

Proposed amendments to the Marquette County Code of Ordinances Chapter 70-Zoning. New language is show in ***BOLD ITALICIZED*** and Section 70.35 has been renumbered to add the definition for Home Based Businesses.

***70.19(E)(9) Home Based Business.***

***70.24(E)(15) Home Based Business.***

***70.25(E)(9) Home Based Business.***

***70.26(D)(8) Home Based Business.***

***70.265(E)(10) Home Based Business.***

### **70.35 Definitions.**

For the purpose of this Chapter, certain words are defined as follows: words used in the present tense include the future; words in the singular number include the plural numbers 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.

**A. 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.

**B. Accessory Use.**

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

**C. Adult Establishments.**

Establishments which include, but not limited to, bookstores, clubs, 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*”.

**D. 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 a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

**E. 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.

**F. 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 70.35(X):

1. 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.
2. 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:
  - a. Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and snacks.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. Kennels.
  - f. Veterinary services.

**G. 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.

H. **Airports.**

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

I. **Animal unit.**

One (1) animal unit shall be defined as being the equivalent of: one (1) horse over six (6) months of age; two (2) horses under six (6) months of age; two (2) llamas; two (2) alpacas or as defined under Administrative Code NR243.03(3) as of April 27, 2004. See *Appendix A* for calculation worksheet.

J. **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.

K. **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, in 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.

L. **Boathouse.**

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

M. **Building.**

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

N. **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.

O. **Building Line.**

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

P. **Bunkhouse/temporary guest quarters.**

means an accessory structure or part of an accessory structure, which is located on a lot with a dwelling, with or without plumbing that is used as temporary sleeping quarters and does not have kitchen facilities.

Q. **Campground.**

A lot, parcel or tract of land maintained, intended or used for the purpose of supplying temporary or overnight living accommodations by providing designed 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.

R. **Camping Unit.**

Any portable device no more than four hundred (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.

S. **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.

T. **Club.**

See "Lodge".

U. **Cluster Development.**

A form of residential development that concentrates buildings or lots in one or more parts of the site to allow the remaining lands to be used for Common Open Space, recreation and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size. A cluster development will consist of one (1) or more cluster groups surrounded by Common Open Space.

V. **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, an individual person, a married couple or family trust, or a partnership or corporation.

W. **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.

X. **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.

Y. **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.

Z. **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) and less twenty-four (24) hours per day.

AA. **District.**

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

**BB. 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.

**CC. Dwelling Width.**

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

**DD. Family Day Care Home.**

A licensed facility located in a residential dwelling and operated by a resident family, providing care and supervision for four (4) to eight (8) children.

**EE. Farm.**

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

**FF. *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.

**GG. *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.

**HH. Fence.**

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

**II. 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.

**JJ. Frontage.**

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

**KK. Forestry.**

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

**LL. 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.

**MM. Home Based Business**

*A primarily family based business established on the same parcel as the business operator's one or two family home where the business is incidental and subordinate to the residential use, and where the business conducted would not detract from the neighboring land uses, would not pose a threat to public safety, health or the environment, and where such business can be conducted in such a manner where it would not prevent the property from converting back to a residential use if the business were ever abandoned. A home based business would generally not have customers coming and going from the property and would have no outside storage unless approved by the Board of Adjustment. Home based businesses include construction and carpentry, landscaping, plumber, well and septic installers and other similar family run operations.*

**NN. Home Occupation.**

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, is not identifiable by an on-premises sign larger than six (6) square feet, and there is only one (1) such use on any lot. 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.

**OO. Interchange.**

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

**PP. Kennel.**

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

**QQ. Kitchen facility.**

A room or area of a room that includes kitchen fixtures such as cabinets, sinks, refrigerators, microwaves and stoves or other articles intended to be used for cooking.

**RR. 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.

**SS. Lodge.**

Small 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.

**TT. Lot.**

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

**UU. Lot, Corner.**

A lot abutting on two (2) or more streets at their intersection.

**VV. Lot Lines and Area.**

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

**WW. Lot Depth.**

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

**XX. Lot Width.**

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

**YY. Man-Made Lake or Pond.**

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

**ZZ. 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.

**AAA. 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, and cement products.

**BBB. Manufactured Home.**

A structure that is designed to be used as a dwelling with or without a permanent foundation and this is certified by the Federal department of housing and urban development as complying with the standards established under § 42 USC 5401 to 5426.

**CCC. Mini-Warehouse.**

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

**DDD. 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 forty-five (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.

**EEE. Mobile Home Park.**

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

**FFF. 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.

**GGG. Multi-Family Dwelling.**

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

**HHH. Nonconforming Use or Structure.**

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

**III. Non Plumbing Sanitation System.**

Sanitation systems and devices within the scope of Wisconsin Administrative Code SPS 391, which are approved alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets and privies.

**JJJ. Nursery School.**

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

**KKK. 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.

**LLL. Parcel.**

A piece of land which may or may not coincide with a lot of record.

**MMM. 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.

**NNN. Primary Residence.**

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

OOO. **Prime Farmland.**

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

PPP. **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.

QQQ. **Protected Farmland:**

Lands that meet at least one of the following requirements:

1. Located in the AG-1 Prime Agricultural zoning district.
2. Covered by a farmland preservation agreement under Chapter 91, Wis. Stats.
3. Covered by an agricultural conservation easement under § 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development.

RRR. **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.

SSS. **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 owing municipality shall see fit.

TTT. **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.

UUU. **Recreational Dwelling.**

A dwelling meeting the conditions of Section 70.32(D).

VVV. **Resort.**

A development consisting of three (3) or more recreational dwellings that provide living accommodations to the public for recreational or educational purposes with each dwelling unit meeting the requirements of Section 70.32.

WWW. **Retail Store—A.**

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

XXX. **Retail Store—B.**

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

located within the building.

**YYY. 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.

**ZZZ. 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.

**AAAA. 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.

**BBBB. 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.

**CCCC. Shorelands.**

All lands lying within one thousand (1,000) feet of the normal high water mark of navigable lakes, ponds, flowages or within three hundred (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.

**DDDD. 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.

**EEEE. Single Family Dwelling.**

A residential building containing one (1) dwelling unit.

**FFFF. Specified Anatomical Areas.**

Less than completely and opaquely covered human genitals, pubic regions, 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.

**GGGG. 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.

**HHHH. Structure.**

A structure includes any manmade 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.

IIII. **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 one thousand dollars (\$1,000.00) value.

JJJJ. **Substandard Lot.**

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

KKKK. **Trail.**

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

LLLL. **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 purpose of this Chapter.

MMMM. **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.

NNNN. **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.

OOOO. **Variance.**

A departure from the terms of this Chapter as applied to a specific building, structure or parcel of land, which the Board of Adjustment may permit, contrary to the regulations of the Chapter 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.

**70.48 F. (s.59.692(7), Stats) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:**

- a) The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281 or 28.**

**A. *“facility” means any property or equipment or a public utility, as defined in s.196.01(5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light or power.***

**G. Severability.** If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.