

## Article F: Administration and Enforcement

### Sec. 13-1-100 Invalidations.

Invalidation by a court of any part of this Chapter shall not invalidate the rest of this Chapter.

### Sec. 13-1-101 County Board Administration. (©/1/1976)

Administration of this Chapter shall be under the direction of the County Board. (©/1/1976)

### Sec. 13-1-101A Planning and Zoning Committee. (©)3/27/2012)

- (a) **Authority.** The Planning and Zoning Committee has been established pursuant to Section 59.69 (2) of the Wisconsin Statutes and assumes thereby, all responsibilities, duties and powers as provided therein. (©)3/27/2012)
- (b) **Conflicts of Interest.** Members of the Planning and Zoning Committee shall avoid conflicts of interest. As used here, a conflict of interest shall include, but not necessarily be limited to, the following: (©)3/27/2012)
- (1) Reviewing, deliberating upon, or voting on an application concerning oneself or work on land owned by oneself. (©)3/27/2012)
  - (2) Reviewing, deliberating upon, or voting on an application concerning a property located adjacent to or within 1000 feet of one's property. (©)3/27/2012)
  - (3) Reviewing, deliberating upon, or voting on an application involving a corporation, company, partnership, or any other entity in which the person is a part owner, or has any other relationship where the person may stand to have a financial gain or loss. (©)3/27/2012)
  - (4) Reviewing, deliberating upon, or voting on an application, if such action results in a pecuniary benefit to oneself. (©)3/27/2012)
  - (5) Reviewing, deliberating upon, or voting on an application concerning one's spouse, child, stepchild, grandchild, brother, sister, parent, grandparent, or member of one's household. (©)3/27/2012)
  - (6) Reviewing, deliberating upon, or voting on an application where an employee or employer of the member is: (©)3/27/2012)
    - a. An applicant or agent for an applicant, or (©)3/27/2012)
    - b. Has a direct interest in the outcome. (©)3/27/2012)

- (7) When a conflict of interest exists, the member shall do all of the following upon determining that a conflict exists: (©)3/27/2012)
- a. Declare that a conflict exists at the next meeting of the Planning and Zoning Committee, (©)3/27/2012)
  - b. Cease to participate at the Planning and Zoning Committee meetings pertaining to the matter, until the matter giving rise to the conflict has been decided; and refrain from representing oneself before the Planning and Zoning Committee or its staff. (©)3/27/2012)

**Sec. 13-1-102 Board of Adjustment.** (6/1/1976)

- (a) **Composition.** The Chairman of the County Board is hereby authorized to appoint a Board of Adjustment consisting of five (5) members and two (2) alternates, with such appointments requiring the approval of the County Board. Term of appointments, annual designation of first and second alternates, and all other matters under this Section, shall be according to the provisions of Sec. 59.694 & 59.18(2)(c), Wis. Stats. The members of the Board, including the alternates, shall live within Bayfield County and outside the limits of an incorporated city or village, but no two (2) members shall be from the same town. (6/1/1976); (A)5/28/2002
- (b) **Expenses.** The actual and necessary expenses of the members in the performance of their duties shall be paid as other expenses against the County. (6/1/1976)
- (c) **Appeals to the Board.** (6/1/1976)
- (1) Any person aggrieved by a decision of the Planning and Zoning Director and/or Planning and Zoning Committee, may request and shall be granted a public hearing before the Board of Adjustment. (6/1/1976)
- (2) The appeal notice shall be filed with the Planning and Zoning Director within thirty (30) days after written notice of the order or decision appealed from was sent by first class mail to the aggrieved party, or, if such notice was not sent to the aggrieved party, within thirty (30) days after the party first knew of, had reason to know of, or should have known of, the order or decision. (6/1/1976); (A)5/31/2005
- (3) The appeal notice shall specify the grounds for the appeal. (6/1/1976)
- (4) The Planning and Zoning Agency shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. (6/1/1976); (A)7/30/2013; (A)2/27/2018
- (d) **Public Hearing.** The Board of Adjustment shall give public notice of any hearing by publication of a Class 2 notice in the official newspaper of the County, not less than seven (7) days prior to the date of the hearing, as well as mailed notice to the parties in interest. The local town board shall also be notified, and the notice posted in three (3) public places in town. A copy of the notice of any Board of Adjustment public hearing on matters within the shoreland or floodplain areas shall be sent to the appropriate area office of the Department of Natural Resources at least ten (10) days prior to the hearing and a copy of all decisions shall be provided to the Department within ten (10) days of the decision. (6/1/1976)
- (e) **Board Powers.** The Board of Adjustment shall have the following powers and duties: (6/1/1976)
- (1) Where it is alleged that there is error in any order, requirements, decision

or determination made by the Planning and Zoning Agency and/or Planning and Zoning Committee, the Board of Adjustment shall hear appeals and render decisions therefrom. (66)6/1/1976); (A)7/30/2013); (A)2/27/2018)

- (2) Where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, the Board of Adjustment shall have the power, to authorize on appeal in specific cases variances from the terms of this Chapter that will not be contrary to the public interest and so that the spirit of this Chapter shall be observed and substantial justice done. Variances shall comply with the following requirements: (66)6/1/1976); (A)1/18/2005)
- a. The hardship which serves as a basis for the granting of a variance shall be unique to the particular parcel of land in question. (66)6/1/1976); (A)10/31/2017)
  - b. The hardship which serves as a basis for the granting of a variance shall not be self-created nor be based solely on economic consideration. (66)6/1/1976); (A)1/18/2005)
  - c. The variance granted will be in harmony with the intent of the Zoning Ordinance. (66)6/1/1976)
  - d. The granting of the variance shall not be detrimental to the public welfare or injurious to other property in the area. (66)6/1/1976)
  - e. The basis of review in granting a variance shall include those items listed in Section 13-1-41(b)(4)a and, in granting a variance, the Board may attach conditions listed in Section 13-1-41(b)(4)b and/or other conditions, if such conditions as are reasonably related to the purpose of the zoning restriction in question or to environmental problems that may be caused or aggravated by the variance if the condition were not imposed. (66)6/1/1976); (A)7/29/2008); (D)5/28/2019)
- (3) Whenever a variance is granted, the Bayfield County Planning and Zoning Agency, shall record the decision granting it, setting forth the terms and conditions of the variance and a legal description of the property to which it pertains, with the Bayfield County Register of Deeds. The terms and conditions of the variance shall be binding upon and inure to the benefit of all current and future owners of such property. The recording fee shall be paid by the applicant to the Department within ninety (90) days after notice thereof has been sent to the applicant by the Department. If the applicant fails to do so, the variance shall be null and void, and no permit shall be issued pursuant thereto. (A)3/13/2002); (A)5/28/2002); (A)7/29/2008); (A)2/27/2018); (D)5/28/2019)

**Sec. 13-1-102A Board of Adjustment Rules and Procedure** (©)5/21/2009**(a) General Provisions** (©)5/21/2009

(1) **Authority.** The Bayfield County Board of Adjustment has been established pursuant to Section 59.694 of the Wisconsin Statutes and assumes thereby, all responsibilities, duties and powers as provided therein. These rules apply to members of the Board of Adjustment whether appointed to the Board before or after the date of the adoption of these rules. (©)5/21/2009

**(2) Conflicts of Interest.** (©)5/21/2009

a. Members of the Board shall avoid conflicts of interest. As used here, a conflict of interest shall include, but not necessarily be limited to, the following: (©)5/21/2009

1. Reviewing, deliberating upon, or voting on a case concerning oneself or work on land owned by oneself. (©)5/21/2009

2. Reviewing, deliberating upon, or voting on a case concerning a property located adjacent to or within 1000 feet of one's property. (©)5/21/2009

3. Reviewing, deliberating upon, or voting on a case involving a corporation, company, partnership, or any other entity in which the person is a part owner, or has any other relationship where the person may stand to have a financial gain or loss. (©)5/21/2009

4. Reviewing, deliberating upon, or voting on a case, if such action results in a pecuniary benefit to oneself. (©)5/21/2009

5. Reviewing, deliberating upon, or voting on a case concerning one's spouse, child, stepchild, grandchild, brother, sister, parent, grandparent, or member of one's household. (©)5/21/2009

6. Reviewing, deliberating upon, or voting on a case where an employee or employer of the member is: (©)5/21/2009

An applicant or agent for an applicant, or (©)5/21/2009

Has a direct interest in the outcome. (©)5/21/2009

b. When a conflict of interest exists, the member shall do all of the following upon determining that a conflict exists: (©)5/21/2009

1. Declare that a conflict exists at the next meeting of the Bayfield County Board of Adjustment, (©)5/21/2009)
  2. Cease to participate at the Board meetings, until the case giving rise to the conflict has been decided; and refrain from representing oneself before the Board or its staff. (©)5/21/2009)
- (3) **Ex Parte Contact.** (©)5/21/2009)
- a. Members of the Board shall attempt to avoid ex parte contact. As defined here, ex parte contact refers to communication that occurs outside of a noticed meeting. Members of the Board have a duty to not prejudge a case, and to base their decisions only on the material and facts presented at public meetings and hearings on the case. (©)5/21/2009)
  - b. Despite one's best efforts it is sometimes not possible to avoid ex parte contact. When that happens the member should publicly report the content and context of the ex parte contact in full at the public hearing or meeting on the case prior to the Board making a decision on the issue. (©)5/21/2009)
- (4) **Board's Office.** The office of the Board shall be located at the Bayfield County Courthouse within the office of the Planning and Zoning Agency. All records of the Board shall be available for public inspection between the hours of 8AM and 4PM, Monday through Friday, except for legal holidays. (©)5/21/2009); (A)2/27/2018)
- (b) **Officers and Duties** (©)5/21/2009)
- (1) **Officers.** The Board shall elect a Chairperson and a Vice-Chairperson from among its members at the annual organization meeting in July. These officers shall hold office until their successors are elected. The Board may, at any meeting or hearing, elect from among the membership the replacement for an officer, who dies or for whatever reason is unable to perform the duties of his office. The officer, so elected as a replacement, shall serve until the next organizational meeting of the Board. (©)5/21/2009)
  - (2) **Duties of Officers.** The Chairperson, if present, otherwise the Vice-Chairperson, shall preside over and direct the conduct of all meetings and hearings of the Board and may administer oaths and compel the attendance of witnesses. In the absence of both the Chairperson and Vice-Chairperson, the members shall appoint a Chairperson. The Chairperson shall report on all pertinent matters that have not otherwise come to the attention of the Board. The Chairperson shall, subject to these rules and further instructions from the Board, direct the official business of the Board, supervise the work of the Board and request necessary help when required. The Chairperson or the presiding officer, subject to these

rules, shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and approved. (©)5/21/2009)

The Board may retain legal counsel subject to the approval of the County Board of Supervisors. (©)5/21/2009)

(c) **Meetings** (©)5/21/2009)

- (1) **Time; How Called.** Meetings and hearings of the Board shall be held, or may be cancelled, at the call of the Chairperson and at such other times as the Board may determine, provided that all Board members shall be notified by the Secretary at least 48 hours prior to such meeting. All meetings shall be open to the public and in accordance with the Open Meeting Law, except that the Board may call a closed session on issues permissible under the Wisconsin Open Meeting law. Hearings shall be advertised as required by law and these rules. (©)5/21/2009)
- (2) **Quorum.** A quorum shall consist of a majority of all members of the Board (3 members) and no action may be taken except by a majority vote of such quorum, except a lesser number may meet and adjourn any meeting duly called and noticed to a time certain. (©)5/21/2009)
- (3) **Order of Business.** (©)5/21/2009)
  - a. The Planning and Zoning Agency shall prepare an agenda for each Board meeting, listing the matters of business at all meetings that do not have public hearings in the following order: (©)5/21/2009); (A)2/27/2018)
    1. Call to order (©)5/21/2009)
    2. Roll Call (©)5/21/2009)
    3. Communications/Correspondence (©)5/21/2009)
    4. Statement with regard to compliance with the Open Meetings law. (©)5/21/2009)
    5. Old Business (©)5/21/2009)
    6. New Business (©)5/21/2009)
    7. Report of the Planning and Zoning Director (©)5/21/2009)
    8. Statement that the Board may go into closed session to confer with legal counsel regarding pending litigation (if such action is anticipated) (©)5/21/2009)

- b. The Planning and Zoning Agency shall prepare an agenda for each Board meeting that has public hearings, listing the matters of business in the following order: (©)5/21/2009); (A)2/27/2018)
1. Call to Order (©)5/21/2009)
  2. Roll Call (©)5/21/2009)
  3. Public Hearings (Name, place, per notice of public hearing, and time, for each hearing) (©)5/21/2009)
  4. Minutes of Hearings/Meeting, Date (©)5/21/2009)
  5. Communications/Correspondence (©)5/21/2009)
  6. Statement in regard to compliance with the Open Meeting Law (©)5/21/2009)
  7. Old Business (©)5/21/2009)
  8. New Business (©)5/21/2009)
  9. Report of the Planning and Zoning Director (©)5/21/2009)
  10. Statement that the Board may go into closed session to confer with legal counsel re: pending litigation (if such action is anticipated) (©)5/21/2009)
- c. The order of business at any meeting or hearing may be varied from the preceding by consent of the members present. If there is a question of what shall be the order or content of an agenda, that question shall be decided by a majority of the Board, unless the issue comes up before a Board meeting and needs to be resolved beforehand, in which case it will be resolved by the Board Chairperson or Acting Board Chairperson. (©)5/21/2009)
- (4) **Robert's Rules of Order.** Robert's Rules of Order shall govern actions of the Board and conduct of its meetings where not specifically covered by these rules. (©)5/21/2009)
- (d) **Powers and Duties of the Board** (©)5/21/2009)
- (1) **General Powers.** The powers and duties of the Board are set forth in Sec.59.694(7) of the Wisconsin Statutes and in Section 13-1-102 of the Bayfield County Zoning Ordinance. (©)5/21/2009);(7/30/2013)
  - (2) **Scope of Powers.** In exercising the powers under Section 1, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make



such order, requirement, decision or determination as ought to be made, and to that and shall have all powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit. (©)5/21/2009)

(e) **Applications and Appeal Procedures** (©)5/21/2009)

- (1) **Who May File.** Applications to the Board and appeals from Planning and Zoning Agency decisions shall be filed with the Planning and Zoning Agency, by the applicant or appellant, or his or her agent or attorney. Appeals may be filed by any person aggrieved or by any officer, department, board or bureau of the County or town affected by the Planning and Zoning Agency's decision. (©)5/21/2009); (7/30/2013); (A)2/27/2018)
- (2) **Copies to Be Sent:** The Planning and Zoning Agency shall promptly transmit copies of the application or appeal as follows: (©)5/21/2009); (7/30/2013); (A)2/27/2018)
  - a. Original to the Board of Adjustment (©)5/21/2009)
  - b. Copy to the Planning and Zoning Agency files (©)5/21/2009); (A)2/27/2018)
  - c. Copy to the applicant or appellant (©)5/21/2009)
  - d. In the case of appeals or applications affecting property in shoreland or floodplain districts, one copy shall also be sent to the Wisconsin Department of Natural Resources. (©)5/21/2009)
- (3) **Time to Appeal.** Appeals from the Department's decision must be filed as follows: The appeal notice shall be filed with the Planning and Zoning Director within thirty (30) days after written notice of the order or decision appealed from was sent by first class mail to the aggrieved party, or, if such notice was not sent to the aggrieved party, within thirty (30) days after the party first knew of, had reason to know of, or should have known of, the order or decision. The applicable fee must be filed within this time period as well. (©)5/21/2009)
- (4) **Required Information.** Applications or appeals shall be made on forms provided by the Planning and Zoning Agency. Failure of the appellant to supply the information required by the appeal or variance form within 30 days after filing an appeal or application may be considered by the Board as a failure to comply with application and appeal procedure and the case may be dismissed for failure of timely filing. Any communications, except on prescribed forms, purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with requirements of timely filing. (©)5/21/2009); (A)2/27/2018)
- (5) **Reasons to Be Stated.** The reason for the application or appeal must be stated and the reasons why the request should be granted must also be stated by the applicant or appellant: (©)5/21/2009)

- a. If a variance is requested, facts should be stated upon which findings may be made by the Board to justify the granting of the variance. (©)5/21/2009)
  - b. If an appeal is based upon an alleged error or abuse of discretion of the Planning and Zoning Agency, facts should be stated as to the nature thereof. (©)5/21/2009); (A)2/27/2018)
  - c. All applications shall include maps and an understandable site plan showing the size and relative location of buildings, shoreline and relevant physical features. (©)5/21/2009)
- (6) **Time for Hearing.** Each appeal or application shall be considered by the Board at its next meeting, provided there is sufficient time between the date of the appeal and the date of the meeting for the required notices to be published. (©)5/21/2009)
- (7) **Notice of Hearing.** The Planning and Zoning Agency shall cause notice of each hearing to be given as required by Sec. 13-1-102(d). (©)5/21/2009); (A)2/27/2018)
- (8) **Representative Filing.** An appellant may file an appeal or application and appear personally or by an agent or attorney. An agent or attorney shall provide written authorization from the applicant. (©)5/21/2009)
- (9) **Fees.** Fees shall be as set by the County Board based upon recent past experience of applicable costs, and may be changed from time to time to reflect the cost of hearings. (©)5/21/2009)
- (f) **Procedure for Hearings** (©)5/21/2009)
- (1) **Appearances; Adjournments.** At the time of the hearing, the applicant or appellant may appear in his own behalf or be represented by his counsel or agent. A recess or adjournment of a hearing, made at a properly noticed hearing, to a time and place certain, is adequate notice to the members and public of a new hearing date. (©)5/21/2009)
  - (2) **Witnesses.** The Chairperson, or Acting Chairperson, may compel the attendance of witnesses and may require those wishing to testify to state their names and their interests in the matter before the Board. Testimony shall be taken under oath. (©)5/21/2009)
  - (3) **Order of Hearings.** (©)5/21/2009)
- Hearings on cases shall normally follow this order: (©)5/21/2009)
- a. Hearing call to order by the Chairperson (©)5/21/2009)
  - b. Roll Call (©)5/21/2009)

- c. Notice of Public Hearing (Read by Secretary or Planning and Zoning Director) (©)5/21/2009; (A)7/30/2013
- d. Publication (Statement of publication of notice and distribution) (©)5/21/2009
- e. Filing (Filing of application, date and information) (©)5/21/2009
- f. Summary of the nature of the case (including uncontroverted facts) by the Planning and Zoning Agency (©)5/21/2009; (A)2/27/2018
- g. Content of Hearing (©)5/21/2009

Hearings shall be conducted with the applicant presenting his or her case first, including any witnesses the applicant wishes to call. After the applicant presents his or her case, anyone else in favor of the applicant's request shall also be allowed to speak. Then all those opposed to the application shall be allowed to speak. (©)5/21/2009

The applicant has the burden of proof to show that he or she is entitled to a variance or other relief being sought. (©)5/21/2009

In more controversial, contested cases, in which parties appear with attorneys, opening and closing statements shall be allowed. If witnesses testify regarding the facts of the case to support or rebut the claim of the applicant, cross-examination may be allowed. Usually cross-examination of witnesses does not occur. (©)5/21/2009

All supporting evidence for or against each case shall be presented to the Board. The applicant or appellant shall be responsible for the presentation of all information supporting the case. The Board may take administrative notice of the ordinances of the County and laws of the State of Wisconsin and of other relevant facts not reasonably subject to dispute, on its own motion or motion of a party. (©)5/21/2009

- h. Closing of testimony (statement and time) (©)5/21/2009
- i. Deliberation: Restricted to the Board. No public or staff participation. Board shall find the appropriate facts and conclusions of the law upon which a decision can be made. The Board may consult with legal counsel. (©)5/21/2009
- j. Decision: The Board shall make an appropriate motion, including findings of fact, conclusions of law, approvals or denials, and conditions or statement of hardship for variances. (©)5/21/2009
- k. Adjournment. (©)5/21/2009

- (4) **Preliminary Matters.** Following the reading of a notice of appeal or application, the Board may hear arguments on the question of jurisdiction or timeliness of the application to the Board and request that briefs be filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after the testimony is closed and render a decision on the merits as if it had jurisdiction. The Board may make an immediate determination and close the hearing upon a finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request. (©)5/21/2009
- (5) **Parties Not to Interrupt.** Orderly procedure requires that each side shall proceed without interruption by the other; that all arguments and factual presentations shall be addressed to the Board; and that there be no questioning or arguments between individuals, except as permitted by the Board. (©)5/21/2009
- (6) **Questions and Debate.** During the hearing, Board members may ask questions and make appropriate comments pertinent to the case. However, no member shall debate or argue an issue with the applicant. The Chairperson and Board members may direct questions to the applicant or to any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the case and may call for questions from members of the Planning and Zoning staff. (©)5/21/2009
- (7) **Additional Evidence.** The Board may take a case under advisement for later consideration and determination, or may defer action, whenever it concludes that additional evidence is needed or further study is required. (©)5/21/2009
- (8) **Postponement of Hearing.** Cases may be postponed only by prior arrangement with the Chairperson. (©)5/21/2009
- (9) **Rules of Evidence.** The Board shall not be bound by court rules of evidence, but it may exclude irrelevant, immaterial, incompetent, unduly argumentative or repetitious testimony or evidence. (©)5/21/2009
- (10) **Chairperson to Rule on Admissibility.** The Chairperson shall rule on all questions relating to the admissibility of evidence, provided that he/she may be overruled by a majority of the Board present. (©)5/21/2009
- (11) **Interested Persons May Testify.** Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves and sign an appearance card of persons attending the hearing. All testimony shall be under oath. (©)5/21/2009
- (12) **Record of Hearing.** All proceedings at a hearing shall be tape recorded or recorded by a court reporter. The Planning and Zoning Agency designee shall prepare minutes of each meeting and hearing, which shall

include a summary of motions, witnesses, appearances, roll calls, votes and all other matters constituting the substance of the proceedings, and which shall be submitted to the Board for review and approval and shall become part of the written record filed in the office of the Board and open to the public. Transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari or requested under the Open Records Law. The party requesting a transcript shall be required to pay the cost of preparation in advance. Any party or member of the public may make a record of the proceeding by any means which does not disturb the hearing or others present. (©)5/21/2009; (A)2/27/2018)

The Planning and Zoning Agency designee shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records of its official actions; shall summarize accurately the testimony of those appearing before the Board and keep a verbatim recording of all hearings; shall record the names and addresses of all persons appearing before the Board in person, or by attorney; and shall, subject to the direction of the Board and chairperson, conduct the correspondence of the Board and have published in a local newspaper, public notices of meetings or hearings as required by law and these rules of procedure; shall file said minutes and records in the office of the Board, which minutes and records shall be a public record; and shall be the custodian of the files of the Board and keep all records. (©)5/21/2009; (A)2/27/2018)

- (13) **Adjustments.** When all appeals or applications cannot be disposed of on a day set, the Board may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board. (©)5/21/2009)
- (14) **Withdrawal of Appeal.** An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee. (©)5/21/2009)

(g) **Decision of the Board** (©)5/21/2009)

- (1) **Majority Vote Required.** If a quorum is present, the Board may take any action by a majority vote of the members present. (©)5/21/2009)
- (2) **Decisions to be Written.** All decisions shall be in writing and contain the findings of facts and conclusions of law upon which the decision is based. Legal counsel may assist the Board in drafting the written decision. (©)5/21/2009)
- (3) **Decisions to be Mailed.** Within 30 days after the close of the hearing to which a decision relates, written copies of such decision shall be mailed to

the applicant and all interested parties and delivered to the Planning and Zoning Agency, which shall constitute filing the decision in the office of the Board under Sec. 59.694(10) Stats. The approval or granting of appeals by the Board is deemed to constitute an order to the Planning and Zoning Agency to issue a zoning permit. A denial of the application or appeal by the Board is deemed to be an order to deny the permit. Copies of written decisions authorizing conditional use permits or variances in shoreland/ wetland/ non-metallic mining or floodplain cases shall be mailed to the Wisconsin Department of Natural Resources. (©)5/21/2009; (A)7/30/2013; (A)2/27/2018)

A member may disqualify himself or herself from voting whenever the member has a personal or monetary interest in the property concerning the case, will be directly affected by the decision of the Board, or has, or believes he/she has, any conflict or interest under state statutes or for any other reason. A member may also disqualify himself/herself from voting whenever the applicant or the applicant's agent has sought to influence the vote of the member on his/her case outside the public hearing. All decisions of the Board shall be made at a public meeting, by motion made, seconded and passed. (©)5/21/2009)

If conditions are imposed in the granting of a variance, or conditional use, such conditions shall be included in the motion. (©)5/21/2009)

- (6) **Decision to Relate to Specific Property.** The decision of the Board shall be deemed as applying to the property rather than to the individual and is valid only for the specific premises in the case and is not transferable to other properties. (©)5/21/2009)
  - (7) **Informal Advice Not Binding.** The Board need not respond to informal requests for advice or moot questions. Any advice, opinion or information given by any Board member, or any other official or other employee of the County shall not be binding on the Board. (©)5/21/2009)
  - (8) **Cases to be Determined Individually.** No action of the Board shall set a binding precedent. Each case shall be decided upon its merits and upon the attendant particular facts and circumstances, provided the Board shall not act arbitrarily or capriciously. (©)5/21/2009)
- (h) **Refilings and Rehearings** (©)5/21/2009)
- (1) **Refiling Rule.** No matter that has been previously acted upon by the Board shall be considered upon a new application unless one or more of the following applies: (©)5/21/2009)
    - a. The case does not involve a request for an identical permit or does not allege the same misinterpretation or error. (©)5/21/2009)
    - b. The case does not contain the original request for specific variance. (©)5/21/2009)

- c. Substantial change in the use of adjacent property has occurred since the previous case was heard. (©)5/21/2009)
- d. The previous case was closed without a hearing because the applicant was not present at the time such case was scheduled for a hearing. (©)5/21/2009)
- e. There is a claim that there should be a rehearing based upon newly discovered evidence. A rehearing will only be granted on this basis when all of the following apply: (©)5/21/2009)
  - 1. The evidence has come to the moving party's notice after the initial hearing. (©)5/21/2009)
  - 2. The moving party's failure to discover the evidence earlier did not arise from lack of diligence in seeking to discover it. (©)5/21/2009)
  - 3. The evidence is material and not cumulative. (©)5/21/2009)
  - 4. The new evidence would probably change the result. (©)5/21/2009)

(2) **Reopenings and Rehearings Limited.** The Board, on its own motion, may not reopen any case upon which a previous hearing has been held, except in the following circumstances: (©)5/21/2009); (A)1/31/2012)

- a. To correct a manifest error or when there is some ambiguity or missing element in the decision that makes it impossible for the Planning and Zoning Agency to apply the decision(s). In such a situation, the Board may reopen a case at its next scheduled meeting. (©)5/21/2009); (A)1/31/2012); (A)7/30/2013); (A)2/27/2018)
- b. The Board, at the request of the Planning and Zoning Agency, may also reopen a case without regard to time limits if an interpretation of a prior decision is necessary, or if interpretation, modification or enforcement of conditions of a board decision is necessary. Nothing in this section b. should be interpreted as allowing a complete reopening of the case, nor require or presume that the Board of Adjustment should make any substantial change in their decision. There shall be a \$250.00 filing fee assessed if the applicant is the party seeking a partial reopening under this section b. for purposes of deleting or substantially modifying a condition placed on a Board of Adjustment decision. There shall be no filing fee if the request for reopening is solely at the request of the Planning and Zoning Agency. In any rehearing or reopening of a Board of Adjustment decision, the criteria for decision shall be the same legal criteria as for the original decision. (©)5/21/2009); (A)1/31/2012); (A)7/30/2013); (A)2/27/2018)

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- (3) **Closure of Case.** A case will be considered as heard and closed at such time as the Board approves or rejects an application or appeal by motion. No request for reconsideration by the applicant shall be considered unless filed within 30 days after the written decision of the Board of Adjustment is mailed to the applicant by the Planning and Zoning Agency. (©)5/21/2009); (A)2/27/2018)
- (4) **Procedures for Reconsideration.** A simple majority vote shall be sufficient to reconsider a previous decision. If reconsideration is refused to an interested party who has requested a reconsideration, the Board shall enter on the minutes the basis of the request, the reason why it was refused, and the vote of the Board members thereon. If reconsideration is approved, the case will be placed on the agenda for the next regular meeting/hearing and notice given as required for an original hearing upon payment of the re-hearing fee. (©)5/21/2009)
- (i) **Staff.** The Board may utilize the advice and assistance of the County Planning and Zoning Staff and may delegate administrative tasks to such staff or to other county employees as authorized by the County Board of Supervisors. (©)5/21/2009)



**Sec. 13-1-103 Violations.** (©1976)

- (a) **Violation Procedures.** If a violation of any provision of this Chapter is not corrected on the order of the Director of Planning and Zoning or his or her designee, said individual may take further legal action or may refer the matter to the Planning and Zoning Committee for further consideration. (©1976); (A)1/25/2011)
- (b) **Noncompliance.** Noncompliance with a mitigation plan or directive of the Bayfield County Planning and Zoning Agency, Planning and Zoning Committee, or Board of Adjustment constitutes a violation of Chapter 1 of this Title. (©1/25/2011); (A)2/27/2018)
- (c) **Penalty.** Any person, firm, or corporation and/or contractor found guilty of violating any provision of this Chapter shall forfeit a sum of not less than \$25.00 nor more than \$500.00, together with the full costs of such prosecution, plus the costs of any compliance required to rectify the violation. Each day's failure to comply shall constitute a separate violation. Additionally, any person, firm, or corporation and/or contractor found guilty of violating any provision of this Chapter may be required to restore a property to a previous state. (©1976); (A)1/25/2011); (A)3/30/2021)
- (d) **No Permit Penalty.** Any person, and/or his/her authorized agent or contractor, proceeding with any action that requires a land use permit under this Chapter without first securing such a permit, shall be subject to twice the fees for such a permit provided that the Planning and Zoning Director, in his sole discretion, may waive the doubling of fees for such permit if the Planning and Zoning Director determines such action to be warranted under the circumstances of the case in question; if the Planning and Zoning Director denies the applicant's request for waiver of fees, the Planning and Zoning Committee may consider the request. (©1976); (A)9/28/2004); (A)1/25/2011); (A)5/27/2014)
- (e) **Additional Penalty.** In addition to the above, any person and/or his/her authorized agent or contractor, proceeding with any action that falls under the jurisdiction of this Chapter may be subject to the terms of Section 1-1-6. (A)1/25/2011)
- (f) **Voluntary Settlement Agreement.** In lieu of the prosecution of a violation by the commencement of an action in the Bayfield County Circuit Court, the property owner and the Bayfield County Planning and Zoning Agency may enter into a voluntary settlement agreement. The settlement agreement may include a provision imposing a settlement fee to be paid by the property owner. (©1/25/2011); (A)2/27/2018)

**Sec. 13-1-104 Amendments.** (©1/1976)

- (a) The County Board may make amendments to this Chapter in the manner prescribed by Sec. 59.69, Wis. Stats. (©1/1976)
- (b) Any petition for amendment submitted by other than a governmental body shall be accompanied by that fee specified in Section 13-1-21(e). (©1/1976)
- (c) A copy of all appeals, requests for variances and conditional uses, proposed amendments and notices of public hearings and resultant decisions in matters within shoreland or floodplain areas shall be sent to the Wisconsin Department of Natural Resources. (©1/1976)

**Sec. 13-1-105 Petition to Change District Boundaries.** (A)3/27/2012

The rezoning of a parcel of land, i.e. changing the zoning district boundaries on the county zoning map to include the parcel in a different zoning district than that in which it is currently located, constitutes an amendment of this ordinance, and accordingly, the procedure for amending county zoning ordinances set forth in Section 59.69(5)(e) of the Wisconsin Statutes must be followed in making and considering any rezoning request. The provisions of Section 104 of this Chapter also apply to such requests.

- (a) **Use of Bayfield County Land Use Plan and Comprehensive Plan.** The Bayfield County Land Use Plan and Comprehensive Plan will be used as a guide and tool in making informed zoning decisions by the Planning and Zoning Committee. (©3/27/2012)
- (b) **Decision Making Considerations.** The review and recommendation of the Planning and Zoning Committee and the decision of the County Board shall be based on the following: (©3/27/2012)
  - (1) Zoning Ordinance (©3/27/2012)
  - (2) Consistency with Town Comprehensive Plan. (©3/27/2012)
  - (3) Review future land use map for future land use designation and narrative (©3/27/2012)
  - (4) Review goals and objectives of the comprehensive plan (©3/27/2012)
  - (5) Consideration of the Town Board Recommendation or resolution of disapproval (©3/27/2012)
  - (6) Consistency with County Comprehensive and Land Use Plan (©3/27/2012)
    - a. Proposed zoning is consistent with surrounding zoning districts and does not result in spot zoning. (©3/27/2012)
    - b. Proposed use is consistent with surrounding land uses (©3/27/2012)

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- c. Rezoning is consistent with the county certified farmland preservation and managed forest plan(s). (©)3/27/2012
- (7) Relevant Public Input (©)3/27/2012
- (8) The community or general welfare and economic impacts of the proposal. (©)3/27/2012
- (9) Consideration of the Departmental file report and site specific findings (©)3/27/2012
- (c) The Planning and Zoning Committee shall state its reasons and rationale for its recommendation of approval or denial of the petition in writing as required by Wis. Stat. § 59.69(5)(e)(4). (©)3/27/2012

**Sec. 13-1-106 Powers and Duties.** (dp12/10/2013)

In the administration of the zoning code, the Planning and Zoning Director or his or her designee shall have the following powers and duties: (dp12/10/2013)

- (a) To assure full and complete compliance with the zoning code and related Wisconsin Statutes and the Administrative Code. (dp-(A)12/10/2013)
- (b) Advise applicants concerning the provisions of the zoning code and assist them in preparing permit applications. (dp-(A)12/10/2013)
- (c) Review applications submitted to the office for issuance. (dp-(A)12/10/2013)
- (d) Have access to any premises for the purpose of performing official duties between 8 a.m. and 8 p.m. or at other times set by mutual agreement between the property owner or his agent and the Planning and Zoning Agency or upon issuance of a special inspection warrant in accordance with §66.122, Wisconsin Statutes. Application for a permit is considered for the purposes of the zoning code as the owner's consent to enter the premises. (dp-(A)12/10/2013); (A)2/27/2018)
- (e) Issue permits and inspect properties for compliance with the zoning code and related Wisconsin Statutes and the Administrative Code. (dp-(A)12/10/2013)
- (f) Withhold permit(s) or approval(s) pursuant to the zoning code where the applicant, owner or licensed contractor is in violation of this or any codes administered by the County and for any parcel(s) of land which have an outstanding violation until the violation(s) have been corrected. A request for waiver of these provisions may be made, to grant or deny a permit or approval on the merits of the application, to the Corporation Counsel and the Planning and Zoning Committee. (dp12/10/2013)
- (g) Keep records of all permits issued, inspections made, work approved, and other official actions. (dp-(A)12/10/2013)
- (h) Upon reasonable cause or question as to proper compliance, revoke or suspend any permit and issue cease and desist orders requiring the cessation of any construction, alteration or use of a building which is in violation of the provisions of the zoning code, until compliance with the zoning code or applicable Wisconsin Statutes and the Administrative Code is obtained. (dp-(A)12/10/2013)
- (i) Issue and enforce orders to property owners, their agents or contractors or the responsible party, to assure proper compliance with all provisions of the zoning code or delegate this authority to the County Health Department. (dp-(A)12/10/2013)
- (j) Report violations of the zoning ordinance to the Corporation Counsel. (dp-(A)12/10/2013)
- (k) Perform other duties regarding zoning codes as considered appropriate by the County or the State. (dp-(A)12/10/2013)

**Sec. 13-1-107 Uniform Dwelling Code (UDC) Regulations.** (©9/30/2014)

- 1.1 AUTHORITY.** These regulations are adopted under the authority granted by §. 101.65 Wisconsin Statutes. (©9/30/2014)

This ordinance shall apply in any municipality without a Uniform Dwelling Code enforcement program. (©9/30/2014)

- 1.2 PURPOSE.** The purpose of this ordinance is to promote the general health, safety and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code. (©9/30/2014)

- 1.3 SCOPE.** The scope of this ordinance includes the construction and inspection of one- and two- family dwellings built since June 1, 1980. Notwithstanding s. DSPS 320.05 or any other exemptions of the Uniform Dwelling Code, the scope of this ordinance also includes the construction and inspection of alterations and additions to one- and two-family dwellings built since June 1, 1980. (©9/30/2014)

- 1.4 WISCONSIN UNIFORM DWELLING CODE ADOPTED.** The Wisconsin Uniform Dwelling Code, Chs. DSPS 320-325, and its successors, of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this ordinance. (©9/30/2014)

- 1.5 BUILDING INSPECTOR.** There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Professional Credential Processing, as specified by Wisconsin Statutes, Section 101.66 (2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing. (NOTE: Contact the Division of Professional Credential Processing at (608) 266-2112 for certification information.) The Building Inspector shall be appointed by the County Board Chair and confirmed by the County Board, and shall serve at the will of the County Board. The position may be filled by contracting with an independent contractor, either an individual person or other legal entity. (©9/30/2014)

- 1.6 BUILDING PERMIT REQUIRED.** If a person alters a building in excess of \$3,000 in any twelve month period, adds onto a building in excess of \$3,000.00 in any twelve month period, or builds or installs a new building, within the scope of this ordinance, they shall first obtain a building permit for such work from the building inspector (excepting re-siding, re-roofing, finishing of interior surfaces and installation of cabinetry shall be exempted from permit requirements). Any structural changes or major changes to mechanical systems that involve extensions shall require permits if over the forgoing thresholds. Restoration or repair of an installation to its previous code- compliant condition as determined by the building inspector is exempted from permit requirements. (©9/30/2014); (©11/15/2016)

- 1.7 BUILDING PERMIT FEE.** The building permit fees shall be determined by resolution and shall include the applicable fee per Ch. DSPS 302 to be forwarded to the Wisconsin Department of Safety & Professional Services for a UDC permit seal that shall be assigned to any new dwelling. (©)9/30/2014)
- 1.8 PENALTIES.** The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. Forfeitures shall be not less than \$25.00 nor more than \$1,000.00 for each day of noncompliance. (©)9/30/2014)
- 1.9 EFFECTIVE DATE.** This ordinance shall be effective September 30, 2014 upon passage and publication as provided by law. (©)9/30/2014)
- 1.10 THE BUILDING INSPECTOR(S)** shall keep a log of all inspections completed. (©)9/30/2014)