August 8, 2016

# TOWN OF BUFFALO

## Marquette County

## State of Wisconsin

## ORDINANCE

## CHAPTER 16

## GENERAL ZONING

Effective: June 21, 2011

Amended: November 9, 2015

DRAFT

CHAPTER 16

GENERAL ZONING

16.01 STATUTORY AUTHORIZATION, PURPOSE AND FINDING OF FACT

1) Statutory Authorization. This Ordinance is adopted pursuant to the authorization contained in Section 60.62, 61.35, 62.23(7) and 91.30 of the Wisconsin Statutes.

2) Statement of purpose. The provisions of this Ordinance shall upon adoption be held to be the minimum requirements adopted to promote health, safety, comfort, prosperity and general welfare of the public.

16.02 ABROGATION AND GREATER RESTRICTION.

1) It is not otherwise intended by this Ordinance 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, other than zoning, to the extent specified in this Ordinance.

2) Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town, except as otherwise limited by Wisconsin Statutes, and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes.

3) Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

4) Repeal. All other Ordinances or parts of Ordinances of the Town of Buffalo inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

16.03 JURISDICTION AND EFFECTIVE DATE

This Ordinance shall take effect upon passage and adoption by the Town Board and filing of proof of publication in the office of the Town Clerk.

16.04 GENERAL PROVISIONS

1) Setback, lot sizes and other dimensional requirements applicable to the various zoning districts are indicated in this Ordinance.

2) No structure, land, water or air shall hereafter be used without full compliance with the provisions of this Ordinance. No structure or part, except as specifically allowed hereunder, shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made, without full compliance with this Ordinance. For each district the permitted uses are stated, others are specifically classified as requiring special exception permits and any uses not specifically classified shall require special exception permits.

3) After adoption of this Ordinance, no lot area shall be so reduced that the dimensions and yard requirements imposed by this Ordinance cannot be met. However, where existing lots do not satisfy such requirements, the Board of Appeals may grant a variance.

4) All lots shall abut upon a public street or road to which direct access is permissible and each lot shall have a minimum frontage of at least 66 feet. This requirement shall not be construed to conflict with the minimum average lot width standards specified in this

Ordinance, inasmuch as irregular shaped lots may meet both the requirements. In the case of a corner lot, the standards specified for setbacks for that district shall apply to those sides of the lot, which abut both streets forming the corner.

5) No lot shall have more than one principal building for residential purposes, except as otherwise specified herein.

6) No provision of this ordinance shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the appropriate laws of the State of Wisconsin.

7) Any lot legally created and recorded in the Register of Deeds Office prior to the adoption of this Ordinance, may be increased in size by the addition of all or part of the adjoining lots or parcels, and such resulting lots may be used for any purpose permitted in the district in which they are located, provided that the resultant lots or parcels shall not be reduced below the minimum requirements of the district, be made less conforming and that they comply with the requirements of the Town of Buffalo Chapter 10, Subdivision and Land Division Ordinance.

8) Any lot legally created and recorded in the Register of Deeds Office prior to the adoption of this Ordinance, may be used as a building site, or for any purpose permitted by ordinance, even though such lot does not conform to the minimum frontage or area requirements of the district in which it is located, provided that all other requirements of the district can be met.

9) The existing lawful use of a structure or premises which is not in conformity with the provisions of this Ordinance may be continued subject to the following:

   A) No use shall be expanded or enlarged except in conformity with the provisions of this Ordinance.

   B) No structural alteration, addition or repair to any non-conforming building over the life of the structure shall exceed 50 percent of its equalized value at the time of its becoming a nonconforming use, unless permanently changed to a conforming use, except upon granting of a variance by the Board of Appeals or unless authorized under Sec. 16.04(10).

   C) If a nonconforming use is discontinued for 12 consecutive months, any future use of the building or premises shall conform to this Ordinance.

10) Restoration of legal nonconforming structures. As authorized under Wisconsin Statutes 62.23(7)(hc) a legal nonconforming structure may be rebuilt if all of the following conditions are met:

   A) The structure was damaged or destroyed on or after March 2, 2006.

   B) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation.

   C) The size of the structure is not increased and it is built in the same location that it occupied prior to being destroyed.

   D) The use of the structure is not changed unless the new use is in conformity with this ordinance.

11) In districts, which permit agricultural uses, the grazing or raising of farm animals shall require a minimum of 2 acres with a maximum of 2 animal units for lots less than 5 acres in size.

16.05 HIGHWAY SETBACK AND ACCESS PROVISIONS

1) For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the highways of the Town of Buffalo are divided into the following classes:

   A) All State and Federal highways are hereby designated as Class A highways.

   B) All county trunks are hereby designated as Class B highways.

   C) All town roads, public streets and highways not otherwise classified, are hereby designated Class C highways.

   D) Town roads classified as Rustic Roads under Wisconsin Administrative Code Trans-RR1 are hereby designated as Class CR highways.

2) The minimum setbacks from the various Class highways are as follows:

   A) The setback from a Class A highway shall be 110 feet from the centerline of the highway or 50 feet from the right of way line, whichever is greater.

   B) The setback from a Class B highway shall be 75 feet from the centerline of the highway or 42 feet from the right of way line, whichever is greater.

   C) The setback from a Class C highway shall be 63 feet from the centerline of the highway or 30 feet from the right of way line, whichever is greater.

   D) The setback from a Class CR highway shall be 75 feet from the centerline of the highway or 42 feet from the right of way line, whichever is greater.

3) Permits shall be required for all new access points on Class A, B, C and CR highways.

   A) Permit applications for access to Class A highways shall be made with the Wisconsin Dept. of Transportation, for Class B shall be made with the Marquette County Highway Department and C/CR highways shall be made with the Town of Buffalo Zoning Administrator.

   B) The agency which issues the permit shall conduct inspections of the point of access to determine compliance with the Ordinance and shall maintain permanent records of data submitted, staff recommendations and permits issued.

   C) The authority to approve, conditionally approve or reject an application is delegated to the agency, which issues the permit, except if the proposed access does not conform to the access provisions of this ordinance or the Town of Buffalo Chapter 10, Subdivision and Land Division Ordinance. Requests for nonconforming accesses shall be subject to review and approval by the Board of Appeals prior to the issuing agency granting the permit.

4) Access driveways from abutting properties shall comply with the following requirements:

   A) Class A

      1) Minimum distance between access points shall be 1000 feet and minimum distance between access and the centerline of an intersecting highway shall be 1000 feet.

   B) Class B

1) Minimum distance between access points shall be 600 feet and minimum distance between access and the centerline of an intersecting highway shall be 600 feet.

C) Class C/CR

1) Minimum distance between access points shall be 100 feet and minimum distance between access and the centerline of an intersecting highway shall be 150 feet.

5) Where strict application of spacing standards would deny access to lots in existence prior to adoption of access regulations, new access shall be spaced to provide safe access.

6) More restrictive spacing standards may be applied for safety reasons.

7) Where spacing standards permit, driveways shall be located opposite each other.

8) Where the option exists, access should be granted to a highway with a lower classification than one with a higher classification.

9) Spacing standard do not apply for field access on Class C/CR highways.

10) The maximum number and width of access driveways per land use to highways and service roads shall be as follows:

A) Commercial and Industrial

1) The maximum number of accesses shall be 2 and the maximum width shall be 35 feet.

B) Residential

1) The maximum number of accesses shall be 1 and the maximum and minimum width shall be 35 feet and 24 feet, respectively.

C) Agricultural

1) The maximum number of accesses shall be 1 and the maximum and minimum width shall be 35 feet and 24 feet, respectively.

D) Field Access

1) No maximum number of accesses per tax parcel and the maximum and minimum width shall be 35 feet and 24 feet respectively, if required.

11) All new driveways shall comply with the following minimum design standards in addition to meeting any other provisions of the access permits issued by the Dept. of Transportation or the County Highway Dept.

A) Culverts, if needed, shall be a minimum of 15 inches in diameter and be constructed of corrugated metal or concrete.

B) Driveway height shall not exceed the level of the outside edge of the road shoulder to the ditch line.

C) The side slopes of the driveway shall equal or be flatter than the side slope of the main highway but shall not be steeper than 3 to 1.

D) No rigid vertical end walls shall be permitted.

16.06 SITE DESIGN STANDARDS

The following site design standards shall apply for certain types of land uses when required under other Sections of this ordinance. These standards are adopted to promote health, safety, comfort, prosperity and the general welfare of the public. It is the intention of these standards to ensure that future development is designed in a way that compliments community character, increases tax base and ensures lasting quality. A site plan shall be submitted to the Zoning Administrator addressing the following items:

1) SCREENING for Commercial Districts and Subdivisions:

A) The following areas or features shall be required to be effectively screened by fencing, landscaping, or berms from view from public roadways, and adjacent residential properties:

1) Exterior structures related to heating systems, cooling or air conditioning systems;

2) Refuse, garbage, dumpsters and recyclable material collection points;

3) Outdoor storage areas;

4) Loading docks;

5) Any other site area or facility if reasonably related to the protection of neighboring properties or the public from distracting, unappealing, or offensive views of on-site activities as determined by the Zoning Administrator.

B) Options for Screening. The following are options for providing required screening where applicable:

1) Fencing: The construction of a minimum 6-foot high solid fence shall be deemed adequate screening if required. The fence shall be one color and constructed of one type of commonly used fencing materials.

2) Rows of trees: The planting of a minimum of 2 rows of trees staggered with a 10-foot spacing, which are a minimum of 4 feet tall when planted, shall be deemed adequate screening if required. One row shall be white pine, red pine, or a fast growing hybrid poplar. The lot owner shall maintain such planting and any dead trees shall be replaced within 6 months. Alternate species or planting plan may be substituted if prior approval is received from the Zoning Administrator.

3) Existing vegetation: The maintenance of existing native vegetation that, from off the property during full foliage conditions, provides the appearance of a solid wall of vegetation, shall be deemed adequate screening if required. The final determination as to acceptability of the existing vegetative screen shall be by the Zoning Administrator.

4) Earthen berms: The construction of an earthen berm to the minimum height of 6 feet which is to be seeded and/or landscaped with shrubs and maintained by the owner shall be deemed adequate screening.

2) OFF STREET PARKING

A) Minimum Off-Street Parking Requirements: Off street parking spaces shall be provided in sufficient numbers to address the anticipated amount of traffic to the proposed use.

B) Handicapped Parking Spaces: Parking for the handicapped shall be provided at the number, size, location, and with signage as specified by State and Federal regulations.

C) Location: Off-street parking areas shall be located on the same lot as the principal use.

D) Installation of Off-Street Parking Areas: All required off-street parking areas shall be completed prior to building occupancy.

E) Use of Off-Street Parking Areas: The use of off-street parking areas shall be limited to the parking of licensed, registered, and operable vehicles.

F) Depiction on Site Plan: All existing and proposed parking areas on the lot shall be depicted as to their location and configuration on the site plan.

3) LOADING STANDARDS.

A) Any nonresidential use, created after the adoption of this ordinance, which has a gross floor area of 5,000 square feet or more, and which requires deliveries or makes shipments, shall provide at least one off-street loading area.

B) Location: Loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public road right-of-way or road easement.

C) Depiction on Site Plan: All existing and proposed loading areas on the lot shall be depicted as to their location and configuration on the site plan.

4) SIGNAGE

A) On premise signs advertising a business or activity shall meet the following standards:

1) Wall signs placed against the exterior of a building shall not extend more than 1 foot from the wall surface and shall not exceed 100 square feet in area.

2) Projecting signs fastened to, suspended from or supported by attached structures shall not exceed 50 square feet on a side.

3) Ground signs shall meet all setback requirements, shall not exceed 100 square feet on a side and shall not exceed 20 feet in height above the main grade. The use of monument signs is encouraged rather than pole signs.

4) Signs shall not be neon, flashing or have mechanical motion.

16.07 ZONING DISTRICTS AND ZONING MAPS

1) Official copies of the zoning maps, together with a copy of this Ordinance shall be kept by the Town Clerk and shall be available for public inspection upon request and on the Town website. Any changes or amendments affecting zoning boundaries or explanatory matter shall be recorded on the applicable maps. All such changes shall be made in accordance with the provisions of Chapter 62.23(7) of the Wisconsin Statutes and the provisions of this Ordinance.

2) In order to carry out the purpose and provisions of this Ordinance, the following zoning districts and zones are hereby established, and may be known by the accompanying abbreviations:

CP Conservation Protection District

| | |
|---|---|
| CM-B | Commercial District – Business |
| R-1 | Single Family Residential District |
| AG-3(2) | Agricultural Residential District (2 acre minimum) |
| AG-3(5) | Agricultural Residential District (5 acre minimum) |
| AG-2 | General Agricultural District |
| AG-1 | Prime Agricultural District |
| FPO | Farmland Preservation Overlay District |
| CD | Conservation Design Subdivision Overlay District |

3) When the width or length of the boundaries of various zones are not clear, the dimensions shall be determined by the Zoning Administrator. Zone boundaries are normally lot lines, section, quarter, quarter-quarter lines, centerlines and right of way lines of highways, railroads and utility easements.

4) The Zoning Administrator shall deny a zoning permit for any use of any land in a district so substantially different from the stated uses in that district that it is deemed to be inappropriate, subject to any federal, state or County regulation that affects whether an unlisted use may be allowed, including but not limited to Chapter 91, Wisconsin Statutes and ATCP 49, Wis. Admin. Code.

5) The Town Board may rezone to an appropriate district, set conditions on use and buildings for such rezonings; and determine the particular land use to be either a permitted use or special exception in the new district, subject to any federal, state or County regulation that affects whether an unlisted use may be allowed, including but not limited to Chapter 91, Wisconsin Statutes and ATCP 49, Wis. Admin. Code.

6) The Board of Appeals may issue a Special Exception Permit allowing any use it determines to be substantially similar to the enumerated special exception uses in a district, subject to any federal, state or County regulation that affects whether an unlisted use may be allowed, including but not limited to Chapter 91, Wisconsin Statutes.

16.08 CONSERVATION PROTECTION DISTRICT (CP)

1) This district provides for the conservation and protection of natural resources. Generally, this zone includes swamps, marshland, wetlands and other lands of natural aesthetic value. Conservation Protection District is designed to preserve, protect, enhance and restore all significant woodlands, scenic areas, submarginal farmlands, archaeological sites, natural watersheds, significant landforms, wildlife habitat and other natural resources that contribute to environmental quality.

2) Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than 40 acres and have a minimum width of 500 feet. Any land division must comply with the requirements of the Town of Buffalo Chapter 10 Subdivision and Land Division Ordinance.

3) In addition to setbacks required in Sec. 16.05(2) all buildings shall have a minimum setback from all lot lines of 25 feet from overhang of roof or closest point of construction.

4) The following uses shall be permitted in the Conservation Protection District:

A) Single family dwelling-one per 40 acres.

B) The harvest of any wild crop such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds.

C) Forestry.

D) Agricultural use consistent with the operating agency's management plan.

E) Preservation of scenic, historic and scientific areas, wildlife preserves.

F) Accessory buildings consistent with the operating agency's management plan.

G) Hiking, biking, nature, horse or other non-motorized trails.

H) Public parks or refuges consistent with the operating agency's management plan.

I) Governmental uses consistent with the operating agency's management plan.

16.09 RESIDENTIAL DISTRICT (R-1)

1) The Residential District is designed to protect the residential character of areas by excluding commercial activities, to encourage a suitable environment for family life by permitting, under certain conditions, such neighborhood facilities as churches, schools and playgrounds, to permit under certain conditions appropriate institutions to be located in residential neighborhoods, to preserve openness of the area and avoid over-crowding, by requiring certain minimum yards, open spaces, and site area, and to make available a variety of locations to serve a wide range of individual requirements.

2) Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than 5 acres and have a minimum width of 100 feet. Any land division must comply with the requirements of the Town of Buffalo Chapter 10 Subdivision and Land Division Ordinance.

3) In addition to the setbacks required in Sec. 16.05(2) all buildings shall have a minimum setback from all lot lines of 25 feet from overhang of roof or closest point of construction.

4) The following uses shall be permitted in the Residential District:

A) Single family dwellings

B) Accessory buildings compatible with permitted uses.

C) Hiking, biking, and nature trails.

D) Public and private parks.

E) Home occupations – A.

5) The following shall be permitted only on the issuance of a Special Exception Permit:

A) Churches and their affiliated uses.

B) Public recreational and community center buildings and grounds.

C) Public Libraries.

D) Home occupations – B.

E) Multi-family dwellings.

F) Schools.

G) Governmental uses consistent with the operating agency's management plan.

16.10 COMMERCIAL DISTRICT – BUSINESS (CM-B)

1) The Commercial District – Business is designed to facilitate the development of commercial uses in accordance to the future growth and development of the region; to provide for a wide range of commercial uses of land. These zones are designed to permit development for the respective purposes and to protect nearby residential areas by requiring that certain minimum yard, area, parking and site design standards be met. It is intended that additional areas would be included in these zones as additional commercial facilities are needed to serve new or growing residential areas.

2) Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than 5 acres and have a minimum width of 100 feet. Any land division must comply with the requirements of the Town of Buffalo Chapter 10 Subdivision and Land Division Ordinance.

3) Where road setbacks have been established by use the setback from roads shall be the average of those setbacks, however, no setback reduction to less than the road right-of-way shall be permitted. In a Commercial District where road setbacks have not been established by use, the road setbacks shall be the same as those stated in Sec. 16.05(2).

4) The minimum lot line setback shall be 35 feet.

5) The design standards contained in Sec. 16.06 shall apply.

6) The following uses shall be permitted in a Commercial District – Business:

A) Business and professional offices and studios.

B) Retail stores A & B.

C) Bakery.

D) Food and beverage establishments.

E) Residential accommodations for shopkeepers located on the same lot as the business, not to exceed one single family dwelling.

F) Commercial greenhouses.

G) Governmental uses consistent with the operating agency's management plan.

7) The following shall be permitted only upon the issuance of a Special Exception permit:

A) Banks and similar services.

B) Commercial entertainment facilities, except those classified as "adult establishment".

C) Dental and medical clinics.

D) Funeral homes.

E) Hotels and motels.

F) Laundromats.

G) New and used car sales.

H) Miniwarehouses.

I) Woodworking and cabinet shops.

J) Golf courses.

K) Auto service stations.

L) Farm implement dealer.

M) Kennels.

N) Veterinarian clinics and hospitals.

O) Research facility.

P) Apartments.

Q) Microbrewery.

R) Body repair shop.

S) Wireless communication facility.

T) Grain elevator.

U) Wind energy generation facilities.

V) Campgrounds.

W) "Adult establishments" which are more than one thousand (1000) feet from schools, churches, community living arrangements, day care centers, nursery schools, family day care homes, parks, playgrounds, other community facilities and other adult establishments.

16.11 AGRICULTURAL - RESIDENTIAL DISTRICTS (AG-3(2) and AG-3(5))

1) The Agricultural-Residential Districts are designed to provide for and encourage agricultural uses, related uses, and certain residential uses in a rural and semi-rural environment. There are two Agricultural-Residential Districts, the AG-3(2) and AG-3(5) districts, which differ from each other only in minimum lot size. The primary intent of having two AG-3 districts to best implement the residential density policy in planned Farmland Preservation Areas, as mapped and described in the County Comprehensive Plan. Where the zoning map indicates "AG-3" zoning, with no further qualifiers, those areas shall be presumed to be zoned AG-3(5).

2) Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than 2 acres in the AG-3(2) and 5 acres in the AG-3(5) district. Minimum lot width in both districts shall be 100 feet.

3) The minimum lot line setback shall be 25 feet.

4) The following uses shall be permitted in the Agricultural-Residential District:

A) Agricultural uses, agricultural accessory uses and agricultural structures. The maximum number of animal units for parcels between 5 and 6 acres in size shall be 3. Parcels 6 acres and larger are permitted an additional animal unit per acre. Agricultural buildings that house farm animals shall be a minimum of 100 feet from lot lines on neighboring properties and the use shall comply with Sec. 16.04(11).

B) Single family dwelling.

C) Forestry.

D) Roadside stands for the sale of farm products.

E) Churches.

F) Schools.

G) Cemeteries

H) Public and private parks.

I) Utilities.

J) Home occupation-A.

K) Hiking, biking, nature, horse or other non-motorized trails.

L) Governmental uses consistent with the operating agency's management plan.

5) The following uses shall be permitted only on the issuance of a Special Exception permit:

A) Campgrounds.

B) Kennels.

C) Wireless communication facilities.

D) Multi-family dwelling.

E) Home occupation-B.

16.12 GENERAL AGRICULTURAL DISTRICT (AG-2)

1) The General Agricultural District is designed to provide for and encourage agricultural uses of land, related uses, and certain residential uses in a rural environment. It is also intended for a semi-rural type of environment, allowing for general agricultural uses.

2) Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than 10 acres and have a minimum width of 300 feet. Any land division must comply with the requirements of the Town of Buffalo Chapter 10 Subdivision and Land Division Ordinance.

3) The minimum lot line setback shall be 35 feet.

4) The following uses shall be permitted in the General Agricultural District:

A) Agricultural use not to exceed 100 animal units, provided that agricultural buildings that house farm animals are a minimum of 100 feet from lot lines on neighboring properties and that the use complies with Sec. 16.04(11), along with agricultural accessory uses and structures.

B) Single family dwellings.

C) Forestry.

D) Roadside stands for the sale of farm products.

E) Public parks.

F) Home occupations - A.

G) Hiking, biking, nature, horse or other non-motorized trails.

H) Cemeteries.

I) Governmental uses consistent with the operating agency's management plan.

5) The following uses shall be permitted only upon issuance of a Special Exception permit:

A) Home occupations-B.

B) Quarrying for personal use on premises.

C) Wireless communication facilities.

D) Kennels.

E) Wind energy generating facilities.

F) Schools.

G) Campgrounds.

16.13 PRIME AGRICULTURAL DISTRICT (AG-1)

1) The AG-1 Prime Agricultural District is intended to preserve prime and other productive agricultural soils for continued farming, provide for a wide range of agricultural uses and agricultural accessory uses, and minimize encroachment of urban and dense rural non-farm uses into planned long-term agricultural zoned areas. Activities typically associated with working farms should be expected in the AG-1 district, including noise, dust, odors, heavy equipment, use of chemicals, and long hours of operation. The AG-1 district also includes undeveloped natural resource and open space areas, and other uses permitted hereunder. The AG-1 district is intended to meet the criteria for Wisconsin Department of Agriculture, Trade and Consumer Protection certification as a farmland preservation zoning district under §91.38 Wis. Stats., and as such is used only in areas planned as Farmland Preservation in the County Comprehensive Plan.

2) Newly created lots and lots or parcels remaining after a land division where AG-1 zoning is maintained shall provide a minimum lot area of not less than 40 acres and have a minimum width of 500 feet. Lots of lesser area and width are allowed following rezoning away from the AG-1 district, if all requirements associated with rezoning land away from the AG-1 district in Section 16.19(4) are met.

A) The rezoning shall be in accordance with Section 16.19(4)

B) The rezoning and lots to be created shall be in accordance with Farmland Preservation Area policies within the County Comprehensive Plan, including but not limited to residential density and lot area policies.

C) The associated land division, if for a residential use, is accompanied by a restriction that restricts the further division of such lots.

3) The minimum lot line setback shall be 35 feet.

4) The following uses shall be permitted in the Prime Agricultural District:

A) Agricultural use not to exceed 500 animal units, provided that agricultural buildings that house farm animals are a minimum of 100 feet from lot lines on neighboring properties and that the use complies with Sec. 16.04(11).

B) Agricultural accessory uses and structures.

C) Any residence, lawfully existing as of January 1, 2014 and its accessory buildings and uses including a home occupation. Notwithstanding the provisions of Section 16.04(9) and (10) regarding nonconforming uses and structures, such residence may be added to, altered, repaired, or restored, provided that the use remains residential and the structure complies with all residential dimensional and setback standards of this section and Section 16.05.

D) Undeveloped natural resource and open space areas.

E) A transportation, utility, communication, pipeline, electrical transmission, or drainage use that is required under state or federal law that specifically preempts the requirements of a special exception.

5) The following uses shall be permitted only upon the issuance of a Special Exception permit:

A) Any transportation, communications, pipeline, electric transmission, utility, or drainage use that is not classified as a permitted use, subject to compliance with §91.46(4) Wis. Stats.

B) Governmental, institutional, religious, or nonprofit community uses, subject to compliance with §91.46(5) Wis. Stats.

C) Non-metallic mineral extraction operations, subject to compliance with §91.46(6) Wis. Stats. and the Marquette County Floodplain Zoning Ordinance as it may apply.

16.14 FARMLAND PRESERVATION OVERLAY DISTRICT (FPO).

1) The FPO Preservation Overlay District is intended to enhance the prospect of long-term farmland and open space preservation over areas where it is mapped. The FPO district will generally be mapped over property to track and maintain residential development density policies associated with the Farmland Preservation Area within the County Comprehensive Plan. This will generally occur when a rezoning to accommodate a residential use is approved on contiguous lands in common ownership, in accordance with residential density policies applicable to the planned Farmland Preservation Area. The FPO district may be applied in other circumstances, such as to indicate areas from which development rights have been retired or limited by acquisition of conservation easement, purchase of development rights, or similar program. In all cases where the FPO district is used, the underlying zoning district shall be and remain an agricultural zoning district, but permitted and special exception uses shall be limited to those allowed in the FPO district per Section 16.14

2) Lot area and other dimensional standards shall be per the underlying zoning district.

3) The following uses shall be permitted in the Farmland Preservation Overlay District:

A) Agricultural uses, provided that buildings in which farm animals are kept shall be at least one hundred (100) feet from residences on neighboring properties and that the use complies with Section 16.04(11).

B) Agricultural accessory uses and structures.

C) Undeveloped natural resource and open space areas.

4) The following uses shall be permitted only upon the issuance of a special exception permit, subject to the criteria in Section 16.17(5)(B)(6):

A) Non-metallic mineral extraction operations, subject to compliance with § 91.46(6), Wis. Stats. and the Marquette County Floodplain Ordinance as it may apply.

5) The following rules and allowances shall govern the mapping and effect of FPO Farmland Preservation Overlay District zoning:

A) The FPO zoning district need not be applied to lands that are contiguous to the lot(s) on which a new dwelling(s) will be constructed, provided that such FPO district is in the same town and mapped over the same prior contiguous common ownership parcel as the lot(s) on which dwelling(s) will be constructed.

B) The boundaries of each FPO district shall follow lot lines, tax parcel lines, or some combination wherever possible. A description of lands within each FPO district shall be of sufficient detail that it may be accurately mapped and that the total acreage to be rezoned to FPO may be determined. The Zoning Administrator may require a plat of survey or certified survey map.

C) Land in this FPO district may be sold and exchanged between owners of adjoining lands if the minimum lot size in the underlying zoning district is not violated.

D) Land in the FPO district may not be used to achieve the acreage necessary to build a dwelling under the applicable residential density policies of the County Comprehensive Plan.

E) Where the FPO district is required in conjunction with the rezoning for residential purposes per the density policies referenced in Section 16.14(1), there shall not be a separate application fee associated with the PO rezoning.

## 16.15 CONSERVATION DESIGN SUBDIVISION OVERLAY DISTRICT (CD)

1) The purpose of the Cluster Development Overlay District is designed to preserve the rural landscape character of the Town of Buffalo by maintaining larger tracts of farmland and other areas of open land while providing for an opportunity to permit residential development. The intention being to design residential developments in a manner that limits and reduces their impact on the scenic beauty of the Town. Specific objectives are:

A) To guide the future growth and development of the Town in conjunction with the Town of Buffalo Comprehensive Plan.

B) To guide the detailed analysis of parcels so as to locate and coordinate appropriate areas for development and conservation.

C) To preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources.

D) To preserve scenic views by minimizing views of new development from existing roads.

E) To preserve prime agricultural land by concentrating housing on lands that have low agricultural potential.

F) To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.

G) To provide for a diversity of parcel sizes, housing choices and to accommodate a variety of age and income groups.

H) To provide for buffering between residential development and non-residential uses.

I) To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.

J) To preserve significant archeological sites, historic buildings and their settings.

K) To meet the demand within the Town for housing in rural settings.

2) A Conservation Design Subdivision shall meet all of the requirements of Article V Conservation Design Subdivision contained in the Town of Buffalo Chapter 10 Subdivision and Land Division Ordinance.

3) The following uses shall be permitted in Conservation Design Subdivision Overlay District:

A) Single family dwellings.

B) Home occupation-A.

C) Accessory buildings compatible with permitted uses.

4) On residential lots within a Conservation Design Subdivision Overlay District the following shall be permitted only on the issuance of a Special Exception Permit:

A) Multi-family dwellings.

16.16 VARIOUS LAND USES

1) Mobile Home Park

A) Mobile home park means a plot or plots of ground upon which 3 or more units, which are mobile homes, as, defined herein, and occupied for dwelling purposes are located.

B) The minimum size of a mobile home park shall be 10 acres.

C) The maximum number of mobile homes shall be 8 per acre.

D) Minimum dimensions of a mobile home site shall be 50 feet wide by 100 feet long.

E) All drives, parking areas and walkways shall be surfaced.

F) In addition to the requirements of this Ordinance, there shall be a minimum setback of 25 feet from all exterior lot lines.

G) The parks shall conform to the requirements of the Wisconsin Administrative Code.

H) Each mobile home site shall be separated from other mobile home sites by a yard not less than 20 feet wide.

I) There shall be 2 surfaced automobile parking spaces for each mobile home.

J) Unless adequately screened by existing vegetative cover, the mobile home park shall be screened by a temporary planting of fast growing material, capable of reaching a height of 15 feet, or more, the individual trees to be such a number and so arranged that within 10 years they will have formed a screen equivalent in capacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than 10 feet.

K) Each mobile home park shall set aside at least 5% of the total area for a recreation area. This shall be in addition to yard or open spaces. The area shall be provided with play equipment furnished and maintained by the park owner.

L) All mobile home parks shall comply with the County Sanitary Ordinance.

2) Trailer Camps, Campgrounds and Camping Resorts

A) The minimum size shall be 10 acres.

B) There shall be a maximum of 20 sites per acre.

C) Each site shall be a minimum of 25 feet wide and 40 feet long.

D) Each site shall be plainly marked.

E) Each site shall be separated from other sites by a yard not less than 15 feet wide.

F) There shall be one automobile parking space for each site.

G) In addition to the setbacks required in Sec. 16.05 (2), there shall be a minimum setback of 100 feet from all lot lines.

H) All shall comply with the Wisconsin Administrative Code.

I) The screening provisions for mobile home parks shall be met.

3) Salvage Yards

A) No salvage yard shall be permitted in Marquette County except in conformance with a plan approved by the Township and when required, a Special Exception permit granted by the Board of Adjustment.

B) Salvage yards shall also comply with the following provisions:

1) No material shall be stored within 1000 feet of the right of way of a Class A highway, 750 feet of a Class B highway, 500 feet of a Class C highway or within 100 feet of any side or rear lot lines.

2) All salvage dealers must also comply with the appropriate Wisconsin Statutes and Administrative Code.

16.17 ZONING ADMINISTRATION

1) ZONING ADMINISTRATOR

A) There is hereby created the office of Zoning Administrator. The Zoning Administrator shall be appointed by the Town Board. The Zoning Administrator may exercise the following duties and powers:

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

2) 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 permit shall constitute permission by the owner for said access.

3) Investigate violations of zoning ordinance. Violations shall be reported to the Town Board.

4) Issue written orders for correction of ordinance violations.

5) Issue citations for non-compliance and/or refer violations to the Town attorney for prosecution.

6) 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.

2) ZONING PERMITS

A) An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the Town of Buffalo and shall include the following information:

1) Name and address of applicant and property owner.

2) Legal description and address of property.

3) A sketch showing the dimensions of the lot and location of existing structures and proposed construction. The dimensions shall provide the following information:

a) Distance from lotlines.

b) Distances from the centerline of abutting town, county and/or state roads.

c) Distances from the ordinary highwater mark of abutting waterways, lakes, streams and rivers

d) Distances from private onsite wastewater treatment systems (POWTS).

4) Any other information that may be requested to determine if the proposed project complies with the ordinance.

B) 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.

C) Zoning permits shall be granted or denied in writing by the Zoning Administrator within 30-days from the date the application is received by the Town of Buffalo.

D) 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.

E) No zoning permit shall be issued where required, until a sanitary permit is issued as required by Wisconsin Administrative Code SPS 383 and Chapter 145, Wisconsin State Statutes.

F) No zoning permit shall be issued where required, if a violation of the Town of Buffalo Zoning Ordinance exists on the property unless the zoning permit being requested is necessary to correct the violation.

G) 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 this ordinance.

H) 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:

1) 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.

2) Replacement of windows, installation of siding and roofing.

3) Maintenance repairs that do not expand or alter a structure.

3) BOARD OF APPEALS

A) Statutory Authorization. Pursuant to the authorization contained in ss. 62.23(7), Wisconsin State Statutes, there is hereby adopted a Board of Appeals for the Town of Buffalo.

B) Statement of Purpose. The Board shall hear appeals to the Town of Buffalo Zoning Ordinance. 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 Appeals shall consist of 5 members appointed by the Town Chairman and approved by the Town Board. Terms shall be staggered 3-year periods. Eligibility of members of the Board shall be that they shall reside within the Town of Buffalo and outside the limits of incorporated areas. 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 Appeals shall have 2 alternate members appointed by the Town Chairman and approved by the Town Board. The alternate members shall be appointed for 3-year staggered terms and be annually designated, by the Town Chairman, as first alternate and second alternate. The first alternate shall act, with full power, only when a member of the Board of Appeals 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 Appeals 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 Appeals shall hold a public hearing. Publication in the newspaper, as required by ss 19.84, shall give notice of an application and public hearing.

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

4) VARIANCES

A) The Board of Appeals 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:

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 ordinance 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.

5) SPECIAL EXCEPTIONS

A) Permit Required. 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 Appeals.

B) Evaluation Criteria. In passing upon a special exception permit, 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 and wetlands.

3) The erosion potential of 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 is designed to minimize traffic congestion or potential traffic hazards.

5) The compatibility of the proposed use with uses on adjacent properties.

6) 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 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. 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:

1) Restoration of shoreland vegetation.

2) Erosion control and/or stormwater management plans for the project site.

3) Sewage and water supply facilities.

4) Increased setbacks to further the purpose and intent of the ordinance.

5) Landscaping and planting screens.

6) Hours of operation for the proposed use.

7) Location and amount of parking area to service the proposed use.

8) Number, type, location and dimension of signs.

9) Type of construction.

10) Other requirements necessary to fulfill the purpose and intent of this ordinance, and if within the AG-1 district, Chapter 91, Wis. Stats.

D) Application Information. 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:

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

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

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

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

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

E) The Board in evaluating each application may request the expert assistance of county, state or federal agencies that are available to provide such assistance.

F) 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.

6) APPEALS

A) Appeals. Appeals to the Board of Appeals, as authorized by s.s. 62.23(7), may be taken by a person aggrieved 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 Appeals 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. As authorized under s.s. 62.23(7), 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.

C) The final disposition of an appeal or application to the Board of Appeals 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.

7) FEES

A) The Town of Buffalo Board shall establish the fees for permits and applications governed by the Zoning Ordinance of the Town of Buffalo. See Chapter 3-Fee Schedule.

B) 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 The Town of Buffalo Citation Ordinance.

16.18 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 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 Chapter 8-Citation Ordinance.

   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 (1) 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 Town of Buffalo Attorney for issuance of a long form Summons and Complaint, in personam or in rem. The Town of Buffalo Attorney is hereby delegated the duty of prosecuting violations of this Ordinance. The Town of Buffalo Attorney 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.

16.19 CHANGES AND AMENDMENTS

1) Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may, by Ordinance, change the district boundaries or amend or supplement the regulations established by this Ordinance in accordance with the provisions of the Wisconsin Statutes.

2) A petition for amendment must be made pursuant to the procedures set forth in Sec. 62.23 of the Wis. Stats. And the provisions of that statute followed before any amendment to this Ordinance may be considered.

3) Petition for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

A) Plot plan approved by the Zoning Administrator, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.

B) Owner's names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.

C) Fee receipt from the Town Clerk.

4) No land in the AG-1 district shall be rezoned to any other district, except for the Farmland Preservation Overlay (FPO) district, unless following a public hearing the Town Board finds all of the following are or will be met:

A) The land is better suited for a use not allowed in the AG-1 district.

B) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

C) The rezoning is consistent with the Town and County Comprehensive Plans, including the Farmland Preservation Plan component of the County Comprehensive Plan.

C) Where the rezoning of land from the AG-1 district would enable one or more residences:

1) The owner of each 40 acre parcel, and other parcels that are between 40 and 79 acres, shall be eligible for on single family residence, including any preexisting residence.

2) The owner of each small parcel of land zoned AG-1, if legally created before January 1, 2014, shall be eligible for one single family residence, including any preexisting residence.

3) The owner of at least two contiguous ¼ ¼ sections of land, and other lands in contiguous common ownership that are at least 80 acres, shall be able to rezone AG-1 zoned land for cluster(s) of single family residential lots at a density of one lot/residence for every 40 full acres, including any preexisting residence. Landowners may develop one or more clusters, if acreage allows. Clusters may be located adjacent to other clusters on adjoining parcels in different ownership.

4) Any balance of acreage used to enable rezoning for a single family lot/residence lot under subsections 1 through 3 must be rezoned to the FPO zoning district. Land in the FPO district cannot be used together with other land not in the FPO district to achieve the acreage normally necessary to build another single family residence under subsection 1 through 3.

5) Each residence must be on a newly divided lot of between one and five acres created by land division (e.g., CSM), except that the Zoning Administrator may relax this requirement where the residence is proposed on a sub-40 acre parcel legally created before January 1, 2014.

6) The associated land division must be accompanied by a restriction on the further division of such lots and by a right-to-farm notice per the Comprehensive Plan, and such restriction and notice must be recorded prior to issuance of a zoning permit for the residence.

7) Each newly created residential lot must abut a public road, or have an access easement approved by the Zoning Administrator and recorded against the affected parcel(s), prior to zoning permit issuance.

8) The new residence shall not adversely affect agricultural operations in surrounding areas or be situated such that future inhabitants of the residence might be adversely affected by agricultural operations in surrounding areas.

9) The new residence and the new driveway needed to serve the residence shall not divide existing farm fields, but instead shall be beyond the farm field or towards the edge of a farm field where a location beyond the field is not practical.

10) The proposed location of the new residence must not be well suited for agricultural use by virtue of being wooded, having unfavorable topography for farming, an odd shape for farming, unsuitable soil characteristics, or other factors that limit is agricultural suitability.

16.20 DEFINITIONS

For the purposes of this Ordinance, certain words are defined as follows: words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "building" includes the word "structure" and the word "shall" is mandatory and not permissive.

1) ACCESSORY BUILDING

A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building. Mobile homes, semi-trailers, camping units, recreational vehicles, mobile office units, cargo boxes, buses, motor coaches, trailers and boxcars shall not be used as accessory buildings.

2) ACCESSORY USE

A use on a lot that is incidental and subordinate to the principal use of the lot.

3) ADULT ESTABLISHMENTS

Establishments which include, but are not limited to, bookstores, clubs, motion picture theaters, mini-motion picture theaters, bath houses, massage parlors, modeling and body painting studios, and cabarets whose principal use is to depict, describe, engage in or relate to "specified anatomical areas" or "specified sexual activities".

4) AGRICULTURAL ACCESSORY STRUCTURE

A building, structure, or improvement that is (a) located on a farm, (b) subordinate to an Agricultural Use, and (c) either integral or incidental to an Agricultural Use. An Agricultural Accessory Structure may be located anywhere on lands in contiguous common ownership as these terms are defined in this section. A farm residence is not considered an Agricultural Accessory Structure. Agricultural Structures do include, but are not limited to:

1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.

2) A facility used to keep livestock on the farm.

3) A facility used to store or process inputs primarily for agricultural uses on the farm.

4) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.

5) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.

6) A waste storage or processing facility used to store or process animal waste primarily from animals on the farm and subject to the County's animal waste management ordinance.

5) AGRICULTURAL ACCESSORY USE

Any of the following land uses on a farm, which may be located anywhere on lands in contiguous common ownership as these terms are defined in this section.:

A use, activity, or business operation that is an integral part of, or incidental to, an Agricultural Use, including filling, grading, and non-metallic mineral extraction for on-premise use only.

A business, activity, or enterprise, whether or not associated with an Agricultural Use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than a Farm Residence or an Agricultural Accessory Structure, that employs no more than four (4) full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland. Such activities include, but are not limited to:

1) Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and snacks.

2) The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises, but not including the storage of a dealer's inventory.

3) Agricultural entertainment activities or events, farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings, and similar activities.

4) Horse boarding stables, riding stables, hay and sleigh rides, and horse training facilities, including the sale of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility.

5) Kennels.

6) Veterinary services.

6) AGRICULTURAL USE

Any of the following activities conducted for a purpose of earning an income or livelihood: crop or forage production; keeping livestock; beekeeping; nursery, sod or Christmas tree production; floriculture, aquaculture, fur farming, forest management; enrolling land in federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

7) AIRFIELDS

A takeoff and landing area established for the sole use of the owner of the parcel and not open to the public or used for commercial operations.

8) AIRPORTS

A takeoff and landing area established for use by the public or for commercial operations.

9) ANIMAL UNIT

One animal unit shall be defined as being the equivalent of: One horse over six months of age; two horses under six months of age; two llamas; two alpacas or as determined using calculation worksheet in Appendix A.

10) APARTMENT

A room or suite of rooms located in the same building as a commercial business and intended to be designed for use as a residence by a single family.

11) BED AND BREAKFAST

Establishments licensed as Bed and Breakfasts by the State of Wisconsin. Bed and breakfast establishment means any place of lodging that provides four (4) or fewer rooms for rent to tourists or other transients for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

12) BOATHOUSE

Any structure designed for the purpose of protecting or storing boats for non-commercial purposes. Boathouses shall not be used for human habitation.

13) BUILDING

Anything constructed and designed to stand more or less permanently and occupying a space of land.

14) BUILDING - PRINCIPAL

The main building on a lot, intended for primary use as permitted by the regulation of the Zone or district in which it is located.

15) BUILDING LINE

A line established adjacent to highways for the purpose of defining limits within which no building or structure or and part thereof shall be erected or permanently maintained, except as shown herein.

16) CAMPGROUND

A lot, parcel or tract of land maintained, intended or used for the purpose of supplying temporary or overnight living accommodations by providing designated areas for the placement of camping units, trailers, tents, buses, automobiles, trucks or sleeping bags, and may include buildings to provide services to patrons such as restrooms, bathing, laundry, recreation and commissary facilities.

17) CAMPING UNIT

Any portable device, no more than 400 square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, park model, van, pick-up truck or tent.

18) CHURCH

A building, together with its necessary buildings and uses, where persons regularly assemble for religious worship and which buildings, together with its accessory buildings and uses is maintained and controlled by a religious body organized to sustain public worship.

19) CLUB

See "lodge"

20) COMMON OWNERSHIP

Any combination of contiguous parcels singly owned by one uniquely named entity as identified by deed. Such an entity includes, but is not necessarily limited to, and individual person, a married couple or family trust, or a partnership or corporation

21) COMMUNITY LIVING ARRANGEMENT

Facilities licensed or operated or permitted under the authority of the Wisconsin Department of Health and Social Services, including child welfare agencies, group foster homes for children and community-based residential facilities.

22) CONTIGUOUS

Any combination of parcels, lots, or other lands sharing a common boundary, including those that are directly across a public street, rail right-of-way, easement, or navigable river, stream, or creek.

23) COUNTY COMPREHENSIVE PLAN

The Comprehensive Plan of Marquette County, Wisconsin, from time to time amended, as prepared and defined under Wisconsin Statutes, and which is intended to guide the physical development of the County over a 20 year planning period. The County Comprehensive Plan integrates a farmland preservation plan under Chapter 91, Wis. Stats.

24) DAY CARE CENTERS

A licensed facility in which care and supervision is provided for four (4) or more children under the age of seven (7) years or less twenty-four (24) hours per day.

25) DISTRICT

A portion or portions of the Town of Buffalo for which regulations governing the use of land and building are uniform.

26) DWELLING

A detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, or trailers.

27) DWELLING WIDTH

The narrowest dimension of a dwelling unit as measured on the exterior of the structure at the elevation of the first floor. When measuring the dwelling unit width of a manufactured home only those portions of the structure produced by the original manufacturer are included.

28) FAMILY DAY CARE HOME

A licensed facility located in a residential dwelling and operated by a resident family,

29) FARM

All land under contiguous common ownership that is primarily devoted to agricultural use.

30) FARM DIVISION RESIDENCES

A residence that existed before January 1, 2014 and all of its accessory buildings, but which is no longer connected to the farm operation as a result of the sale of contiguous lands, often referred to as a farm consolidation.

31) FARM RESIDENCE

Either a single family residence that is occupied by a person who is both the owner and operator of the farm, a parent or child of an owner-operator of the farm, and/or an individual who earns more than 50 percent of his or her gross income from the farm; or a migrant labor camp that is certified under 103.92 Wis. Stats.

32) FENCE

A barrier intended to prevent escape or intrusion or to mark a boundary.

33) FOOD AND BEVERAGE ESTABLISHMENT

An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state on and/or off premises provided that all portions of the facility are approved and licensed by the Department of Health.

34) FRONTAGE

The smallest dimension of a lot abutting a public street measured along the street line.

35) FORESTRY

Managing forest lands and their related resources, including trees and other plants, animals, soil, water and air.

36) GOVERNMENTAL USE

Any building, land area, or other premises, or a portion thereof, owned or used by a governmental entity with taxing authority under the State of Wisconsin, including: county, towns, municipal and State buildings, structures and properties.

37) HOME OCCUPATION - A

Any occupation for gain or support conducted by resident occupants entirely in buildings provided the use does not alter the appearance of the premises, does not produce noise, vibration, light, odor, dust, smoke or other pollution detectable outside the parcel by persons with normal sensitivities, and is not identifiable by an on-premises sign, and there is only one such use on any parcel. The use shall be incidental and subordinate to the

primary or principal use of the property and no stock in trade shall be kept or sold except that made on the premises nor shall any non-resident be employed.

38) HOME OCCUPATION - B

Any occupation that has employees that do not reside on the property and advertises with an on premise sign, but otherwise satisfies the Home Occupation – A definition.

39) INTERCHANGE

A grade separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.

40) KENNEL

Premises where 5 or more dogs, cats, or other household pets, not including offspring below the age of 6 months, are maintained, boarded, bred, trained, or cared for in return for remuneration or are kept for the purpose of sale or adoption.

41) LIVESTOCK

Domestic animals traditionally used in Wisconsin in the production of food, fiber, or other animal products. Livestock includes bovine animals, equine animals, goats(except pigmy), poultry, sheep, swine(except potbellied pigs), farm-raised deer, farm-raised game birds, camelids, ratites and farm-raised fish.

42) LODGE

Shall mean a group of people organized for a common purpose to pursue common goals, interest, or activities and usually characterized by certain membership qualifications, payment of dues, regular meeting, and constitution and by-laws. Food and alcoholic beverages may be served on the premises provided such service is secondary and incidental to the principal use and that the use of the premises is restricted to members and their guests.

43) LOT

A parcel or tract of land defined by a metes and bounds, certified survey, recorded subdivision plat, or other legal means of description approved by the Town Board and recorded with the Marquette County Register of Deeds and separated from other lots by such description. Also referred to as "lot of record."

44) LOT, CORNER

A lot abutting on two or more streets at their intersection.

45) LOT LINES AND AREA

The peripheral boundaries of a parcel of land and total area lying within such boundaries.

46) LOT DEPTH

The mean horizontal distance between the front and rear lot lines.

47) LOT WIDTH

The distance between side lines of the lot at the building line.

48) MAN-MADE LAKE OR POND

A body of water created by human activity where there are more than 3 lots with riparian rights or ownership rights to that body of water.

49) MANUFACTURING, LIGHT

The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure or an open yard, serviced by a modest volume of trucks or other service vehicles, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

50) MANUFACTURING, HEAVY

The manufacturing, compounding, processing, packaging, treatment, or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include, but are not limited to, the following: refineries, commercial feedlots, acid, cement, explosives, flour, seed, and grain milling or storage, meat packing, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of Paris, tanneries, paper and paper products, glass, chemicals, plastics, crude oil and petroleum products, vinegar works, foundry, forge, casting of metal products, rock, stone, cement products.

51) MANUFACTURED HOME

A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the Federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

52) MINI-WAREHOUSE

A secure storage facility consisting of individual compartments that are for rent or lease.

53) MOBILE HOME

A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid collapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and other equipment carrying a manufacturer's warranty.

54) MOBILE HOME PARK

A plot or plots of land upon which 3 or more units, which are mobile homes are located and occupied as dwellings.

55) MOTOR VEHICLE

Any automobile, truck, truck-tractor, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, which may be licensed for highway use.

56) MULTI-FAMILY DWELLING

A building designed or intended to be used by more than two (2) families living independently of each other.

57) NONCONFORMING USE OR STRUCTURE

Any structure, land or water lawfully used, occupied, or erected at the time of the effective date of this ordinance or amendments thereto which does not conform to the regulations of this ordinance or amendments thereto.

58) NON PLUMBING SANITATION SYSTEM

Sanitation systems and devices within the scope of Wisconsin Administrative Code Comm 91, which are approved alternatives to water carried waste plumbing fixtures and drain systems; including but not limited to, incinerating toilets, composting toilets and privies.

59) NURSERY SCHOOL

A use where care is provided for four (4) or more children under kindergarten age.

60) OPERATING AGENCY

A government or non-profit entity that has established regulations or guidelines for acceptable and specific uses consistent with their management plan. Examples of these entities with management plans in a Conservation Protection District would be USDA-NRCS, US Forest Service, Dept. of Interior, National Parks Service, US F&WS, WDNR Natural Areas, WI Historical Society, Marquette County Land and Water Conservation Dept., Ice Age Trail Alliance etc.

61) ORDINARY HIGHWATER MARK

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

62) POWTS

Private Onsite Wastewater Treatment System, a sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, holding tanks and privately owned common sewage facilities.

63) PRIMARY RESIDENCE

Means the residence, whether owned or rented, that is used as the primary dwelling for income and property tax purposes.

64) PRIME FARMLAND

An area with Class I, Class II, or Class III land capability classification identified within the County Comprehensive Plan, or a more detailed soil survey for the affected property.

65) PROPERTY OWNER

A holder or proprietor of a parcel or parcels of land regardless of the number of individuals included on the deed for the property.

66) PROTECTED FARMLAND

Lands that meet at least one of the following requirements;

A) Located in the AG-1 Prime Agricultural zoning district.

B) Covered by a farmland preservation agreement under Chapter 91, Wis. Stats.

C) Covered by an agricultural conservation easement under 93.73, Wis. Stats.

D) Otherwise legally protected from non-agricultural development.

67) PRIVATE PARK

An area owned by an organization, such as a homeowners' association, which is operated for the convenience and recreation of the owners and other authorized individuals.

68) PROFESSIONAL OFFICE

The office of a doctor, salesman, insurance agent, travel agent, practitioner, dentist, minister, architect, landscape architect, planner, professional engineer, lawyer, author, musician, real estate broker, or other recognized professional.

69) PUBLIC PARK

An area owned by the County or a municipality within the county, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

70) QUARRYING

The removal of rock, slate, gravel, sand, topsoil, or other natural material from the earth by excavating, stripping, leveling or any other such process.

71) RETAIL STORE-A

A business that specializes in the sale of goods and merchandise, which is located in a building that does not exceed 10,000 square feet in floor area and is the only use located within the building.

72) RETAIL STORE-B

A business that specializes in the sale of goods and merchandise, which is located in a building that exceeds 10,000 square feet in floor area and is the only use located within the building.

73) ROADSIDE STAND

A building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of farm products.

74) SALVAGE YARD

An area consisting of buildings, structures or premises where junk, waste, discarded, or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile salvage yards, as a for profit operation, or in excess of normal residential use.

75) SETBACK

The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare, right of way, water line, or prospective line to the nearest vertical wall or other element of a building or structure.

76) SHOOTING RANGE

An area on private or public land designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting activities.

77) SHORELANDS

All lands lying within 1,000 feet of the normal high water mark of navigable lakes, ponds, flowages or within 300 feet of the normal high water mark of a river or stream, or to the landward side of a floodplain as designated in the Shoreland Zoning Code, Chapter 16.1.

78) SIGN

A display, device, notice, figure, painting, drawing, message, placard, poster, billboard, or other thing, which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from a private or public road or neighboring property.

79) SINGLE FAMILY DWELLING

A residential building containing one dwelling unit.

80) 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.

81) SPECIFIED ANATOMICAL AREAS

Less than completely and opaquely covered human genitals, pubic region, buttocks, female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state even if completely or opaquely covered.

82) SPECIFIED SEXUAL ACTIVITIES

Activities where human genitals are in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy, fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast.

83) STRUCTURE

A structure includes any man made object with form, shape and utility, either permanently or temporarily attached to, placed upon or in the ground, or an attachment to something on a premises, including but not limited to dwellings, accessory buildings, additions, decks, platforms, porches, balconies, gazebos, boathouses, stairs, walkways, sidewalks, piers, wharves, patios, bridges and retaining walls.

84) STRUCTURAL ALTERATION

Any change in the supporting members of a structure, such as walls, columns, beams, girders, or any substantial change in the roof and exterior walls in excess of $1,000.00 value.

85) SUBSTANDARD LOT

A substandard lot is one that does not conform to the dimensional requirements of this code.

86) TRAIL

A designated land corridor that provides recreational, aesthetic, alternate transportation or educational opportunities to both motorized and non-motorized users.

87) UNNECESSARY HARDSHIP

That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, or frontage unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

88) USE

The purpose or activity for which the land or buildings thereon is designed, arranged or intended or for which it is occupied or maintained.

89) UTILITIES

Shall mean public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph stations.

90) VARIANCE

A departure from the terms of this ordinance as applied to a specific building, structure, or parcel of land, which the Board of Adjustment may permit, contrary to the regulations of the ordinance for the district in which such building or structure or parcel is located. When the Board finds, after a public hearing that a literal application of such regulation will effect a limitation on the use of the property, which does not generally apply to other properties in the same district, and for which there is no compensating gain to the public health, safety, or welfare. A variance shall not permit a use which is not permitted in the district in which it is proposed.

91) WIND ENERGY GENERATING FACILITIES

A device, typically tower mounted, whose primary purpose is the generation of energy from a wind-powered source.

# APPENDIX A

## Animal Unit calculation

To complete this worksheet:

1. Identify each type of *livestock* that you might keep at the proposed facility. Enter the maximum number of animals of each type that you might keep for at least 90 days in any 12–month period.
2. Multiply the number of animals of each type by the relevant Animal Unit Factor to obtain *animal units* of each type.
3. Sum the *animal units* for all *livestock* types to obtain the Total *Animal Units* for which you request approval.

| | *Livestock* Type | Animal Unit Factor | *Animal Units* For Proposed Facility |
|---|---|---|---|
| *Example – Milking & Dry Cows* | | | *1.4 x 800 = 1120 AU* |
| Dairy Cattle | Milking and Dry Cows | 1.4 | 1.4 x = |
| | Heifers (800 lbs. to 1200 lbs.) | 1.1 | 1.1 x = |
| | Heifers (400 lbs. to 800 lbs.) | 0.6 | 0.6 x = |
| | Calves (up to 400 lbs.) | 0.2 | 0.2 x = |
| Beef | Steers or Cows (600 lbs. to market) | 1.0 | 1.0 x = |
| | Calves (under 600 lbs.) | 0.5 | 0.5 x = |
| | Bulls (each) | 1.4 | 1.4 x = |
| Swine | Pigs (55 lbs. to market) | 0.4 | 0.4 x = |
| | Pigs (up to 55 lbs.) | 0.1 | 0.1 x = |
| | Sows (each) | 0.4 | 0.4 x = |
| | Boars (each) | 0.5 | 0.5 x = |
| Poultry | Layers (each) | 0.01 | 0.01 x = |
| | Broilers (each) | 0.005 | 0.005 x = |
| | Broilers – continuous overflow watering | 0.01 | 0.01 x = |
| | Layers or Broilers – liquid manure system | 0.033 | 0.033 x = |
| | Ducks – wet lot (each) | 0.2 | 0.2 x = |
| | Ducks – dry lot (each) | 0.01 | 0.01 x = |
| | Turkeys (each) | 0.018 | 0.018 x = |
| Sheep (each) | | 0.1 | 0.1 x = |
| Goats (each) | | 0.1 | 0.1 x = |