

16.0100 ZONING ADMINISTRATION

16.0101 ZONING ADMINISTRATOR

1. There is hereby created the office of Zoning Administrator. The Zoning Administrator shall be hired by the Zoning Committee, holds office at its pleasure and is under its direct supervision and control. The County Board shall fix the Zoning Administrator's salary. The Zoning Administrator may exercise the following duties and powers:
 - A. Advise applicants as to the provisions of Marquette County zoning, subdivision and sanitary ordinances and assist them in preparing permit applications.
 - B. Issue permits and inspect properties for compliance with the applicable ordinances.
 - C. Administer the Marquette County Building and Mechanical Code in any municipality that chooses to delegate enforcement authority to the County.
 - D. Keep records of all permits issued, inspections made, work approved and other official actions.
 - E. Have access to any structure or premises between 8:00 am and 6:00 pm 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.
 - F. Investigate violations of zoning, subdivision, sanitary ordinances and the building and mechanical code. Violations shall be reported to the Zoning Committee.
 - G. Issue written orders for correction of ordinance violations.
 - H. Issue citations for non-compliance and/or refer violations to Corporation Counsel for prosecution.
 - I. Oversee Zoning Office and staff.

16.0102 ZONING AND ADMINISTRATIVE REVIEW PERMITS

1. In order to assure compliance with Marquette County Zoning Ordinances a zoning permit is generally required for permitted uses and an administrative review permit is required before an administrative use may occur.

16.0103 ZONING PERMITS

- 1.** An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the Marquette County Zoning Department and shall include the following information:
 - A.** Name and address of the applicant and property owner.
 - B.** Legal description and address of property.
 - C.** A sketch showing the dimensions of the lot and location of existing structures and proposed construction. The dimensions shall provide the following information:
 - 1.** Distances from lotlines.
 - 2.** Distance from the centerline of abutting town, county and/or state roads.
 - 3.** Distances from the ordinary high water mark/wetland boundary of abutting waterways, lakes and/or wetlands.
 - 4.** Distances from private sewage systems.
 - D.** A POWTS maintenance affidavit for properties on which a septic system is located and a POWTS maintenance affidavit is not on file with the Marquette County Register of Deeds office.
 - E.** Any other information that may be requested to determine if the proposed project complies with the ordinance.
- 2.** 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.
- 3.** Zoning permits shall be granted or denied in writing by the Zoning Administrator or their designee within 30-days from the date the application is received by the Zoning office.
- 4.** A zoning permit shall be valid for 2-years from the date it is issued. A new application accompanied by the proper fee shall be required if a permit expires.
- 5.** No zoning permit shall be issued where required, until a sanitary permit is issued as required by Wisconsin Administrative Code Comm 83 and Chapter 145, Wisconsin State Statutes.

6. No zoning permit shall be issued where required, if a violation of any Marquette County Zoning Ordinance exists on the property unless the zoning permit being requested is necessary to correct the violation.
7. A Zoning permit shall be required for the following:
 - A. Before any building, unit or other structure is erected, moved or structurally altered so as to change the use or increase the area.
 - B. Before any land use is substantially changed or altered.
 - C. Where otherwise required by a specific provision of this ordinance.
8. A Zoning permit shall not be required for the following cases, but the construction or use shall otherwise be required to comply with the zoning ordinance:
 - A. Construction, alterations or improvements to a structure that consist of less than 100 sq. ft. in floor space and a cost of not more than \$1000.00. 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.
 - B. Replacement of windows, installation of siding and roofing.
 - C. Maintenance repairs that do not expand or alter a structure.

16.0104 ADMINISTRATIVE REVIEW PERMITS

1. Before an administrative review use may occur, an administrative review 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.
2. Procedure for Administrative Review Permits.
 - A. An administrative review permit shall be required for all administrative uses.
 - B. An administrative review permit application shall be filed, along with the fee, with the Zoning Administrator.

- C. 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.
- D. After an administrative review use application is determined to be complete by the Zoning Administrator an administrative review use permit shall be approved or denied within 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.
- E. The Zoning Administrator may attach special restrictions or conditions to an administrative review permit as deemed necessary to fulfill the requirements of the zoning ordinance.
- F. An administrative review permit shall be reviewed under the criteria for a Special Exception under Section 16.0107 (2).
- G. As an alternative to the administrative review 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.

16.0105 BOARD OF ADJUSTMENT

- 1. Statutory Authorization. Pursuant to the authorization contained in ss. 59.694, Wisconsin State Statutes, there is hereby adopted a Board of Adjustment for Marquette County.
- 2. Statement of Purpose. The Board shall hear appeals to Marquette County Zoning Ordinances. 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.
- 3. Membership and Organization.
 - A. The Board of Adjustment shall consist of 3 members appointed by the Chairperson of the County Board and approved by the County Board of Supervisors. Terms shall be staggered 3-year periods. Eligibility of members of the Board shall be that they shall reside within Marquette County and outside the limits of incorporated areas providing however, that no two 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.

- B.** The Board of Adjustment shall have 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 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 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.
- 4.** 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 ss 19.84, shall give notice of an application and public hearing.
- 5.** 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 Marquette County Clerk's office.

16.0106 VARIANCES

- 1.** The Board of Adjustment has the power to grant variances to the terms of a zoning ordinance. When special conditions unique to a property will not allow a property owner to meet the dimensional standards of the ordinance, an owner may request a variance. The owner must show unnecessary hardship caused by the ordinance, to be granted a variance. Variances shall uphold the spirit and purpose of the ordinance 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:

 - A.** The burden is upon the applicant to prove the need for a variance.
 - B.** Pecuniary hardship, loss of profit and self-imposed hardships are not reasons for granting a variance.
 - C.** The Board is bound to accept the zoning ordinance and map as correct.
 - D.** The hardship must apply to the applicant's parcel or structure and be unique as compared to other properties in the same district.
 - E.** The variance must not be detrimental to adjacent properties.

- F. 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.
- G. The Board in fulfilling its duties may modify, alter, or change any application.

16.0107 SPECIAL EXCEPTIONS

1. Any use listed, as a Special Exception in the zoning ordinance shall be permitted only upon application to the Zoning Administrator and issuance of a Special Exception permit by the Board of Adjustment.
2. In passing upon a special exception permit, the Board shall evaluate the effect of the proposed use under the following criteria:
 - A. 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.
 - B. The prevention and control of water pollution including sedimentation and the potential impacts on floodplain and wetlands.
 - C. The erosion potential of site based on topography, drainage, slope, soil type and vegetative cover.
 - D. The location of the site with respect to access to streets and highways and that ingress and egress is designed to minimize traffic congestion or potential traffic hazards.
 - E. The compatibility of the proposed use with uses on adjacent properties.
 - F. Valuation factors.
 1. Year of construction or manufacture.
 2. Appraised value or estimated cost of construction. In the case of a mobile home, the appraised value will only be required for structures older than four years. In addition, for those mobile homes older than four years the owner shall provide the Board with photographs.
3. Conditions. Upon consideration of an application for a special exception the Board may attach such conditions, that it deems necessary in furthering the purposes of this ordinance. Violation of any of these conditions shall be a violation of this ordinance. 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 ordinance.
 - E. Landscaping and planting screens.
 - F. Hours of operation for the proposed use.
 - G. Location and amount of parking area to service the proposed use.
 - H. Number, type, location and dimension of signs.
 - I. Type of construction.
 - J. Other requirements necessary to fulfill the purpose and intent of this ordinance.
4. In order to secure information upon which to base a determination the Board may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:
- A. A plan of the area showing contours, soil types, high water mark, ground water 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 ordinance.
5. The Board in evaluating each application may request the expert assistance of county, state or federal agencies that are available to provide such assistance.
6. A Special Exception permit shall expire after 2 years if the use approved under the permit has not commenced. The Zoning Administrator may grant an extension of up to 1 year if unique circumstances apply.

16.0108 APPEALS

1. Appeals. Appeals to the Board of Adjustment, as authorized by s.s. 59.694 (4), may be taken by a person aggrieved by an officer, department, board or bureau of Marquette 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.
2. Hearing appeals. As authorized under s.s. 59.694 (6), the Board shall fix a reasonable time for hearing of the appeal and publish a class 2 notice thereof under Chapter 985, Wisconsin State Statutes, 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 agent or attorney.
3. 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 or 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.

16.0109 FEES

1. The Marquette County Board of Supervisors shall establish the fees for permits and applications governed by the ordinances of Marquette County.
2. The Zoning Administrator shall charge a double fee for work started before a zoning permit is applied for and issued. A double fee shall not release the applicant from full compliance with this ordinance nor except the applicant from prosecution or other penalties that are permitted under Marquette County Citation Ordinance 5.40.

16.0110 VIOLATIONS, PENALTIES, REMEDIAL ACTION, ENFORCEMENT

1. Any building or structure hereinafter erected, moved or any use hereinafter established in violation of the provisions of this ordinance by any person, firm, association, corporation (including building contractors or his or their agent) shall be deemed an unlawful structure or use.
2. It shall be the duty of the Zoning Administrator, acting under the supervision of the Officer's and Zoning Committee to enforce the provisions of this Ordinance. The Zoning Administrator is hereby delegated authority to enforce the provisions of this Ordinance, including the power to delegate these duties to subordinates, inspect private

premises, issue orders for abatement and take action to abate violations of this ordinance.

- 3.** Whenever in the judgment of the Zoning Administrator it is determined that a violation of the provisions of this Ordinance is being committed, exists, or is being maintained in Marquette County that officer 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:

 - A.** The name and address of the owner, operator and or occupant and description of the real estate involved.
 - B.** The nature of the violation and the steps necessary to abate or correct it.
 - C.** The time period in which the violation must be corrected and or abated which will be no less than 5 days and not more than 30 days depending on the nature of the violation. Allowance for limited extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Zoning Administrator.
 - D.** The order of abatement shall be served upon the person committing or maintaining the Zoning Violation by either certified mail or registered mail, or in the manner set forth for service of a summons in Chapter 801, Wisconsin Statutes. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service on 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 Marquette County for a special inspection warrant pursuant to Section 66.122, Wisconsin Statutes.
- 4.** Exceptions to the written orders - 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 non-compliance and subject to immediate action under subsection (5) of this section, without issuance of a written abatement order.

5. 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 or more of the following actions and/or penalties:
 - A. The issuance of a citation under Ordinance 5.40.
 - B. Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the violation.
 - C. Commencement of legal action against the person seeking a court-imposed forfeiture, court costs, and/or the costs of abatement.
 - D. The initiation of one action or penalty under this Section does not exempt the violator from any additional actions and/or penalties prescribed by law.
6. Abatement of Zoning Violations - Where Zoning Violations as defined in this Ordinance or in the Wisconsin Statutes are encountered on private property which require ordered abatement and/or correction, the Zoning Administrator shall serve on the responsible person a written order as per Subsection (3) 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 as a special tax assessment on the property.
7. Penalties - In case of a conviction for a violation of the provisions of this ordinance, judgment shall be entered against the violator by a forfeiture of not less than \$50.00, nor more than \$500.00 per offense together with applicable court costs and penalty assessments. The court may also grant injunctive relief. In default of the payment of the judgment, the violator shall be imprisoned in the County jail for such time as the court deems fit but not to exceed 60 days, subject to payment of the forfeiture prior to completion of the sentence. Failure to comply with an Order for Abatement issued under this Ordinance in the time allowed shall constitute a separate violation of this ordinance, and each day of continued violation shall constitute a separate offense.
8. Initiation of legal action -In default of compliance with an Order for Abatement legal action shall be initiated against a violator by issuance of a citation under Ordinance 5.40, and referral to the Marquette County Corporation Counsel, or referral to the Corporation Counsel for issuance of a long form Summons and Complaint, in personam or in rem. The Corporation Counsel is hereby delegated the duty of prosecuting violations of this Ordinance. The Corporation Counsel shall take steps to enforce this Ordinance 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.

9. Coordination with State or Federal Agencies - 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 Ordinance. 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.

16.0111 DEFINITIONS

1. Administrative Review Use. Uses permitted by a zoning ordinance, 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.
2. Appeal. A complaint of an injustice done or error committed in which both the facts and law are reviewed.
3. Special Exception. Uses permitted by a zoning ordinance provided certain conditions, as stated in the ordinance, are met and the Board of Adjustment grants a permit.
4. 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.
5. Variance. An action that authorizes the construction or maintenance of a building in a manner inconsistent with the standards of a zoning ordinance. Approval of variances is a power of the Board of Adjustment. A variance may only be granted in cases of unnecessary hardship.