as determined by the Zoning Administrator or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under Subsection (E) of this Section, without issuance of a written abatement order.

E. Non-compliance with Written Orders. If a person does not comply with a written order from the Zoning Administrator or his/her designee, the violator may be subject to one (1) or more of the following actions and/or penalties:

1. The issuance of a citation under Chapter 100.
2. Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the violation.
3. Commencement of legal action against the person seeking a court-imposed forfeiture, court costs, and/or the costs of abatement.
4. The initiation of one (1) action or penalty under this Section does not exempt the violator from any additional actions and/or penalties prescribed by law.

F. Abatement of Zoning Violations.

1. Where Zoning violations as defined in this Chapter or in the Wisconsin Statutes are encountered on private property which that require ordered abatement and/or correction, the Zoning Administrator shall serve on the responsible person a written order as per Subsection C of this Section. If the violation is not abated and/or corrected within the time period specified in the order, the Zoning Administrator may enter upon the property and abate and/or correct the violation or cause such action to be taken. The cost of such abatement and/or correction is to be recovered either directly from the responsible party or may be collected as a special tax assessment on the property in cooperation with the local taxing authority.

G. Penalties.

1. Penalties shall be as set forth in Chapter 100. The Court may order injunctive relief. Failure to comply with an Order for Abatement issued under this

Chapter in the time allowed shall constitute a separate violation of this Chapter, and each day of continued violation shall constitute a separate offense.

H. Initiation of legal action.

1. When there is no compliance with an Order for Abatement, legal action shall be initiated against a violator by issuance of a citation under Chapter 100, and/or referral to the County Corporation Counsel for issuance of a long form Summons and Complaint, in person or in rem. The County Corporation Counsel is hereby delegated the duty of prosecuting violations of this Chapter. The County Corporation Counsel shall take steps to enforce any Zoning Chapter and the Order for Abatement by prosecuting the violation, seeking imposition of a forfeiture penalty, and/or seeking appropriate injunctive relief to abate the Zoning violation and enjoin its continuation in the future, and/or recovery of the costs of abatement.

I. Coordination with State or Federal Agencies.

1. Where a Zoning violation involves non-compliance with a Federal or State-enforced Statute or Administrative Code, the Zoning Administrator may refer the complaint to the appropriate agency for abatement and/or correction in lieu of, or in addition to, an enforcement action under this Chapter. If the violation continues without adequate enforcement from the Federal or State agency to cause abatement and/or correction, then the Zoning Administrator or his/her designee shall initiate action under this Section to bring about proper abatement and/or corrections.

16.0 Definitions.

A. Conditional Use.

Uses permitted by a Zoning Chapter, which require a detailed review by the Zoning Administrator and that may be subject to special conditions or restrictions as part of a permit being granted.

B. Appeal.

A complaint of an injustice done, or error committed in which both the facts and law are reviewed.

C. Special Exception.

A type of land use listed and allowed within a zoning district provided that certain criteria, as stated in the Chapter, are met and the Board of Adjustment grants a Special Exception permit, with or without conditions.

E. Unnecessary Hardship.

A situation where, in the absence of a variance, an owner can make no feasible use of his property, or strict conformity is unnecessarily burdensome. The hardship or difficulty must be peculiar to the parcel in question and different from that of other parcels, not one that affects all parcels similarly. Loss of profit or financial hardship is not in and of itself grounds for a variance nor is a self-imposed hardship grounds for a variance.

F. Variance.

An action that authorizes the construction or maintenance of a building in a manner inconsistent with the standards of a Zoning Chapter. Approval of variances is a power of the Board of Adjustment. A variance may only be granted in cases of unnecessary hardship.